

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

5/27/83

Date: 6-17-83

Mr. Speaker:

The Committee on FINANCE has had SSSB 151 (FIN)

"An Act relating to Regional Resources Development Authorities; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SSSB 151 (FIN) same title
 new title
- and recommends to pass
- AND attaches a "Letter of Intent" New Fiscal Note
 Zero Fiscal Note Attached
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

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CHAIRMAN

Original sponsors: Fahrenkamp, Kerttula,
Ferguson and P.Fischer

1 IN THE SENATE BY THE FINANCE COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 151 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Regional Resource Development
7 Authorities; and providing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS AND POLICY. The legislature finds,
10 determines, and declares that:

11 (1) In most areas of the state, there is a lack of basic trans-
12 portation and port facilities adequate to permit the development of natural
13 resource enterprises, including mining enterprises.

14 (2) The development of natural resource enterprises, including
15 mining enterprises, is essential to the long-term economic growth of the
16 state and will directly and indirectly alleviate unemployment in the state.

17 (3) The achievement of full employment and the establishment and
18 continuing development of natural resource enterprises in the state will be
19 accelerated by authorizing the creation of instrumentalities in the various
20 areas of the state with powers to borrow money to provide for the develop-
21 ment of transportation and port facilities, and to own, operate and main-
22 tain transportation and port facilities, as provided in this chapter.

23 (4) The locally elected majority membership of an authority
24 created under this chapter provides a method of assuring that the manner of
25 development and the permanent features of a project will be consistent with
26 the economic, sociological, cultural, environmental, and political aspira-
27 tions of the residents of the particular region.

28 * Sec. 2. AS 30 is amended by adding a new chapter to read:

29 CHAPTER 13. REGIONAL RESOURCE DEVELOPMENT AUTHORITIES.

1 Sec. 30.13.010. CREATION OF AUTHORITY. (a) The residents of
2 each area of the state within the boundaries of a regional housing
3 authority established under AS 18.55.996 which is located in whole or
4 in part in the unorganized borough of the state may create a public
5 body corporate and politic under the name and style of the "
6 Resource Development Authority" with all or any
7 significant part of the name of the region of the state inserted. The
8 boundaries of the authority created shall be coterminous with the
9 portion of the applicable regional housing authority that lies in the
10 unorganized borough. Creation of an authority is initiated by a
11 petition filed with the Department of Community and Regional Affairs
12 and a statement submitted to the governor before July 1, 1986. The
13 petition must include the proposed name of the authority, its bound-
14 aries, and a statement of the facilities proposed to be provided by
15 the authority. The petition must be signed by 15 percent of the total
16 number of residents in the portion of the applicable regional housing
17 authority that lies in the unorganized borough who cast votes in the
18 preceding general election. The Department of Community and Regional
19 Affairs shall review petitions for content and signatures. If the
20 Department of Community and Regional Affairs determines that the
21 petition is adequate, it shall transmit the petition to the director
22 of elections.

23 (b) The statement required under (a) of this section to be
24 submitted to the governor must include the purposes for which the
25 authority is to be created, the goals and potential projects the
26 authority intends to accomplish, and an analysis of alternative
27 methods of accomplishing the goals and projects of the proposed au-
28 thority. The governor shall determine whether the accomplishment of
29 the goals and potential projects of the proposed authority would be

1 advantageous to the economic growth of the region and the state and
2 whether the creation of the proposed authority would be an appropriate
3 and desirable method of accomplishing those goals and projects. The
4 governor shall submit findings under this subsection to the division
5 of elections within 90 days after receipt of the statement.

6 (c) The director of elections shall order an election in the
7 area of the proposed authority to determine whether the voters desire
8 the creation of the authority if the director has received the peti-
9 tion and

10 (1) the governor has submitted affirmative findings to the
11 director under (b) of this section; or

12 (2) more than 90 days have elapsed since the statement was
13 submitted to the governor under (a) of this section and the governor
14 has failed to submit negative findings to the division of elections.

15 (d) An order for an election shall be made within 30 days after
16 the requirements of (c) of this section have been met. The election
17 shall be held not less than 30 or more than 120 days after the date of
18 the election order. To the extent practicable, the election shall be
19 held on a date coinciding with the date for other elections in the
20 region. The election order shall specify the dates after which nomi-
21 nation petitions for election of initial officers may be filed.

22 (e) A registered voter who has been a resident within the area
23 of the proposed authority for 30 days before the date of election may
24 vote.

25 (f) If creation of an authority is approved, the director of
26 elections shall, within 10 days of certification, order an election to
27 choose the five initially elected members of the board of governors of
28 the authority. The election shall be held not less than 60 or more
29 than 90 days after the date of the election order. The initially

1 elected members of the board of governors shall take office on the
2 first Monday following certification of their election. Two of the
3 initially elected members shall be designated by lot to serve for a
4 term expiring on the first day of the second November after the date
5 of their election; two of the initially elected members shall be
6 designated by lot to serve for a term expiring on the first day of the
7 third November after the date of their election, and one of the ini-
8 tially elected members shall be designated by lot to serve for a term
9 expiring on the first day of the fourth November after the date of
10 election.

11 (g) Nominations for elected members are made by petition. The
12 petition shall be in the form prescribed by the director of elections
13 and include the name and address of the nominee and the statement of
14 the nominee that the nominee is qualified under this chapter for the
15 office of member of the board of governors of the authority. A nom-
16 ination petition shall include the signature and resident address of
17 20 voters in the area of the authority. The director of elections
18 shall supervise the elections in the general manner prescribed by the
19 Alaska Election Code (AS 15). The state shall pay all election costs
20 under this chapter.

21 (h) A copy of each petition for the creation of an authority and
22 of the certificate of the director of elections as to the election
23 shall be filed in the office of the director of elections. Upon proof
24 of filing the authority referred to shall, in any suit, action or
25 proceeding involving the validity or enforcement of, or relating to,
26 any contract or obligation or act of the authority, be conclusively
27 presumed to have been lawfully and properly created as a public body
28 corporate and politic and established and authorized to transact
29 business and exercise its powers under this chapter.

1 Sec. 30.13.020. BOARD OF GOVERNORS. (a) The authority shall be
2 governed by a board of governors consisting of eight members, five of
3 whom shall be elected and three of whom shall be appointed by the
4 governor. Elections of members to succeed those initially elected
5 under AS 30.13.010(f) shall be held on the first Tuesday of October of
6 each year in which a term expires. Terms of elected members shall be
7 two years.

8 (b) Nominations for elected members to succeed those initially
9 elected under AS 30.13.010(f) shall be in accordance with the proce-
10 dures set out in AS 30.13.010(g).

11 (c) The three members appointed by the governor shall be the
12 commissioner of transportation and public facilities and the heads of
13 two other principal departments of the executive branch.

14 (d) The members of the board of governors shall elect a chair-
15 person and a vice-chairperson from among its members. Five members of
16 the board of governors, one of whom shall be a member appointed under
17 (c) of this section, constitute a quorum for the transaction of
18 business. Action may be taken and motions or resolutions adopted by
19 the board of governors at a meeting at which a quorum is present by
20 vote of a majority of the members present, unless the bylaws of an
21 authority require a larger number. The board of governors may dele-
22 gate to one or more of its officers, agents or employees the powers
23 and duties that it considers proper. The board of governors may
24 appoint persons as officers it considers advisable, including an
25 executive director, and may employ professional advisors, counsel,
26 technical experts, agents, and other employees it considers advisable.

27 (e) A member of the board of governors of an authority may not
28 vote on a resolution of the board relating to any agreement to be
29 entered into by the authority under this chapter if the member is a

1 party to the agreement or has a direct ownership or equity interest,
2 beneficially or of record, exceeding one percent in, or is employed
3 by, a firm, partnership, corporation or association that is a party to
4 the agreement. A resolution of the board that is approved by a major-
5 ity of all the members who are not barred from voting under this
6 subsection is a valid action of the authority for all purposes.

7 (f) The board of governors may hold meetings by teleconference.

8 Sec. 30.13.030. PURPOSE OF AN AUTHORITY. The purpose of an
9 authority shall be the improvement, establishment and development of
10 facilities in its district for transportation purposes in connection
11 with natural resource enterprises, either directly or by agreement
12 with any public or private entity or person.

13 Sec. 30.13.040. POWERS OF AN AUTHORITY. Subject to AS 30.13.050
14 and AS 30.13.130, in furtherance of its corporate purposes under
15 AS 30.13.030, an authority has the power to

- 16 (1) sue and be sued;
- 17 (2) have a seal and alter it at its pleasure;
- 18 (3) adopt and amend bylaws for its organization and inter-
19 nal management;
- 20 (4) adopt regulations governing the exercise of its corpo-
21 rate powers;
- 22 (5) acquire, rent, hold, use and dispose of projects and
23 other real and personal property necessary, useful, or convenient for
24 its purposes upon the terms and conditions the authority may consider
25 advisable;
- 26 (6) provide for and secure the payment of bonds and the
27 rights of the holders of them, and to purchase, hold and dispose of
28 bonds;

- 29 (7) accept gifts, loans, or grants, including organiza-

1 tional grants, from, and enter into contracts or other transactions
2 regarding them with, any federal, state, municipal or other agency or
3 instrumentality, private organization, or other person;

4 (8) deposit or invest its funds, subject to agreements with
5 bondholders;

6 (9) charge and collect only those rents, rates, fees, or
7 other charges that are necessary to pay for capital, maintenance, and
8 operating costs of the services and facilities of the authority and
9 for the establishment of reserves to secure, and for the payment of,
10 bonds or notes or interest on bonds or notes;

11 (10) enter into contracts or other transactions with any
12 federal, state, municipal or other agency, or instrumentality, private
13 organization, or person consistent with the exercise of any powers
14 under this chapter; and

15 (11) do all things necessary and convenient to carry out its
16 corporate purposes and exercise the powers granted in this chapter.

17 Sec. 30.13.050. LIMITATION ON POWERS. An authority has only
18 those powers expressly granted in this chapter, reasonably implied
19 from this chapter, or reasonably necessary or convenient to carry out
20 its corporate purposes and to exercise the powers expressly granted in
21 or reasonably implied from this chapter. An authority does not have
22 powers of eminent domain, taxation, land use planning, zoning, permit-
23 ting, or other similar governmental powers. An authority may not use
24 state grants, appropriations, or other transfers from the state to
25 satisfy bond obligations or otherwise establish collateral or security
26 for bonds issued by the authority. An authority may not use rents,
27 rates, fees, or other charges collected through operation of a facil-
28 ity owned by the authority to finance the improvement, establishment,
29 and development of unrelated facilities.

1 Sec. 30.13.055. CONSIDERATION OF PROJECTS TO BE FINANCED. (a)
2 Before issuing bonds for any project under this chapter, an authority
3 must find, on the basis of all information reasonably available to it,
4 that

5 (1) the project and its development under this chapter will
6 be economically advantageous to the state and the general public
7 welfare and will contribute to the economic growth of the state and
8 the region within which the authority may exercise its powers;

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

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

15 (b) An authority shall give fair and reasonable consideration to
16 a project presented to it for financing. When the authority deter-
17 mines whether to finance or assist in the financing of the project,
18 the authority shall state the reasons for its determination in a
19 written resolution upon request by a person who presented the project
20 to the authority or a person who presented opposition to the project.
21 The authority shall base its reasons on the information presented to
22 it concerning the project and on other information considered appro-
23 priate by the authority.

24 Sec. 30.13.060. BONDS OF AN AUTHORITY. (a) Subject to the
25 provisions of AS 30.13.055(a), an authority may borrow money and may
26 issue revenue bonds, including but not limited to bonds on which the
27 principal and interest are payable

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

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

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

7 (b) Bonds shall be authorized by resolution of the authority,
8 and be dated and shall mature as the resolution may provide, except
9 that no bond may mature more than 40 years from the date of its issue.
10 Bonds shall bear interest at the rate or rates, be in the denomina-
11 tions, be in the form, either coupon or registered, carry the regis-
12 tration privileges, be executed in the manner, be payable in the
13 medium of payment, at the place or places, and be subject to the terms
14 of redemption which the resolution or a subsequent resolution may
15 provide.

16 (c) All bonds, regardless of form or character, shall be nego-
17 tiable instruments for the purposes of the Uniform Commercial Code.

18 (d) All bonds may be sold at public or private sale in the
19 manner, for the price or prices, and at the time or times that the
20 authority may determine.

21 (e) The superior court shall have jurisdiction to hear and
22 determine suits, actions or proceedings relating to an authority,
23 including without limitation suits, actions or proceedings brought to
24 foreclose or otherwise enforce a mortgage, pledge, assignment or
25 security interest or brought by or for the benefit or security of a
26 holder of its bonds or by a trustee for or other representative of the
27 holders.

28 (f) Before issuing bonds for a project under this chapter an
29 authority shall submit to the state bond committee a description of

1 the bond issue and an independent economic feasibility analysis of the
2 project and expected revenues. This information may be contained in a
3 preliminary prospectus, offering circular or official statement relat-
4 ing to the bond issue. Bonds may not be issued unless the state bond
5 committee finds, based upon the information submitted by the authority
6 under this subsection and other information that is reasonably avail-
7 able to it, that the project revenues can be reasonably expected to be
8 adequate for payment of the principal and interest on the bonds to be
9 issued if the bonds are to be secured by project revenues alone, and
10 in any event that issuance of the bonds by the authority would not be
11 expected to adversely affect the ability of the state or its political
12 subdivisions to market bonds.

13 (g) The total principal sum of bonds issued under this section
14 for all authorities formed under this chapter is \$400,000,000 exclu-
15 sive of refunding bonds.

16 Sec. 30.13.070. TRUST INDENTURES AND TRUST AGREEMENTS. In the
17 discretion of the authority, an issue of bonds may be secured by a
18 trust indenture or trust agreement between the authority and a corpo-
19 rate trustee, that may be a trust company, bank, or national banking
20 association, with corporate trust powers, located inside or outside
21 the state, or by a secured loan agreement or other instrument or under
22 a resolution giving powers to a corporate trustee, after this in this
23 section referred to as "trust agreement", by means of which the autho-
24 rity may

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

29 (A) the application, investment, deposit, use and

1 disposition of the proceeds of the bonds of the authority or of
2 money or other property of the authority or in which it has an
3 interest;

4 (B) the fixing and collection of rents or other con-
5 sideration for, and the other terms to be incorporated in an
6 agreement with respect to a project;

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

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

12 (E) the vesting in a trustee of rights, powers,
13 duties, funds, or property in trust for the benefit of bond-
14 holders, including, without limitation, the right to enforce
15 payment, performance and all other rights of the authority or of
16 the bondholders, under a lease, contract of sale, mortgage,
17 security agreement, or trust agreement with respect to a project
18 by mandamus or other proceeding or by taking possession of by
19 agent or otherwise and operating a project and collecting rents
20 or other consideration and applying the same in accordance with
21 the trust agreement;

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

25 (3) provide for any other matters that in any way affect
26 the security or protection of the bonds.

27 Sec. 30.13.080. VALIDITY OF PLEDGE. It is the intention of the
28 legislature that a pledge made in respect of bonds shall be perfected
29 and shall be valid and binding from the time the pledge is made; that

1 the money or property so pledged and thereafter received by an author-
2 ity shall immediately be subject to the lien of the pledge without
3 physical delivery or further act; and that the lien of the pledge
4 shall be valid and binding against all parties having claims of any
5 kind in tort, contract, or otherwise against the authority irrespec-
6 tive of whether the parties have notice. Neither the resolution,
7 trust agreement or any other instrument by which a pledge is created
8 need be recorded or filed under the provisions of the Uniform Commer-
9 cial Code to be perfected or to be valid, binding, or effective
10 against the parties. This section does not affect title to or convey-
11 ances of real property, and does not limit the applicability of
12 AS 34.15.290.

13 Sec. 30.13.090. NONLIABILITY ON BONDS. (a) Neither the members
14 of an authority nor a person executing the bonds are liable personally
15 on the bonds or are subject to personal liability or accountability by
16 reason of the issuance of the bonds.

17 (b) The bonds issued by an authority do not constitute an in-
18 debtedness or other liability of the state or of a political subdivi-
19 sion of the state, but shall be payable solely from the income and
20 receipts or other funds or property of the authority. The authority
21 may not pledge the faith or credit of the state or of a political
22 subdivision of the state, except the authority, to the payment of a
23 bond, and the issuance of a bond by the authority does not directly or
24 indirectly or contingently obligate the state or a political subdivi-
25 sion of the state to apply money from, levy or pledge any form of
26 taxation to the payment of the bond.

27 (c) An authority issuing bonds shall print the language in (b)
28 of this section in substantial form on the face of the bonds and in
29 any offering circular or statement issued in connection with the

1 bonds.

2 Sec. 30.13.100. PLEDGE OF THE STATE. The state pledges to and
3 agrees with the holders of bonds issued under this chapter and with
4 the federal agency which loans or contributes funds in respect to a
5 project, that the state will not limit or alter the rights and powers
6 vested in an authority by this chapter to fulfill the terms of a
7 contract made by the authority with the holders or federal agency, or
8 in any way impair the rights and remedies of the holders until the
9 bonds, together with the interest on them with interest on unpaid
10 installments of interest, and all costs and expenses in connection
11 with an action or proceeding by or on behalf of the holders, are fully
12 met and discharged. The authority is authorized to include this
13 pledge and agreement of the state, insofar as it refers to holders of
14 bonds of the authority, in a contract with the holders, and insofar as
15 it relates to a federal agency, in a contract with the federal agency.

16 Sec. 30.13.110. EXEMPTION FROM TAXATION. The real and personal
17 property of an authority and its assets, income and receipts are
18 declared to be the property of a political subdivision of the state
19 and, together with any project financed under this chapter are exempt
20 from all taxes and special assessments of the state or a political
21 subdivision of the state. All bonds of an authority are declared to
22 be issued by a political subdivision of the state and for an essential
23 public and governmental purpose and to be a public instrumentality,
24 and the bonds, and the interest on them, the income from them and the
25 transfer of the bonds, and all assets, income and receipts pledged to
26 pay or secure the payment of the bonds, or interest on them, shall at
27 all times be exempt from taxation by or under the authority of the
28 state, except for inheritance and estate taxes and taxes on transfers
29 by or in contemplation of death. Nothing in this section affects or

1 limits an exemption from license fees, property taxes, or excise,
2 income, or other taxes, provided under any other law, nor does it
3 create a tax exemption with respect to the interest of any business
4 enterprise or other person, other than the authority, in any property,
5 assets, income, receipts, project or lease whether or not financed
6 under this chapter.

7 Sec. 30.13.120. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
8 bonds of an authority are securities in which all public officers and
9 bodies of the state and all municipalities and municipal subdivisions,
10 all insurance companies and associations and other persons carrying on
11 an insurance business, all banks, bankers, trust companies, savings
12 banks, savings associations, including without limitation savings and
13 loan associations and building and loan associations, investment
14 companies and other persons carrying on banking business, all adminis-
15 trators, guardians, executors, trustees and other fiduciaries, and all
16 other persons who are now or may afterward be authorized to invest in
17 bonds or other obligations of the state, may properly and legally
18 invest money including capital in their control or belonging to them.
19 Notwithstanding any other provisions of law, the bonds of an authority
20 are also securities that may be deposited with and may be received by
21 all public officers and bodies of the state and all municipalities and
22 municipal subdivisions for any purpose for which the deposit of bonds
23 or other obligations of the state is now or may afterward be autho-
24 rized.

25 Sec. 30.13.125. AUDIT. The legislative auditor shall audit or
26 shall cause to have audited annually the financial records of an
27 authority. The legislative auditor may prescribe the form and content
28 of the financial records of an authority and shall have access to
29 these records at any reasonable time.

1 Sec. 30.13.130. EQUAL USE AND ACCESS. If an authority owns,
2 leases, or otherwise operates or controls, or participates in the
3 financing of, a facility, the authority shall, to the maximum extent
4 possible, provide for equal rights of access to and use of the facil-
5 ity by members of the public and other persons or entities upon terms
6 and conditions that are fair and reasonable. However, this section
7 does not prevent an authority from establishing fair and reasonable
8 limitations on use of or access to a facility to the extent the limi-
9 tations are necessary in connection with the nature of the facility or
10 the demand for use of or access to the facility. This section applies
11 to the establishment of rates and rate structures as well as all other
12 factors, terms, and conditions relating to the use of or access to the
13 facility, including without limitation the design and location of the
14 facility. The members of the authority shall make a written finding
15 concerning compliance of the facility with the provisions of this
16 section. A written finding signed by at least three of the five
17 elected members and two of the three appointed members that the facil-
18 ity complies with the provisions of this section shall constitute a
19 conclusive presumption of compliance.

20 Sec. 30.13.140. JURISDICTION. An authority is not subject to
21 the jurisdiction of the Alaska Transportation Commission.

22 Sec. 30.13.150. SUCCESSION. Whenever a borough of the first or
23 second class or a home rule municipality is created with an area
24 coterminous with or inclusive of the area of an authority, the author-
25 ity shall be integrated into the borough or home rule municipality
26 within one year of incorporation. On integration the borough or home
27 rule municipality succeeds to all the rights, powers, duties, assets,
28 and liabilities of the authority, except that any indebtedness of an
29 authority does not constitute a general obligation of the borough or

1 home rule municipality payable from taxes levied by the borough or
2 home rule municipality. The borough or home rule municipality may not
3 levy any taxes to pay the indebtedness.

4 Sec. 30.13.900. DEFINITIONS. In this chapter, unless the con-
5 text otherwise requires,

6 (1) "authority" means a public body created under AS 30.-
7 13.010;

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

10 (3) "cost" includes the cost of acquisition or construction
11 of all or any part of transportation facilities and of all or any
12 property, rights, easements and franchises considered by an authority
13 to be necessary, useful, or convenient, including without limitation
14 reimbursements to the authority or any other person of money expended
15 for the purposes of the authority and interest or discount on bonds to
16 finance those expenses, engineering and inspection costs and legal
17 expenses, the cost of financial, professional and other advice, and
18 the cost of issuance of bonds;

19 (4) "district" means the area within the boundaries of an
20 authority;

21 (5) "person" includes a corporation, company, partnership,
22 firm, association, organization, business trust, society, state or
23 agency or subdivision of the state, municipality of the state, or an
24 authority, as well as a natural person;

25 (6) "transportation facilities", or "facilities", or "pro-
26 jects" means harbor, port, shipping and transportation facilities of
27 all kinds, including harbors, channels, turning basins, anchorage
28 areas, jetties, breakwaters, waterways, canals, locks, tidal basins,
29 wharves, docks, piers, slips, bulkheads, public landings, warehouses,

1 terminals, refrigerating and cold storage plants, rolling stock, car
2 ferries, tugs, boats, conveyors, tunnels, bridges, highways, roads and
3 railroads, and appliances of all kinds for the handling, storage, in-
4 spection and transportation of freight and natural resource products;
5 it also includes all property, rights, easements and franchises rela-
6 tive to a facility and necessary or convenient for the acquisition,
7 construction or operation of the facility, but does not include air-
8 port facilities.

9 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
10 10.070(c).

LETTER OF INTENT

SENATE

CSSB 151 (Finance)

It is the intent of the Committee to authorize the establishment of regional authorities which will have the ability to issue tax-exempt revenue bonds for the purpose of enhancing the development of resource enterprises which would contribute to the economic growth of the State. It is the intent of the Committee that the authorities established pursuant to this legislation would not create any financial liability or obligation by the state for bonds issued for resource enterprises. Nor is it the intent that the issuance of any such bonds by authorities adversely affect the ability of the state or any of its political subdivisions to market their own bonds. Rather, to the maximum extent possible, liability for bonds issued rest exclusively with the regional authority and the specific resource enterprise involved, not the state, successor boroughs or other municipalities or other projects or citizens in the region or state.

Adopted by the Senate May 3, 1983

I. REQUEST

Bill/Resolution HCS SB 151 (FIN)
 Title: "An Act relating to KRDS."
 Sponsor: Arrenkamp, Kertula, Ferguson,
 Requestor: FISCAL Resources

II. FISCAL DETAIL

Agency Affected: Office of the Governor
 Program Category Affected: Exec. Code
 BRU, Program or Subprogram(s) Affected:
Division of Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		.4				
300 CONTRACTUAL		19.6	10.4	11.0		
400 COMMODITIES		.6				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	20.6	10.4	11.0		
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		20.6	10.4	11.0		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Linda Dupere, Administrative Assistant Phone: 526-6181
 Division: Division of Elections Date: 4/12/83

Approved by Commissioner: [Signature] Date: 4/12/83
 Department: Office of the Tr. Governor

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

SENATE BILL 151

ASSUMPTIONS:

1. An election will be held in one REAA area creating one Regional Resource Development Authority. If the election does not take place at the same time as a regularly scheduled REAA election, there will be a fiscal impact.
2. The above question passes and an election of the initial five member board takes place not less than 60 nor more than 90 days after the order of election. There will be a fiscal impact.
3. Subsequent election of members, after the initial members' terms have expired, takes place at the same date as a regularly scheduled REAA election. Only the Contractual Services category will be affected and is figured at 6% inflation.
4. This analysis is computed for an election of an RRDA and board members for one REAA area. If there should be elections in all 21 REAA areas, multiply \$20.6 x 21 to compute the fiscal impact. (432.6)

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. H CS SB 151 (Fin)
 Title Relating to Regional Resource Development Authorities
 Requested by House Finance Committee Date 6/6/83

II. FISCAL DETAIL

Agency Affected Department of Community & Regional Affairs
 Program Category Affected _____
 BRU, Program, Or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		30.0				
TOTAL		30.0				

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		30.0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

0

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The funding provided in this fiscal note is for start up costs for the NANA region authority expected to finance transportation related facilities for the Red Dog Mine Project. This is the only authority expected to be created in FY 84. \$10,000 of the funding is for honorariums, travel and per diem associated with meetings. The remaining \$20,000 is for attorney fees, financial consultants, and other costs associated with getting the project underway. No staff would be funded from this grant. Any funding remaining at the end of the fiscal year would return to the general fund.

IV. DATE 6/6/83 PREPARED BY Al Adams, Chair
 AGENCY House Finance Committee

Original: Legislative Finance PHONE 465-3706
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

The following individuals may testify on SB 151:

Senator Bettye Fahrenkamp, prime sponsor

Representatives of COMINCO

Representatives of NANA

TRANSPORTING ALASKA'S NATURAL RESOURCES —

A PROPOSAL TO CREATE
REGIONAL TRANSPORTATION AUTHORITIES
IN ALASKA

TRANSPORTING ALASKA'S NATURAL RESOURCES —
A PROPOSAL TO CREATE REGIONAL TRANSPORTATION AUTHORITIES
IN ALASKA

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TRANSPORTING ALASKA'S NATURAL RESOURCES --
A PROPOSAL TO CREATE REGIONAL TRANSPORTATION AUTHORITIES
IN ALASKA

SUMMARY

Although relatively little-explored, Alaska contains many richly mineralized areas, and it is likely that mineral development will play an increasingly important role in the state's economy in the future.

Much of this mineral potential lies in rural areas of the state with little or no modern surface transportation system. This not only frustrates resource development, but contributes to the high cost of living and handicaps economic growth generally, including the expansion of job opportunities. The front-end costs of privately constructing a system, perhaps years before full production, can make the project infeasible.

There is no municipal government in much of rural Alaska, so state assistance is often the only alternative. A wider range of options for financing, constructing and operating transportation facilities in rural Alaska is critical if this tremendous resource potential is ever to be realized.

A regional transportation authority with revenue bonding ability would provide the greatest range of options to accomplish this. It would allow the most appropriate mix of public and private investment in each case, while at the same time allowing each region greater responsibility for regional economic development.

As this paper shows in its analysis of the Red Dog Project, the social and economic benefits of mineral development in rural Alaska are considerable: jobs and income, regional economic growth, and tax revenues to state, federal and local governments. But resource development is closely tied to transportation systems, and more flexible and creative approaches are necessary. The option of creating regional transportation authorities seems to best meet the transportation needs of resource development in rural Alaska.

I. ALASKA'S MINERAL POTENTIAL

The mining industry is showing great interest in Alaska as a relatively little-explored area with high mineral potential, and it is likely that mineral development will play an increasingly important role in the state's economy in the future. Many richly mineralized areas have been identified and active exploration efforts are continuing. As more of the state is thoroughly explored, there is a strong likelihood additional high quality deposits will be discovered.

Northwestern Alaska is a good example of a rural region which comprises a number of highly mineralized areas with future development potential. The DeLong Mountain District in particular, located in the western Brooks Range, contains a rich mineralized zone with significant occurrences of zinc, lead, silver, gold, barite, copper, chromite, nickel and other minerals. The Ambler District to the east contains occurrences of jade, copper, cobalt, gold, silver, barite and zinc.

This area has been undergoing exploration for a number of years, and the mining industry is currently showing great interest in its mineral potential. Industry and government efforts have turned up some promising deposits. Some, like the Red Dog zinc/lead deposit, are considered world class and can be counted among the major deposits of their type in the world. Exploratory work continues on a number of other deposits, including the nearby Lik and Su deposits, and it is likely that continuing exploration efforts will identify additional deposits which will be economic in the foreseeable future. The DeLong Mountain District has the advantage of being relatively close to tidewater; the Red Dog, Lik and Su deposits are within 55 miles of the coast.

The DeLong Mountain District is within the bounds of the NANA Region, a sparsely populated area of approximately 38,000 square miles encompassing ten villages and the regional center of Kotzebue, a city of about 2,500. The economy of the region is heavily dependent upon subsistence, but also depends upon an inflow of cash, largely from outside the region, and much of it a result of government spending. Therefore, there is great interest in strengthening and expanding private sector activities and increasing job opportunities within the region.

Resource development is, of course, Alaska's primary source of economic activity. The NANA Region already has small but important fishing and reindeer herding industries, but its mining industry remains largely undeveloped. A developing mining sector could provide jobs and income for local residents, lead to economic growth in the region, lower the costs of goods and services, reduce the region's high dependence on government spending and produce revenues for federal, state and local governments.

II. THE NEED FOR AN IMPROVED TRANSPORTATION SYSTEM

Many rural areas of the state lack even the rudiments of a modern transportation system. This is true in the NANA Region. The absence of transportation can frustrate resource development, make it difficult for residents to obtain goods and supplies at a reasonable price, and generally handicap economic growth, including the expansion of job opportunities.

Lack of transportation can keep a mineral deposit from being developed even when market conditions would otherwise allow development. Bringing a mine into production requires a large amount of capital even when transportation facilities exist. The additional high front-end costs of privately constructing a transportation system for an individual project, perhaps years before full production is achieved, can make the project infeasible. In many parts of the world, including Canada and the U.S., government has often assisted in developing basic transportation facilities where potential social and economic benefits warrant such involvement. In Alaska, where much of the state lies outside the jurisdiction of any local or regional government, state assistance is the only alternative.

Given the competition for limited state funds, the benefits which could be realized from responsible mineral development, and the lack of local or regional government in much of Alaska, additional options for financing, constructing and operating rural regional transportation systems are needed.

Creation of a regional transportation authority would allow the judicious use of both public and private financing and allow flexibility in all phases of development and operation of transportation systems in rural Alaska. An authority could be created by

the voters of a region in the unorganized borough. It would be a public entity outside the normal structure of state government operating according to legislated goals and purposes. It would be operated by a locally-elected board with state representation and would have the authority to issue tax-exempt revenue bonds to finance a transportation system within that region for the purpose of resource development.

A transportation authority would provide for an optimum mix between public and private financing and control for each project. Normally, state funding would still be used where a facility, such as a regional port, has a broad public purpose. However, the authority could work with industry to devise an optimum financing package for other facilities needed primarily for resource development. Ultimately, the user would pay for these facilities, since the authority would repay the bonds out of operating revenues. It would also provide a wide range of options with regard to construction, operation and maintenance: an authority in one region might construct and operate all or part of a system; in another region the system might be constructed and/or operated under lease to industry.

Allowing the creation of transportation authorities in rural Alaska would not only lead to the expansion of the state's transportation system and increased resource development, but would provide the flexibility needed to respond to the particular circumstances in each region and ensure that development was responsive to local needs and desires. It would allow the state to make a case-by-case judgment on the amount of assistance necessary and proper. It would provide a centralized regional entity which could plan and develop transportation facilities to promote orderly resource development in the region. An authority would also allow rural Alaskans the opportunity to assume greater responsibility for the region's development. The resource development made feasible by the construction of transportation facilities would in turn build up a tax base which could eventually allow municipal incorporation.

Thus it appears that allowing the creation of a regional transportation authority by local voters would take advantage of the relative strengths of both the public and private sectors, and would produce the most benefits to the particular region, the state and industry at the least social, environmental and financial costs to all involved.

III. POTENTIAL BENEFITS OF MINERAL DEVELOPMENT: A Case Study of the Red Dog Deposit in Northwestern Alaska

The Red Dog Deposit

The Red Dog deposit is located in northwestern Alaska away from existing transportation networks. Since prospects for its development are good, it is a useful case study of the potential benefits of mineral development.

Red Dog is a zinc, lead, silver and barite deposit located approximately 90 miles north of Kotzebue and 55 miles from the Chukchi Sea. It is owned by NANA Regional Corporation and leased to Cominco Alaska, a subsidiary of Cominco Ltd., one of the world's largest producers of zinc and lead. Red Dog ranks among the best and largest known zinc/lead deposits in the world. The reserves are estimated at 85 million tons of mineralization. Grade estimates are 17.1% zinc, 5.0% lead and 2.4 oz/ton silver (Red Dog's barite content is still undetermined). This compares favorably with other zinc/lead mines around the world, including many now in operation.

Red Dog will be an open pit mine developed in phases with production beginning in 1987 and expanding in 1993, when annual production will rise to 2 million tons of ore to produce 580,000 tons of zinc concentrate, 120,000 tons of lead concentrate, 50,000 tons of barite concentrate and 3.3 million ounces of contained silver. Because of the size of the orebody, the mine will operate over a long period - at least 50 years, with an extension if additional ore is found.

The infrastructure requirements for the mine include two major facilities - the mill, or concentrator, near the mine site and a port on the coast - plus a method of transport between the two. The alternatives which have been investigated include a road, railroad and slurry pipeline.

In developing the Red Dog deposit, Cominco has agreed to a number of special measures designed to protect environmental and cultural values in the region. Safeguarding subsistence is a top priority. Critical areas will be avoided in the siting of facilities. Strict air and water pollution controls will be instituted. A local advisory committee

has been formed to advise Cominco and NANA on matters relating to subsistence and, if considered necessary, overland traffic by rail or road may be halted during caribou migrations. Similarly, ocean shipping during whaling and sealing seasons may be temporarily suspended if it is deemed a problem.

Cominco will use a rotating workforce accommodated in hotel-type quarters rather than establishing a residential community at the mine. It is not anticipated that the region's population will increase due to the mine operation, since most workers will be local residents (see p. 8). The project will pay the transportation costs to and from the mine and villages within the region, as well as Kotzebue, Anchorage or Fairbanks. This will minimize the social impacts on the region and also minimize impacts on public services and facilities, precluding the need for new schools and health facilities, increased police and fire protection and other services. There will be a small infirmary at the mine site to provide medical care to mine employees.

Potential Benefits of Developing the Red Dog Deposit

A number of benefits can be expected from mineral development in Alaska. In the case of Red Dog, as many benefits as possible are being purposely targeted into the NANA Region.

Overview of the NANA Region Economy. Traditionally, and like most rural areas of Alaska, this region has had higher than statewide average unemployment rates, although it has been improving relative to statewide averages in the past several years, according to official figures. The Kobuk Census Division's (NANA Region) employment continues to lag behind that of the northern region as a whole (Barrow-North Slope, Nome and Kobuk). However, official figures do not necessarily reflect the actual number of people who would like to work if jobs were available, since they include only those persons actively looking for work. In rural Alaska, residents tend to know whether job opportunities exist and are unlikely to be actively looking for work if none exists. While no figures on actual unemployment rates in the NANA Region are available, it is certain they are substantially higher than the official figure of approximately 10% (1980-82 average). In a study in the Lower Yukon-Kuskokwim Region in 1981, it was found that,

while the official estimated unemployment rate for January 1981 was over 13%, the actual figure (still using the standard definition) was almost 25%. If the definition were broadened to include "discouraged" workers who were not actively job hunting but who wished to work, the unemployment rate rose to almost 50%.

In addition, the region's average annual per capita income of \$7,225 is well below the state average of \$12,635 (1980 dollars), although the cost of living is considerably higher.

In the NANA Region, one-half of the workers are employed by state and local government, compared to an average of one-quarter to one-fifth for all of Alaska. The federal government employs 13-20%, compared to 10-11% statewide. The service, retail, transportation, communications, utilities and construction sectors employ smaller percentages of the area's workers than statewide.

In addition to this concentration of employment opportunities, the regional economy is highly seasonal. Employment peaks during the construction and fishing season and as school starts and reaches a low after school closes in June. Employment is relatively concentrated in Kotzebue, which contains only 42% of the population but 64% of the jobs, so villagers must often come into Kotzebue to find work.

Perhaps even more important is the degree of regional dependence on the public sector as a source of cash in the area. Sixty percent of personal income is directly earned through the government sector (17.5% from federal sources, 42.5% from state and local sources in 1980). In addition, transfer payments (GI benefits, medicare, food stamps, unemployment benefits, etc.) amounted to \$7.5 million, more than one-fifth of the total personal income of the region in 1980.

Earnings in the private sector are relatively small; it is estimated that in 1980 less than one-third of the total personal income was derived from that source, versus slightly over half statewide. As reported by the U.S. Department of Commerce, transportation and public utilities accounted for almost 15% of the income earned in the private sector, services 10%, retail trade 7% and construction 6%.

However, like other rural regions of the state, the full dependence of this region on the public sector is estimated to grow much higher when "hidden" subsidies are included. In

a recent study, Darbyshire and Associates found that nearly 90% of all income in the region is directly or indirectly a result of government spending. Such heavy dependence on public expenditures makes the region especially vulnerable to cutbacks in government programs and spending. Given the character of the NANA Region economy, expanding employment within the region in the private sector is critical to the long-term economic health of the region.

Corporate Benefits. Not only will Cominco and NANA Regional Corporation benefit from corporate profits and growth, but Natives and Native corporations throughout the state will benefit from Red Dog profits. Under a provision of the Alaska Native Claims Settlement Act, 70% of a regional corporation's net revenues derived from the development of subsurface resources is shared with all the regional corporations according to the proportion of total shareholders each represents. In turn, one-half of the 70% is distributed to village corporations and at-large shareholders. So benefits from any mineral development on native land in Alaska can have widespread effects going far beyond the corporations directly involved.

Direct Employment.[†] The Red Dog Project will provide up to 430 new, permanent jobs in the region. In addition, there will be ten people directly employed in Anchorage and 30 seasonal workers in Kotzebue and at the port.

The total annual payroll of the project in year ten is estimated at approximately \$13 million. The job categories, number of people employed and rough estimates of salary ranges are listed below.

<u>Job Category</u>	<u>Approx. Number to be Employed</u>	<u>Avg. Annual Salary (000's)*</u>
Professional/Supervisory	50	NA
Technical/Clerical**	50	\$22-25
Heavy Equipment Operator	70	27-30
Mill & Powerhouse Operators	40	30-33
Tradesmen***	90	30-33
Catering/Janitorial	40	18-20
Unskilled/Trainees	90	16-25

NA = not available

* = in 1983 dollars

** = includes Anchorage employees

*** = includes mechanics, welders, electricians, pipefitters, carpenters

[†] Note: All employment, expenditure and revenue estimates provided in this and following sections are based on projections for the tenth year of Red Dog operation and are in 1983 dollars.

Often when a major project is undertaken in Alaska, especially rural Alaska, workers come from outside to fill the newly created jobs. NANA and Cominco are working to ensure that jobs go to current Alaskans and local residents wherever possible. Cominco's hiring policy will give preference to 1) residents of the NANA region, 2) residents of northwest Alaska, and 3) other Alaskans. An extensive training program will qualify residents for Red Dog jobs. Over the first five years of operation, local resident hire (including categories 1 and 2 above) is expected to range from 50-85%. Most of the remainder are expected to be from Anchorage, Fairbanks or other Alaskan communities. The ultimate goal is 100% local hire. Employees will work on a rotating basis — two to three weeks on and two to three weeks off, allowing for continued subsistence activities.

The addition of over 400 permanent, year round, private sector jobs is significant in a region where unemployment is high and employment is highly seasonal, particularly when strong efforts are being made to train and hire local people. Assuming three-quarters of the employees are local residents, the total personal income added to the region could be more than \$9.5 million annually.

Indirect Employment & Economic Development. Within the region, and especially in Kotzebue, there will be indirect or spinoff benefits from the project and from the infusion of cash into the region. Anchorage and Fairbanks will realize indirect benefits also, as will any community whose residents are employed by the mine. These benefits will come in the form of direct purchase of goods and services by Cominco and the increased purchases of goods and services by mine employees. These purchases will in turn stimulate the regional economy and cause additional jobs to be created.

Alaska and the NANA Region will see a good proportion of the benefits from Cominco's annual operating expenditures. Assuming 90% of the employees are Alaskans, as much as \$11 million of Cominco's \$13 million payroll could enter the regional and state economies through the purchase of goods and services (consumer goods, transportation, communication, banking, housing construction, etc.), although some will inevitably leak out of the state through purchases outside Alaska, federal income taxes, etc. A portion of the \$24 million allocated for operating supplies will flow into the Alaskan economy. Of \$3.5 million in repair supplies, perhaps \$1 million would be spent in Anchorage and

a much smaller amount in Kotzebue. It is estimated Cominco's expenditures in Kotzebue, primarily for repair of mobile equipment, emergency supplies, purchase of miscellaneous small equipment (boats, outboards, snowmachines), etc. could amount to \$100,000 annually, especially as the service sector expands over time due to regional economic growth.

An additional \$7 million will be spent by Cominco in miscellaneous expenditures as follows: approximately \$2 million for transporting personnel to and from the mine (\$700,000 to local charter services, \$1.3 million to commercial airlines serving Kotzebue, Fairbanks and Anchorage); \$1 million for insurance; \$1 million for the accounting and purchasing office in Anchorage; \$1 million for loading the concentrate onto ships at the port (which may be contracted out to a local concern) and \$1 million for backhauling supplies.

Federal, State & Local Tax Revenues. Significant tax revenues will accrue to all levels of government from the Red Dog Project. The federal treasury will receive revenues from federal corporate and personal income taxes, the state from the Alaska mining license tax and corporate income tax and local government from local sales taxes and local property taxes. The revenue figures given below are preliminary and should be taken as rough estimates only.

The state mining license tax contains a three and one-half year forgiveness clause for new operations, so no tax would be due until after that period. It is estimated the state would receive approximately \$10-15 million in the tenth year of production. The Alaska corporate income tax is also calculated on net income. In the tenth year of production, it is estimated to be roughly \$10-15 million.

Local sales taxes are levied by most of the villages in the NANA Region at a rate of 2-3%; the rate is 3% in Kotzebue and 2-5% in Fairbanks. Thus any purchases of goods or services by Cominco directly, by employees with their earnings or by the recirculation of those dollars within the region will net local governments some revenue.

Local property taxes would be levied only where a mine is located within the boundaries of a local municipal government. Local property tax rates vary from year to year and from municipality to municipality. An estimate for Red Dog is not currently available.

Regional Cost of Living. A more indirect benefit to the region of developing Red Dog would be the potential for reducing the costs of goods in the region. The construction of a regional port with the capability of handling larger quantities of goods more cheaply and of storing goods in bulk could directly reduce their costs. Fuel, for instance, could be imported in bulk for the region and the mine at the same time and stored at the port year-round. It could then be transported to a village at the most convenient time of year or when needed. From a regional port, goods could also be shipped directly to the villages, cutting down the current expense of lightering from large ships anchored far offshore into Kotzebue and then shipment to all the villages. In addition, there is the possibility that goods coming into the region could be backhauled on the concentrate carriers along with Cominco's major supplies.

Additional Benefits. Several other benefits to the region and state are likely to result from the proposed project. With a regional port, the beginnings of a transportation system in the region and an institutionalized mechanism through which to expand it as needed, other deposits may become feasible to develop. The existence of a successful "model" in the region may encourage further exploration and development.

In addition to providing new, private sector jobs, the project will help to balance the seasonal fluctuations in employment and income, while allowing employees the needed flexibility for continued participation in local subsistence activities.

Red Dog will operate for at least 50 years, which will maximize many of the benefits to the region and minimize some of the negative impacts, providing greater stability to the region's economy. In addition, Red Dog will prepare local residents, through training and work experience, for participation in other resource development projects which may occur in northwestern Alaska.

IV. CONCLUSIONS

There are substantial benefits to be realized from the development of Alaska's mineral resources. Many regions have good potential for mineral development, but lack the transportation system necessary for such development. The absence of basic transportation not only hinders resource development, but contributes to the high cost of goods and services in rural Alaska.

Currently, most rural economies in Alaska are heavily dependent on state and federal government spending for both jobs and income. This dependence is dangerous in the long run because government expenditures and programs can be cut suddenly and drastically.

This situation is of concern in the NANA Region, and underscores the need for a healthy and expanding private sector and, in particular, the need for increased private sector job opportunities. Development of the Red Dog deposit, for example, will provide a significant number of jobs and bring a new source of cash income into the region. NANA and Cominco are taking steps to ensure the benefits, including jobs, reach those people who already live in the region.

But development of a mining industry in rural Alaska must go hand-in-hand with development of regional transportation systems. This is no small task in Alaska, given the size of the state and the condition of the state's rural transportation network. Currently, large areas of the state lying within the unorganized borough must rely totally on the state for capital improvements, competing with all the other needs for limited public funds. Greater flexibility is needed in the options available for funding and operating the rural transportation facilities needed for resource development.

Creation of a regional transportation authority would allow an unorganized region to take advantage of a much wider range of options. Use of an authority would allow for greater public control, coordination of transportation system development within a region and responsiveness to local needs. It would allow the fiscal burden on the state and industry to be apportioned as appropriate in a particular situation. In short, it would allow the state to expand its limited statewide transportation system into regions with undeveloped resource potential in order to encourage regional economic development and diversification and to expand job opportunities in areas where the need is most critical.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
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Senate

Committee on Resources

June 2, 1983

Memo

To: Rep. Al Adams, Chairman House Finance Committee

From: Senator Bettye Fahrenkamp

Subject: CSSB 151, Regional Resource Authorities

I understand that the House Finance Committee will soon be considering the above legislation. As you know, I am in strong support of this legislation and greatly appreciate your prompt attention.

This bill would authorize the creation of regional authorities in the unorganized borough area which could issue tax-exempt revenue bonds for the construction of transportation facilities in connection with resource developments. This ability would have obvious beneficial impacts for projects such as the proposed Red Dog mine in Northwest Alaska where the absence of transportation facilities would involve significant financing obstacles.

In addition to the ability to issue bonds the structure of the authorities would have the added advantage of local elected representation on the Board of Governors to ensure that projects are chosen and developed in such a manner as to be responsive to local concerns.

In testimony and discussion of this bill in the Senate several concerns were raised including:

- 1) The possibility of proliferation of authorities throughout the unorganized borough (based on REAA boundaries);
- 2) The possibility that bonds issued by regional authorities would create a liability or indebtedness to the State or adversely affect the ability of the state or localities to market their own bonds;
- 3) That access to the facilities developed by the authority might not be fairly and equally administered or that facilities desired by some interests might not receive fair or equal consideration.

In response to these concerns the Senate amended the original bill to include:

- 1) The Governor must make a positive finding that an authority would be economically advantageous to the region and state prior to holding elections in the region to establish the authority;
- 2) The ability to petition to establish an authority sunsets July 1, 1986;

- 3) Prior to issuing any revenue bonds an authority must submit an independent economic analysis of a project and its revenues to the state bond committee. The committee must find that project revenues are adequate for payment of the bonds and that the bonds would not adversely affect the ability of the state or localities to market their bonds;
- 4) A statement in the bill and in the Letter of Intent that bonds issued by an authority do not constitute any liability or indebtedness to the state or political subdivision, nor can an authority pledge the faith or credit of the state or local government;
- 5) A provision that the authority would be integrated into a local government should it be established, but that an indebtedness of an authority does not constitute an obligation of the new government;
- 6) A provision which ensures fair and equal access and fee assessments for users of facilities and fair consideration of all proposed projects brought before the authority;

In the House Resources Committee further safeguards were added to the bill:

- 1) A provision that state funds could not be used to pay off or meet revenue bond obligations of an authority;
- 2) A change in the boundaries of possible authorities to coincide with regional housing authorities rather than REAAs. This reduces the possible number of authorities from 21 to 9.

It is my understanding that your committee is considering further amendments, one of which to set a cap or ceiling on the total indebtedness which could be incurred by an authority. I certainly would favor a cap of \$500 million to provide further safeguards against "runaway" indebtedness while still permitting necessary financing for large resource projects.

Another amendment which would reduce the number for a quorum from 6 of 8 Board members as was adopted in the House Resources Committee to 5 including one of the three Governor's appointees is also a good one. This ensures participation (and oversight) by the state while not hamstringing the workings of the authority with problematic numbers of Board members required for a quorum.

I would like the opportunity to testify before your committee on this important piece of legislation and to supply any additional information which you may need.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
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Senate

Committee on Resources

To: All Members
House of Representatives

From: Bettye Fahrenkamp, Chairman *BF*
Senate Resources Committee

Date: June 16, 1983

Subject: SB 151, Regional Resource Authorities

One of the major obstacles to mineral development and other resource projects in much of Alaska is the absence of transportation facilities. This is particularly true in the unorganized borough where entities to assist in the development of infrastructure are largely absent. Until borough governments are established (when the necessary tax base is present), there is a great need for some entity to assist major resource development projects through the provision of transportation systems.

With virtually no risk to the State and little direct State involvement, the State can provide substantial assistance to rural economic development through the authorization of regional resource authorities as provided in SB 151. Obviously, any direct State funding of transportation systems, as has occurred in Canada, would be a much more expensive and risky option for the State.

SB 151 would authorize the establishment of regional authorities in the unorganized borough area which would provide:

- Access to tax-exempt revenue bonds which would substantially reduce financing costs of resource developments;
- Public ownership of transportation systems and ports assuring equal access to all users;
- Maximized local involvement in decision-making along with state participation and oversight.

In testimony and discussion of this legislation, several concerns were raised, including:

- The possibility of proliferation of authorities throughout the unorganized borough;
- The possibility that bonds issued by authorities would create a liability or indebtedness to the State or adversely affect State and local bond ratings;

- The possibility that access to the facilities developed and run by an authority might not be fairly and equally provided, or that some proposed developments might not receive equal consideration.

In response to these concerns, the following "safety features" have been included in SB 151:

- The Governor must approve the establishment of any authority;
- The local people in a region must approve by petition and election the establishment of an authority;
- An authority must be created before July 1, 1986;
- The maximum number of possible authorities allowed would be nine, corresponding to regional housing authority boundaries;
- The State Bond Committee must approve the sale of any revenue bonds by authorities;
- A provision in the bill and in the Letter of Intent expressly states that bonds issued by an authority do not constitute any liability or indebtedness to the State or political subdivision;
- An authority expressly does not have normal governmental powers of eminent domain, tax, land use planning and zoning, permitting, etc. Should a borough be established in the region, the authority would automatically be integrated into it;
- Of the eight members on an authority board, five would be elected from the region, three would be State commissioners. A quorum would require the presence of at least one commissioner;
- Total indebtedness of all authorities established would be limited by law to \$400 million;
- An authority would be audited each year by Legislative Budget and Audit;
- A provision to ensure fair and equal access and user fee assessments and fair consideration by the authority of all proposed developments;
- A provision that state funds cannot be used to pay off or meet revenue bond obligations of an authority.

I believe this legislation is now carefully crafted to achieve the goals of development assistance through maximum local control while providing adequate state input and oversight to assure financial integrity of projects and state-wide coordination. The economic benefits of this legislation could be substantial to our state with little direct cost.

I urge you to support this important bill.

New language added by proposed H CS SB 151 (FIN)

1. Page 5, line 16-18: Changes quorum for authority meetings from six members to five members, with one of the five being one of the commissioners.
2. Page 6, line 8: Allows authority to hold meetings by teleconference.
3. Page 7, lines 9-11: Adds language allowing an authority to charge rents, rates, etc. sufficient to secure bonds and pay debt service, as well as other costs listed. This is to insure the bonds' marketability.
4. Page 7, line 29: The phrase "owned by the authority" is added to clarify that this provision applies only to facilities under direct ownership of the authority.
5. Page 8, line 11: A comma is deleted. This is a technical amendment.
6. Page 8, line 27: Adds the word "revenue" to clearly establish that the authority has the power to issue revenue bonds only.
7. Page 9, line 5-7: Adds language to clarify that bond debt service may be paid back from the authority's assets or from the assets of another entity involved in the project.
8. Page 10, lines 9-10: The new language clarifies the fact that Bond Committee approval is contingent upon revenues being adequate to pay debt service if bonds are secured only by project revenues, and that regardless of the adequacy of project revenues, issuance of the bonds would not inhibit the state's overall ability to market bonds.
9. Page 10, lines 14-16: Adds a new subsection (g) limiting the total bonding capacity of all authorities to \$400 million, exclusive of bonds sold to refinance projects. The exclusion is standard in other statutes dealing with bond capacity limitations and is necessary to insure bond marketability.
10. Page 15, line 4: Changes the word "subsection" to "section". This is a technical word change since this equal use and access language is now a section, not a subsection.

Introduced: 2/25/83
Referred: Resources
and Finance

BY FAHRENKAMP, KERTTULA,
FERGUSON AND P. FISCHER

1 IN THE SENATE

2 SENATE BILL NO. 151

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Regional Resource Development
7 Authorities; and providing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS AND POLICY. The legislature finds,
10 determines, and declares that:

11 (1) In most areas of the state, there is a lack of basic trans-
12 portation and port facilities adequate to permit the development of non-
13 renewable natural resource enterprises, including mining enterprises.

14 (2) The development of nonrenewable natural resource enter-
15 prises, including mining enterprises, is essential to the long-term eco-
16 nomic growth of the state and will directly and indirectly alleviate un-
17 employment in the state.

18 (3) The achievement of full employment and the establishment and
19 continuing development of nonrenewable natural resource enterprises in the
20 state will be accelerated by authorizing the creation of instrumentalities
21 in the various areas of the state with powers to borrow money to provide
22 for the development of transportation and port facilities, and to own,
23 operate and maintain transportation and port facilities, as provided in
24 this chapter.

25 * Sec. 2. AS 30 is amended by adding a new chapter to read:

26 CHAPTER 13. REGIONAL RESOURCE DEVELOPMENT AUTHORITIES.

27 Sec. 30.13.010. CREATION AND ORGANIZATION. (a) The residents
28 of each area of the state within the boundaries of a regional educa-
29 tional attendance area established under AS 14.08 may create a public

1 body corporate and politic under the name and style of the "_____ -
2 _____ Resource Development Authority" with all or any
3 significant part of the name of the region of the state inserted. For
4 purposes of this chapter the authority created has jurisdiction over
5 the area within the boundaries of the regional educational attendance
6 area. An authority is created by a petition filed with the Department
7 of Community and Regional Affairs that must include the proposed name
8 of the authority, the boundaries of its jurisdiction, and a statement
9 of the proposed facilities to be provided by the authority. The
10 petition must be signed by 50 residents of the proposed area of the
11 authority. The Department of Community and Regional Affairs shall
12 review petitions for content and signatures. If the Department of
13 Community and Regional Affairs determines that the petition is ade-
14 quate, it shall transmit the petition to the director of elections.

15 (b) Within 30 days after receipt of a petition, the director of
16 elections shall order an election in the proposed area of the author-
17 ity to determine whether the voters desire the creation of the author-
18 ity. The election must be held not less than 30 or more than 90 days
19 after the date of the election order. The election order must specify
20 the dates after which nomination petitions for election of initial
21 officers may be filed.

22 (c) An Alaska voter who has been a resident within the area of
23 the proposed authority for 30 days before the date of election may
24 vote.

25 (d) If creation of an authority is approved, the director of
26 elections shall, within 10 days of certification, order an election to
27 choose the five initial members of the authority. The election is
28 held not less than 60 or more than 90 days after the date of the
29 election order. The initially elected members of the authority take

1 office on the first Monday following certification of their election
2 and shall be designated by lot to serve for terms respectively expir-
3 ing on the first days of the first, second, third, fourth and fifth
4 Novembers next ensuing after the date of their appointment. On the
5 first Tuesday of October in each year after the first election, one
6 person shall be elected as a member of the authority to serve for a
7 term commencing on the first day of November in that year and expiring
8 on the first day of November after that year. The governor shall
9 appoint as members of the authority two persons who serve as the heads
10 of principal departments of the executive branch to serve for two-year
11 terms.

12 (e) Nominations for elected members are made by petition. The
13 petition must be in the form prescribed by the director of elections
14 and include the name and address of the nominee and the statement of
15 the nominee that the nominee is qualified under the provisions of this
16 chapter for the office of member of the authority. Petitions to
17 nominate members must include the signature and resident address of 20
18 voters in the area of the authority. The director of elections shall
19 supervise the elections in the general manner prescribed by the Alaska
20 Election Code (AS 15). The state shall pay all election costs under
21 this chapter.

22 (f) A copy of each petition for the creation of an authority and
23 of the certificate of the director of elections as to the election
24 shall be filed in the office of the director of elections. Upon proof
25 of filing the authority referred to shall, in any suit, action or
26 proceeding involving the validity or enforcement of, or relating to,
27 any contract or obligation or act of the authority, be conclusively
28 presumed to have been lawfully and properly created as a public body
29 corporate and politic and established and authorized to transact

1 business and exercise its powers under this chapter.

2 Sec. 30.13.020. MEMBERS. (a) The members of an authority shall
3 elect a chairperson and a vice chairperson from among its members. A
4 majority of the members of an authority constitutes a quorum for the
5 transaction of business. Action may be taken and motions or resolu-
6 tions adopted by an authority by vote of a majority of the members
7 present, unless the bylaws of an authority require a larger number.
8 An authority may delegate to one or more of its officers, agents or
9 employees the powers and duties that it considers proper. An author-
10 ity may appoint persons as officers it considers advisable, including
11 an executive director, and may employ professional advisors, counsel,
12 technical experts, agents, and other employees it considers advisable.

13 (b) A member of an authority may not vote on a resolution of the
14 authority relating to any agreement to be entered into by the author-
15 ity under this chapter if the member is a party to the agreement or
16 has a direct ownership or equity interest, beneficially or of record,
17 exceeding one percent in a firm, partnership, corporation or asso-
18 ciation that is a party to the agreement. A resolution of the author-
19 ity that is approved by a majority of all the members who are not
20 barred from voting under this subsection is a valid action of the
21 authority for all purposes.

22 Sec. 30.13.030. PURPOSE OF AN AUTHORITY. The purpose of an
23 authority shall be the improvement, establishment and development of
24 facilities in its district for transportation purposes, either direct-
25 ly or by agreement with any public or private entity or person, or in
26 any other manner, as in the judgment of the authority will provide an
27 effective and satisfactory method for promoting its purposes.

28 Sec. 30.13.040. POWERS OF AN AUTHORITY. In furtherance of its
29 corporate purposes, an authority has the power to

- 1 (1) sue and be sued;
- 2 (2) have a seal and alter it at its pleasure;
- 3 (3) make and alter bylaws for its organization and internal
- 4 management;
- 5 (4) adopt regulations governing the exercise of its corpo-
- 6 rate powers;
- 7 (5) acquire, rent, hold, use and dispose of real and per-
- 8 sonal property necessary, useful, or convenient for its purposes;
- 9 (6) grant, by franchise, lease or otherwise, the use of any
- 10 project, facilities or property owned and controlled by it to any
- 11 person for the consideration and period of time and upon the other
- 12 terms and conditions it may fix and agree upon;
- 13 (7) lease or agree with others to use a project for the
- 14 rentals and upon the terms and conditions the authority may consider
- 15 advisable;
- 16 (8) provide for and secure the payment of bonds and the
- 17 rights of the holders of them, and to purchase, hold and dispose of
- 18 bonds;
- 19 (9) accept gifts, grants, or loans from, and enter into
- 20 contracts or other transactions regarding them, with any federal,
- 21 state, municipal or other agency or instrumentality, private orga-
- 22 nization, or other person;
- 23 (10) deposit or invest its funds, subject to agreements with
- 24 bondholders;
- 25 (11) charge and collect rents, rates, fees, or other charges
- 26 for its services and facilities;
- 27 (12) enter into contracts or other transactions with any
- 28 federal, state, municipal or other agency, or instrumentality, private
- 29 organization, or person consistent with the exercise of any powers

1 under this chapter; and

2 (13, do all things necessary and convenient to carry out its
3 corporate purposes and exercise the powers granted in this chapter.

4 Sec. 30.13.050. LIMITATION ON POWERS. An authority has only
5 those powers expressly granted in this chapter, reasonably implied
6 from this chapter, or reasonably necessary or convenient to carry out
7 its corporate purposes and to exercise the powers expressly granted in
8 or reasonably implied from this chapter. An authority does not have
9 powers of eminent domain, taxation, land use planning, or other simi-
10 lar governmental powers.

11 Sec. 30.13.060. BONDS OF AN AUTHORITY. (a) An authority may
12 borrow money and may issue bonds, including but not limited to bonds
13 on which the principal and interest are payable,

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

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

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

21 (b) Bonds shall be authorized by resolution of the authority,
22 and be dated and shall mature as the resolution may provide, except
23 that no bond may mature more than 40 years from the date of its issue.
24 Bonds shall bear interest at the rate or rates, be in the denomina-
25 tions, be in the form, either coupon or registered, carry the regis-
26 tration privileges, be executed in the manner, be payable in the
27 medium of payment, at the place or places, and be subject to the terms
28 of redemption which the resolution or a subsequent resolution may
29 provide.

1 (c) All bonds, regardless of form or character, shall be nego-
2 tiable instruments for the purposes of the Uniform Commercial Code.

3 (d) All bonds may be sold at public or private sale in the
4 manner, for the price or prices, and at the time or times that the
5 authority may determine.

6 (e) The superior court shall have jurisdiction to hear and
7 determine suits, actions or proceedings relating to an authority,
8 including suits, actions or proceedings brought to foreclose or other-
9 wise enforce a mortgage, pledge, assignment or security interest or
10 brought by or for the benefit or security of a holder of its bonds or
11 by a trustee for or other representative of the holders.

12 Sec. 30.13.070. TRUST INDENTURES AND TRUST AGREEMENTS. In the
13 discretion of the authority, an issue of bonds may be secured by a
14 trust indenture or trust agreement between the authority and a corpo-
15 rate trustee, that may be a trust company, bank, or national banking
16 association, with corporate trust powers, located inside or outside
17 the state, or by a secured loan agreement or other instrument or under
18 a resolution giving powers to a corporate trustee, after this in this
19 section referred to as "trust agreement", by means of which the
20 authority may

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

25 (A) the application, investment, deposit, use and
26 disposition of the proceeds of the bonds of the authority or of
27 money or other property of the authority or in which it has an
28 interest;

29 (B) the fixing and collection of rents or other

1 consideration for, and the other terms to be incorporated in an
2 agreement with respect to a project;

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

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

8 (E) the vesting in a trustee of rights, powers,
9 duties, funds, or property in trust for the benefit of bond-
10 holders, including, without limitation, the right to enforce
11 payment, performance and all other rights of the authority or of
12 the bondholders, under a lease, contract of sale, mortgage,
13 security agreement, or trust agreement with respect to a project
14 by mandamus or other proceeding or by taking possession of by
15 agent or otherwise and operating a project and collecting rents
16 or other consideration and applying the same in accordance with
17 the trust agreement;

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

21 (3) provide for any other matters that in any way affect
22 the security or protection of the bonds.

23 Sec. 30.13.080. VALIDITY OF PLEDGE. It is the intention of the
24 legislature that a pledge made in respect of bonds shall be perfected
25 and shall be valid and binding from the time the pledge is made; that
26 the money or property so pledged and thereafter received by an author-
27 ity shall immediately be subject to the lien of the pledge without
28 physical delivery or further act; and that the lien of the pledge
29 shall be valid and binding against all parties having claims of any

1 kind in tort, contract, or otherwise against the authority irrespec-
2 tive of whether the parties have notice. Neither the resolution,
3 trust agreement or any other instrument by which a pledge is created
4 need be recorded or filed under the provisions of the Uniform Commer-
5 cial Code to be perfected or to be valid, binding, or effective
6 against the parties.

7 Sec. 30.13.090. NONLIABILITY ON BONDS. (a) Neither the members
8 of an authority nor a person executing the bonds are liable personally
9 on the bonds or are subject to personal liability or accountability by
10 reason of the issuance of the bonds.

11 (b) The bonds issued by an authority do not constitute an in-
12 debtedness or other liability of the state or of a political subdivi-
13 sion of the state, except the authority, but shall be payable solely
14 from the income and receipts or other funds or property of the author-
15 ity. The authority may not pledge the faith or credit of the state or
16 of a political subdivision of the state, except the authority, to the
17 payment of a bond, and the issuance of a bond by the authority does
18 not directly or indirectly or contingently obligate the state or a
19 political subdivision of the state to apply money from, levy or pledge
20 any form of taxation to the payment of the bond.

21 Sec. 30.13.100. PLEDGE OF THE STATE. The state pledges to and
22 agrees with the holders of bonds issued under this chapter and with
23 the federal agency which loans or contributes funds in respect to a
24 project, that the state will not limit or alter the rights and powers
25 vested in an authority by this chapter to fulfill the terms of a
26 contract made by the authority with the holders or federal agency, or
27 in any way impair the rights and remedies of the holders until the
28 bonds, together with the interest on them with interest on unpaid
29 installments of interest, and all costs and expenses in connection

1 with an action or proceeding by or on behalf of the holders, are fully
2 met and discharged. The authority is authorized to include this
3 pledge and agreement of the state, insofar as it refers to holders of
4 bonds of the authority, in a contract with the holders, and insofar as
5 it relates to a federal agency, in a contract with the federal agency.

6 Sec. 30.13.110. EXEMPTION FROM TAXATION. The real and personal
7 property of an authority and its assets, income and receipts are
8 declared to be the property of a political subdivision of the state
9 and, together with any project financed under this chapter and an
10 interest created in a project applicant or other person under this
11 chapter, devoted to an essential public and governmental function and
12 purpose, and the property, assets, income, receipts, project and
13 leasehold interests are exempt from all taxes and special assessments
14 of the state or a political subdivision of the state. All bonds of an
15 authority are declared to be issued by a political subdivision of the
16 state and for an essential public and governmental purpose and to be a
17 public instrumentality, and the bonds, and the interest on them, the
18 income from them and the transfer of the bonds, and all assets, income
19 and receipts pledged to pay or secure the payment of the bonds, or
20 interest on them, shall at all times be exempt from taxation by or
21 under the authority of the state, except for inheritance and estate
22 taxes and taxes on transfers by or in contemplation of death. Nothing
23 in this section affects or limits an exemption from license fees,
24 property taxes, or excise, income, or other taxes, provided under any
25 other law, nor does it create a tax exemption with respect to the
26 interest of any business enterprise or other person, other than the
27 authority, in any property, assets, income, receipts, project or lease
28 whether or not financed under this chapter.

29 Sec. 30.13.120. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The

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

18 Sec. 30.13.130. EQUAL USE AND ACCESS. If an authority owns,
19 leases, or otherwise operates or controls a facility, the authority
20 shall, to the maximum extent possible, provide for equal rights to
21 access to and use of the facility by members of the public and other
22 persons or entities. However, this section does not prevent an
23 authority from establishing fair and reasonable limitations on use of
24 or access to a facility to the extent the authority considers, in its
25 sole discretion, that the limitations are necessary in connection with
26 the nature of the facility or the demand for use of or access to the
27 facility. This section applies to the establishment of rates and rate
28 structures as well as other factors relating to the use of or access
29 to a facility owned, leased, operated, or otherwise controlled by an

1 authority.

2 Sec. 30.13.140. JURISDICTION. An authority is not subject to
3 the jurisdiction of the Alaska Transportation Commission.

4 Sec. 30.13.150. SUCCESSION. Whenever a borough of the first or
5 second class is created with an area coterminous with the area of an
6 authority, the authority shall be integrated into the borough within
7 one year of incorporation. On integration the borough succeeds to all
8 the rights, powers, duties, assets, and liabilities of the authority.

9 Sec. 30.13.900. DEFINITIONS. In this chapter, unless the con-
10 text otherwise requires,

11 (1) "authority" means a public body created under AS 30.-
12 13.010;

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

15 (3) "cost" includes the cost of acquisition or construction
16 of all or any part of transportation facilities and of all or any
17 property, rights, easements and franchises considered by an authority
18 to be necessary, useful, or convenient, including reimbursements to
19 the authority or any other person of money expended for the purposes
20 of the authority and interest or discount on bonds to finance those
21 expenses, engineering and inspection costs and legal expenses, the
22 cost of financial, professional and other advice, and the cost of
23 issuance of bonds;

24 (4) "district" means the area within the boundaries of an
25 authority;

26 (5) "person" includes an association, corporation, nation,
27 state or agency or subdivision of the state, municipality of the
28 state, or an authority, as well as a natural person;

29 (6) "transportation facilities" or "facilities" means

1 harbor, port, shipping and transportation facilities of all kinds,
2 including harbors, channels, turning basins, anchorage areas, jetties,
3 breakwaters, waterways, canals, locks, tidal basins, wharves, docks,
4 piers, slips, bulkheads, public landings, warehouses, terminals
5 refrigerating and cold storage plants, rolling stock car ferries,
6 tugs, boats, conveyors, tunnels, bridges, highways, roads and rail-
7 roads, and appliances of all kinds for the handling, storage, in-
8 spection and transportation of freight and natural resource products;
9 it also includes all property, rights, easements and franchises rela-
10 tive to a facility and necessary or convenient for the acquisition,
11 construction or operation of the facility, but does not include air-
12 port facilities.

13 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
14 10.070(c).

Offered: 4/6/83
Referred: Finance

Original sponsors: Fahrenkamp, Kerttula
Ferguson and P.Fischer

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 151 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Regional Resource Development
7 Authorities; and providing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS AND POLICY. The legislature finds,
10 determines, and declares that:

11 (1) In most areas of the state, there is a lack of basic trans-
12 portation and port facilities adequate to permit the development of natural
13 resource enterprises, including mining enterprises.

14 (2) The development of natural resource enterprises, including
15 mining enterprises, is essential to the long-term economic growth of the
16 state and will directly and indirectly alleviate unemployment in the state.

17 (3) The achievement of full employment and the establishment and
18 continuing development of natural resource enterprises in the state will be
19 accelerated by authorizing the creation of instrumentalities in the various
20 areas of the state with powers to borrow money to provide for the develop-
21 ment of transportation and port facilities, and to own, operate and main-
22 tain transportation and port facilities, as provided in this chapter.

23 (4) The locally elected majority membership of an authority
24 created under this chapter provides a method of assuring that the manner of
25 development and the permanent features of a project will be consistent with
26 the economic, sociological, and political aspirations of the residents of
27 the particular region.

28 * Sec. 2. AS 30 is amended by adding a new chapter to read:

29 CHAPTER 13. REGIONAL RESOURCE DEVELOPMENT AUTHORITIES.

1 Sec. 30.13.010. CREATION OF AUTHORITY. (a) The residents of
2 each area of the state within the boundaries of a regional educational
3 attendance area established under AS 14.08 may create a public body
4 corporate and politic under the name and style of the "
5 _____ Resource Development Authority" with all or any
6 significant part of the name of the region of the state inserted. The
7 boundaries of the authority created shall be coterminous with the
8 boundaries of the regional educational attendance area. Creation of
9 an authority is initiated by a petition filed with the Department of
10 Community and Regional Affairs and a statement submitted to the gover-
11 nor before July 1, 1986. The petition must include the proposed name
12 of the authority, its boundaries, and a statement of the facilities
13 proposed to be provided by the authority. The petition must be signed
14 by 100 residents of the area of the proposed authority. The Depart-
15 ment of Community and Regional Affairs shall review petitions for
16 content and signatures. If the Department of Community and Regional
17 Affairs determines that the petition is adequate, it shall transmit
18 the petition to the director of elections.

19 (b) The statement required under (a) of this section to be
20 submitted to the governor must include the purposes for which the
21 authority is to be created, the goals and potential projects the
22 authority intends to accomplish, and an analysis of alternative
23 methods of accomplishing the goals and projects of the proposed au-
24 thority. The governor shall determine whether the accomplishment of
25 the goals and potential projects of the proposed authority would be
26 advantageous to the economic growth of the region and the state and
27 whether the creation of the proposed authority would be an appropriate
28 and desirable method of accomplishing those goals and projects. The
29 governor shall submit findings under this subsection to the division

1 of elections within 90 days after receipt of the statement.

2 (c) The director of elections shall order an election in the
3 area of the proposed authority to determine whether the voters desire
4 the creation of the authority if the director has received the peti-
5 tion and

6 (1) the governor has submitted affirmative findings to the
7 director under (b) of this section; or

8 (2) more than 90 days have elapsed since the statement was
9 submitted to the governor under (a) of this section and the governor
10 has failed to submit negative findings to the division of elections.

11 (d) An order for an election shall be made within 30 days after
12 the requirements of (c) of this section have been met. The election
13 shall be held not less than 30 or more than 120 days after the date of
14 the election order. To the extent practicable, the election shall be
15 held on a date coinciding with the date for other elections in the
16 region. The election order shall specify the dates after which nomi-
17 nation petitions for election of initial officers may be filed.

18 (e) A registered voter who has been a resident within the area
19 of the proposed authority for 30 days before the date of election may
20 vote.

21 (f) If creation of an authority is approved, the director of
22 elections shall, within 10 days of certification, order an election to
23 choose the five initially elected members of the board of governors of
24 the authority. The election shall be held not less than 60 or more
25 than 90 days after the date of the election order. The initially
26 elected members of the board of governors shall take office on the
27 first Monday following certification of their election. Two of the
28 initially elected members shall be designated by lot to serve for a
29 term expiring on the first day of the second November after the date

1 of their election; two of the initially elected members shall be
2 designated by lot to serve for a term expiring on the first day of the
3 third November after the date of their election, and one of the ini-
4 tially elected members shall be designated by lot to serve for a term
5 expiring on the first day of the fourth November after the date of
6 election.

7 (g) Nominations for elected members are made by petition. The
8 petition shall be in the form prescribed by the director of elections
9 and include the name and address of the nominee and the statement of
10 the nominee that the nominee is qualified under this chapter for the
11 office of member of the board of governors of the authority. A
12 nomination petition shall include the signature and resident address
13 of 20 voters in the area of the authority. The director of elections
14 shall supervise the elections in the general manner prescribed by the
15 Alaska Election Code (AS 15). The state shall pay all election costs
16 under this chapter.

17 (h) A copy of each petition for the creation of an authority and
18 of the certificate of the director of elections as to the election
19 shall be filed in the office of the director of elections. Upon proof
20 of filing the authority referred to shall, in any suit, action or
21 proceeding involving the validity or enforcement of, or relating to,
22 any contract or obligation or act of the authority, be conclusively
23 presumed to have been lawfully and properly created as a public body
24 corporate and politic and established and authorized to transact
25 business and exercise its powers under this chapter.

26 Sec. 30.13.020. BOARD OF GOVERNORS. (a) The authority shall be
27 governed by a board of governors consisting of eight members, five of
28 whom shall be elected and three of whom shall be appointed by the
29 governor. Elections of members to succeed those initially elected

1 under AS 30.13.010(f) shall be held on the first Tuesday of October of
2 each year in which a term expires. Terms of elected members shall be
3 two years.

4 (b) Nominations for elected members to succeed those initially
5 elected under AS 30.13.010(f) shall be in accordance with the proce-
6 dures set out in AS 30.13.010(g).

7 (c) The three members appointed by the governor shall be heads
8 of principal departments of the executive branch and shall serve at
9 the pleasure of the governor.

10 (d) The members of the board of governors shall elect a chair-
11 person and a vice chairperson from among its members. A majority of
12 the members of the board of governors at a meeting at which a quorum
13 is present constitutes a quorum for the transaction of business.
14 Action may be taken and motions or resolutions adopted by the board of
15 governors at a meeting at which a quorum is present by vote of a
16 majority of the members present, unless the bylaws of an authority
17 require a larger number. The board of governors may delegate to one
18 or more of its officers, agents or employees the powers and duties
19 that it considers proper. The board of governors may appoint persons
20 as officers it considers advisable, including an executive director,
21 and may employ professional advisors, counsel, technical experts,
22 agents, and other employees it considers advisable.

23 (e) A member of the board of governors of an authority may not
24 vote on a resolution of the board relating to any agreement to be
25 entered into by the authority under this chapter if the member is a
26 party to the agreement or has a direct ownership or equity interest,
27 beneficially or of record, exceeding one percent in, or is employed
28 by, a firm, partnership, corporation or association that is a party to
29 the agreement. A resolution of the board that is approved by a

1 majority of all the members who are not barred from voting under this
2 subsection is a valid action of the authority for all purposes.

3 Sec 30.13.030. PURPOSE OF AN AUTHORITY. The purpose of an
4 authority shall be the improvement, establishment and development of
5 facilities in its district for transportation purposes in connection
6 with natural resource enterprises, either directly or by agreement
7 with any public or private entity or person.

8 Sec. 30.13.040. POWERS OF AN AUTHORITY. Subject to AS 30.13.050
9 and AS 30.13.130, in furtherance of its corporate purposes under
10 AS 30.13.030, an authority has the power to

11 (1) sue and be sued;

12 (2) have a seal and alter it at its pleasure;

13 (3) adopt and amend bylaws for its organization and inter-
14 nal management;

15 (4) adopt regulations governing the exercise of its corpo-
16 rate powers in accordance with the Administrative Procedure Act
17 (AS 44.62);

18 (5) acquire, rent, hold, use and dispose of real and per-
19 sonal property necessary, useful, or convenient for its purposes upon
20 the terms and conditions the authority may consider advisable;

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

24 (7) accept gifts, loans, or grants, including organiza-
25 tional grants, from, and enter into contracts or other transactions
26 regarding them with, any federal, state, municipal or other agency or
27 instrumentality, private organization, or other person;

28 (8) deposit or invest its funds, subject to agreements with
29 bondholders;

1 (9) charge and collect rents, rates, fees, or other charges
2 for its services and facilities;

3 (10) enter into contracts or other transactions with any
4 federal, state, municipal or other agency, or instrumentality, private
5 organization, or person consistent with the exercise of any powers
6 under this chapter; and

7 (11) do all things necessary and convenient to carry out its
8 corporate purposes and exercise the powers granted in this chapter.

9 Sec. 30.13.050. LIMITATION ON POWERS. An authority has only
10 those powers expressly granted in this chapter, reasonably implied
11 from this chapter, or reasonably necessary or convenient to carry out
12 its corporate purposes and to exercise the powers expressly granted in
13 or reasonably implied from this chapter. An authority does not have
14 powers of eminent domain, taxation, land use planning, zoning, permit-
15 ting, or other similar governmental powers.

16 Sec. 30.13.060. BONDS OF AN AUTHORITY. (a) An 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 financed with the proceeds of the bonds;

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

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

26 (b) Bonds shall be authorized by resolution of the authority,
27 and be dated and shall mature as the resolution may provide, except
28 that no bond may mature more than 40 years from the date of its issue.
29 Bonds shall bear interest at the rate or rates, be in the

1 denominations, be in the form, either coupon or registered, carry the
2 registration privileges, be executed in the manner, be payable in the
3 medium of payment, at the place or places, and be subject to the terms
4 of redemption which the resolution or a subsequent resolution may
5 provide.

6 (c) All bonds, regardless of form or character, shall be nego-
7 tiable instruments for the purposes of the Uniform Commercial Code.

8 (d) All bonds may be sold at public or private sale in the
9 manner, for the price or prices, and at the time or times that the
10 authority may determine.

11 (e) The superior court shall have jurisdiction to hear and
12 determine suits, actions or proceedings relating to an authority,
13 including without limitation suits, actions or proceedings brought to
14 foreclose or otherwise enforce a mortgage, pledge, assignment or
15 security interest or brought by or for the benefit or security of a
16 holder of its bonds or by a trustee for or other representative of the
17 holders.

18 (f) Before issuing bonds for a project under this chapter an
19 authority shall submit to the state bond committee a description of
20 the bond issue and an independent economic feasibility analysis of the
21 project and expected revenues. This information may be contained in a
22 preliminary prospectus, offering circular or official statement relat-
23 ing to the bond issue. Bonds may not be issued unless the state bond
24 committee finds, based upon the information submitted by the authority
25 under AS 30.13.060(f)(1) and other information that is reasonably
26 available to it, that the project revenues can be reasonably expected
27 to be adequate for payment of the principal and interest on the bonds
28 to be issued, and that issuance of the bonds by the authority would
29 not be expected to adversely affect the ability of the state or its

1 political subdivisions to market bonds.

2 Sec. 30.13.070. TRUST INDENTURES AND TRUST AGREEMENTS. In the
3 discretion of the authority, an issue of bonds may be secured by a
4 trust indenture or trust agreement between the authority and a corpo-
5 rate trustee, that may be a trust company, bank, or national banking
6 association, with corporate trust powers, located inside or outside
7 the state, or by a secured loan agreement or other instrument or under
8 a resolution giving powers to a corporate trustee, after this in this
9 section referred to as "trust agreement", by means of which the autho-
10 rity may

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

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

19 (B) the fixing and collection of rents or other con-
20 sideration for, and the other terms to be incorporated in an
21 agreement with respect to a project;

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

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

27 (E) the vesting in a trustee of rights, powers,
28 duties, funds, or property in trust for the benefit of bond-
29 holders, including, without limitation, the right to enforce

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

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

11 (3) provide for any other matters that in any way affect
12 the security or protection of the bonds.

13 Sec. 30.13.080. VALIDITY OF PLEDGE. It is the intention of the
14 legislature that a pledge made in respect of bonds shall be perfected
15 and shall be valid and binding from the time the pledge is made; that
16 the money or property so pledged and thereafter received by an author-
17 ity shall immediately be subject to the lien of the pledge without
18 physical delivery or further act; and that the lien of the pledge
19 shall be valid and binding against all parties having claims of any
20 kind in tort, contract, or otherwise against the authority irrespec-
21 tive of whether the parties have notice. Neither the resolution,
22 trust agreement or any other instrument by which a pledge is created
23 need be recorded or filed under the provisions of the Uniform Commcr-
24 cial Code to be perfected or to be valid, binding, or effective
25 against the parties. This section does not affect title to or convey-
26 ances of real property, and does not limit the applicability of
27 AS 34.15.290.

28 Sec. 30.13.090. NONLIABILITY ON BONDS. (a) Neither the members
29 of an authority nor a person executing the bonds are liable personally

1 on the bonds or are subject to personal liability or accountability by
2 reason of the issuance of the bonds.

3 (b) The bonds issued by an authority do not constitute an in-
4 debtedness or other liability of the state or of a political subdivi-
5 sion of the state, but shall be payable solely from the income and
6 receipts or other funds or property of the authority. The authority
7 may not pledge the faith or credit of the state or of a political
8 subdivision of the state, except the authority, to the payment of a
9 bond, and the issuance of a bond by the authority does not directly or
10 indirectly or contingently obligate the state or a political subdivi-
11 sion of the state to apply money from, levy or pledge any form of
12 taxation to the payment of the bond.

13 Sec. 30.13.100. PLEDGE OF THE STATE. The state pledges to and
14 agrees with the holders of bonds issued under this chapter and with
15 the federal agency which loans or contributes funds in respect to a
16 project, that the state will not limit or alter the rights and powers
17 vested in an authority by this chapter to fulfill the terms of a
18 contract made by the authority with the holders or federal agency, or
19 in any way impair the rights and remedies of the holders until the
20 bonds, together with the interest on them with interest on unpaid
21 installments of interest, and all costs and expenses in connection
22 with an action or proceeding by or on behalf of the holders, are fully
23 met and discharged. The authority is authorized to include this
24 pledge and agreement of the state, insofar as it refers to holders of
25 bonds of the authority, in a contract with the holders, and insofar as
26 it relates to a federal agency, in a contract with the federal agency.

27 Sec. 30.13.110. EXEMPTION FROM TAXATION. The real and personal
28 property of an authority and its assets, income and receipts are
29 declared to be the property of a political subdivision of the state

1 and, together with any project financed under this chapter are exempt
2 from all taxes and special assessments of the state or a political
3 subdivision of the state. All bonds of an authority are declared to
4 be issued by a political subdivision of the state and for an essential
5 public and governmental purpose and to be a public instrumentality,
6 and the bonds, and the interest on them, the income from them and the
7 transfer of the bonds, and all assets, income and receipts pledged to
8 pay or secure the payment of the bonds, or interest on them, shall at
9 all times be exempt from taxation by or under the authority of the
10 state, except for inheritance and estate taxes and taxes on transfers
11 by or in contemplation of death. Nothing in this section affects or
12 limits an exemption from license fees, property taxes, or excise,
13 income, or other taxes, provided under any other law, nor does it
14 create a tax exemption with respect to the interest of any business
15 enterprise or other person, other than the authority, in any property,
16 assets, income, receipts, project or lease whether or not financed
17 under this chapter.

18 Sec. 30.13.120. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
19 bonds of an authority are securities in which all public officers and
20 bodies of the state and all municipalities and municipal subdivisions,
21 all insurance companies and associations and other persons carrying on
22 an insurance business, all banks, bankers, trust companies, savings
23 banks, savings associations, including without limitation savings and
24 loan associations and building and loan associations, investment
25 companies and other persons carrying on banking business, all adminis-
26 trators, guardians, executors, trustees and other fiduciaries, and all
27 other persons who are now or may afterward be authorized to invest in
28 bonds or other obligations of the state, may properly and legally
29 invest money including capital in their control or belonging to them.

1 Notwithstanding any other provisions of law, the bonds of an authority
2 are also securities that may be deposited with and may be received by
3 all public officers and bodies of the state and all municipalities and
4 municipal subdivisions for any purpose for which the deposit of bonds
5 or other obligations of the state is now or may afterward be autho-
6 rized.

7 Sec. 30.13.130. EQUAL USE AND ACCESS. (a) If an authority
8 owns, leases, or otherwise operates or controls, or participates in
9 the financing of, a facility, the authority shall, to the maximum
10 extent possible, provide for equal rights of access to and use of the
11 facility by members of the public and other persons or entities upon
12 terms and conditions that are fair and reasonable. However, this
13 subsection does not prevent an authority from establishing fair and
14 reasonable limitations on use of or access to a facility to the extent
15 the limitations are necessary in connection with the nature of the
16 facility or the demand for use of or access to the facility. This
17 section applies to the establishment of rates and rate structures as
18 well as all other factors, terms, and conditions relating to the use
19 of or access to the facility, including without limitation the design
20 and location of the facility. The members of the authority shall make
21 a written finding concerning compliance of the facility with the
22 provisions of this section. A written finding signed by at least
23 three of the five elected members and two of the three appointed
24 members that the facility complies with the provisions of this section
25 shall constitute a conclusive presumption of compliance.

26 (b) Before issuing bonds for any project under this chapter, an
27 authority must find, on the basis of all information reasonably avail-
28 able to it, that

29 (1) the project and its development under this chapter will

1 be economically advantageous to the state and the general public
2 welfare and will contribute to the economic growth of the state and
3 the region within which the authority may exercise its powers;

4 (2) the project is financially feasible; and

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

8 Sec. 30.13.140. JURISDICTION. An authority is not subject to
9 the jurisdiction of the Alaska Transportation Commission.

10 Sec. 30.13.150. SUCCESSION. Whenever a borough of the first or
11 second class or a home rule municipality is created with an area
12 coterminous with or inclusive of the area of an authority, the author-
13 ity shall be integrated into the borough or home rule municipality
14 within one year of incorporation. On integration the borough or home
15 rule municipality succeeds to all the rights, powers, duties, assets,
16 and liabilities of the authority, except that any indebtedness of an
17 authority does not constitute a general obligation of the borough or
18 home rule municipality payable from taxes levied by the borough or
19 home rule municipality. The borough or home rule municipality may not
20 levy any taxes to pay the indebtedness.

21 Sec. 30.13.900. DEFINITIONS. In this chapter, unless the con-
22 text otherwise requires,

23 (1) "authority" means a public body created under AS 30.-
24 13.010;

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

27 (3) "cost" includes the cost of acquisition or construction
28 of all or any part of transportation facilities and of all or any
29 property, rights, easements and franchises considered by an authority

1 to be necessary, useful, or convenient, including without limitation
2 reimbursements to the authority or any other person of money expended
3 for the purposes of the authority and interest or discount on bonds to
4 finance those expenses, engineering and inspection costs and legal
5 expenses, the cost of financial, professional and other advice, and
6 the cost of issuance of bonds;

7 (4) "district" means the area within the boundaries of an
8 authority;

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

13 (6) "transportation facilities", or "facilities", or "pro-
14 jects" means harbor, port, shipping and transportation facilities of
15 all kinds, including harbors, channels, turning basins, anchorage
16 areas, jetties, breakwaters, waterways, canals, locks, tidal basins,
17 wharves, docks, piers, slips, bulkheads, public landings, warehouses,
18 terminals, refrigerating and cold storage plants, rolling stock car
19 ferries, tugs, boats, conveyors, tunnels, bridges, highways, roads and
20 railroads, and appliances of all kinds for the handling, storage, in-
21 spection and transportation of freight and natural resource products;
22 it also includes all property, rights, easements and franchises rela-
23 tive to a facility and necessary or convenient for the acquisition,
24 construction or operation of the facility, but does not include air-
25 port facilities.

26 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
27 10.070(c).

Offered: 4/14/83
Referred: Rules

Original sponsors: Fahrenkamp, Kerttula
Ferguson and P.Fischer

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 151 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Regional Resource Development
7 Authorities; and providing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS AND POLICY. The legislature finds,
10 determines, and declares that:

11 (1) In most areas of the state, there is a lack of basic trans-
12 portation and port facilities adequate to permit the development of natural
13 resource enterprises, including mining enterprises.

14 (2) The development of natural resource enterprises, including
15 mining enterprises, is essential to the long-term economic growth of the
16 state and will directly and indirectly alleviate unemployment in the state.

17 (3) The achievement of full employment and the establishment and
18 continuing development of natural resource enterprises in the state will be
19 accelerated by authorizing the creation of instrumentalities in the various
20 areas of the state with powers to borrow money to provide for the develop-
21 ment of transportation and port facilities, and to own, operate and main-
22 tain transportation and port facilities, as provided in this chapter.

23 (4) The locally elected majority membership of an authority
24 created under this chapter provides a method of assuring that the manner of
25 development and the permanent features of a project will be consistent with
26 the economic, sociological, cultural, environmental, and political aspira-
27 tions of the residents of the particular region.

28 * Sec. 2. AS 30 is amended by adding a new chapter to read:

29 CHAPTER 13. REGIONAL RESOURCE DEVELOPMENT AUTHORITIES.

1 Sec. 30.13.010. CREATION OF AUTHORITY. (a) The residents of
2 each area of the state within the boundaries of a regional educational
3 attendance area established under AS 14.08 may create a public body
4 corporate and politic under the name and style of the "
5 _____ Resource Development Authority" with all or any
6 significant part of the name of the region of the state inserted. The
7 boundaries of the authority created shall be coterminous with the
8 boundaries of the regional educational attendance area. Creation of
9 an authority is initiated by a petition filed with the Department of
10 Community and Regional Affairs and a statement submitted to the gover-
11 nor before July 1, 1986. The petition must include the proposed name
12 of the authority, its boundaries, and a statement of the facilities
13 proposed to be provided by the authority. The petition must be signed
14 by 15 percent of the total number of residents in the regional educa-
15 tional attendance area who cast votes in the preceding general
16 election. The Department of Community and Regional Affairs shall
17 review petitions for content and signatures. If the Department of
18 Community and Regional Affairs determines that the petition is ade-
19 quate, it shall transmit the petition to the director of elections.

20 (b) The statement required under (a) of this section to be
21 submitted to the governor must include the purposes for which the
22 authority is to be created, the goals and potential projects the
23 authority intends to accomplish, and an analysis of alternative
24 methods of accomplishing the goals and projects of the proposed au-
25 thority. The governor shall determine whether the accomplishment of
26 the goals and potential projects of the proposed authority would be
27 advantageous to the economic growth of the region and the state and
28 whether the creation of the proposed authority would be an appropriate
29 and desirable method of accomplishing those goals and projects. The

1 governor shall submit findings under this subsection to the division
2 of elections within 90 days after receipt of the statement.

3 (c) The director of elections shall order an election in the
4 area of the proposed authority to determine whether the voters desire
5 the creation of the authority if the director has received the peti-
6 tion and

7 (1) the governor has submitted affirmative findings to the
8 director under (b) of this section; or

9 (2) more than 90 days have elapsed since the statement was
10 submitted to the governor under (a) of this section and the governor
11 has failed to submit negative findings to the division of elections.

12 (d) An order for an election shall be made within 30 days after
13 the requirements of (c) of this section have been met. The election
14 shall be held not less than 30 or more than 120 days after the date of
15 the election order. To the extent practicable, the election shall be
16 held on a date coinciding with the date for other elections in the
17 region. The election order shall specify the dates after which nomi-
18 nation petitions for election of initial officers may be filed.

19 (e) A registered voter who has been a resident within the area
20 of the proposed authority for 30 days before the date of election may
21 vote.

22 (f) If creation of an authority is approved, the director of
23 elections shall, within 10 days of certification, order an election to
24 choose the five initially elected members of the board of governors of
25 the authority. The election shall be held not less than 60 or more
26 than 90 days after the date of the election order. The initially
27 elected members of the board of governors shall take office on the
28 first Monday following certification of their election. Two of the
29 initially elected members shall be designated by lot to serve for a

1 term expiring on the first day of the second November after the date
2 of their election; two of the initially elected members shall be
3 designated by lot to serve for a term expiring on the first day of the
4 third November after the date of their election, and one of the ini-
5 tially elected members shall be designated by lot to serve for a term
6 expiring on the first day of the fourth November after the date of
7 election.

8 (g) Nominations for elected members are made by petition. The
9 petition shall be in the form prescribed by the director of elections
10 and include the name and address of the nominee and the statement of
11 the nominee that the nominee is qualified under this chapter for the
12 office of member of the board of governors of the authority. A
13 nomination petition shall include the signature and resident address
14 of 20 voters in the area of the authority. The director of elections
15 shall supervise the elections in the general manner prescribed by the
16 Alaska Election Code (AS 15). The state shall pay all election costs
17 under this chapter.

18 (h) A copy of each petition for the creation of an authority and
19 of the certificate of the director of elections as to the election
20 shall be filed in the office of the director of elections. Upon proof
21 of filing the authority referred to shall, in any suit, action or
22 proceeding involving the validity or enforcement of, or relating to,
23 any contract or obligation or act of the authority, be conclusively
24 presumed to have been lawfully and properly created as a public body
25 corporate and politic and established and authorized to transact
26 business and exercise its powers under this chapter.

27 Sec. 30.13.020. BOARD OF GOVERNORS. (a) The authority shall be
28 governed by a board of governors consisting of eight members, five of
29 whom shall be elected and three of whom shall be appointed by the

1 governor. Elections of members to succeed those initially elected
2 under AS 30.13.010(f) shall be held on the first Tuesday of October of
3 each year in which a term expires. Terms of elected members shall be
4 two years.

5 (b) Nominations for elected members to succeed those initially
6 elected under AS 30.13.010(f) shall be in accordance with the proce-
7 dures set out in AS 30.13.010(g).

8 (c) The three members appointed by the governor shall be heads
9 of principal departments of the executive branch and shall serve at
10 the pleasure of the governor.

11 (d) The members of the board of governors shall elect a chair-
12 person and a vice chairperson from among its members. A majority of
13 the members of the board of governors constitutes a quorum for the
14 transaction of business. Action may be taken and motions or resolu-
15 tions adopted by the board of governors at a meeting at which a quorum
16 is present by vote of a majority of the members present, unless the
17 bylaws of an authority require a larger number. The board of gover-
18 nors may delegate to one or more of its officers, agents or employees
19 the powers and duties that it considers proper. The board of gover-
20 nors may appoint persons as officers it considers advisable, including
21 an executive director, and may employ professional advisors, counsel,
22 technical experts, agents, and other employees it considers advisable.

23 (e) A member of the board of governors of an authority may not
24 vote on a resolution of the board relating to any agreement to be
25 entered into by the authority under this chapter if the member is a
26 party to the agreement or has a direct ownership or equity interest,
27 beneficially or of record, exceeding one percent in, or is employed
28 by, a firm, partnership, corporation or association that is a party to
29 the agreement. A resolution of the board that is approved by a

1 majority of all the members who are not barred from voting under this
2 subsection is a valid action of the authority for all purposes.

3 Sec. 30.13.030. PURPOSE OF AN AUTHORITY. The purpose of an
4 authority shall be the improvement, establishment and development of
5 facilities in its district for transportation purposes in connection
6 with natural resource enterprises, either directly or by agreement
7 with any public or private entity or person.

8 Sec. 30.13.040. POWERS OF AN AUTHORITY. Subject to AS 30.13.050
9 and AS 30.13.130, in furtherance of its corporate purposes under
10 AS 30.13.030, an authority has the power to

11 (1) sue and be sued;

12 (2) have a seal and alter it at its pleasure;

13 (3) adopt and amend bylaws for its organization and inter-
14 nal management;

15 (4) adopt regulations governing the exercise of its corpo-
16 rate powers;

17 (5) acquire, rent, hold, use and dispose of projects and
18 other real and personal property necessary, useful, or convenient for
19 its purposes upon the terms and conditions the authority may consider
20 advisable;

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

24 (7) accept gifts, loans, or grants, including organiza-
25 tional grants, from, and enter into contracts or other transactions
26 regarding them with, any federal, state, municipal or other agency or
27 instrumentality, private organization, or other person;

28 (8) deposit or invest its funds, subject to agreements with
29 bondholders;

1 (9) charge and collect rents, rates, fees, or other charges
2 for its services and facilities;

3 (10) enter into contracts or other transactions with any
4 federal, state, municipal or other agency, or instrumentality, private
5 organization, or person consistent with the exercise of any powers
6 under this chapter; and

7 (11) do all things necessary and convenient to carry out its
8 corporate purposes and exercise the powers granted in this chapter.

9 Sec. 30.13.050. LIMITATION ON POWERS. An authority has only
10 those powers expressly granted in this chapter, reasonably implied
11 from this chapter, or reasonably necessary or convenient to carry out
12 its corporate purposes and to exercise the powers expressly granted in
13 or reasonably implied from this chapter. An authority does not have
14 powers of eminent domain, taxation, land use planning, zoning, permit-
15 ting, or other similar governmental powers.

16 Sec. 30.13.055. CONSIDERATION OF PROJECTS TO BE FINANCED. (a)
17 Before issuing bonds for any project under this chapter, an authority
18 must find, on the basis of all information reasonably available to it,
19 that

20 (1) the project and its development under this chapter will
21 be economically advantageous to the state and the general public
22 welfare and will contribute to the economic growth of the state and
23 the region within which the authority may exercise its powers;

24 (2) the project is financially feasible; and

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

28 (b) An authority shall give fair and reasonable consideration to
29 a project presented to it for financing. When the authority

1 determines whether to finance or assist in the financing of the pro-
2 ject, the authority shall state the reasons for its determination in a
3 written resolution upon request by a person who presented the project
4 to the authority or a person who presented opposition to the project.
5 The authority shall base its reasons on the information presented to
6 it concerning the project and on other information considered appro-
7 priate by the authority.

8 Sec. 30.13.060. BONDS OF AN AUTHORITY. (a) Subject to the
9 provisions of AS 30.13.055(a), an authority may borrow money and may
10 issue bonds, including but not limited to bonds on which the principal
11 and interest are payable,

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

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

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

19 (b) Bonds shall be authorized by resolution of the authority,
20 and be dated and shall mature as the resolution may provide, except
21 that no bond may mature more than 40 years from the date of its issue.
22 Bonds shall bear interest at the rate or rates, be in the denomina-
23 tions, be in the form, either coupon or registered, carry the regis-
24 tration privileges, be executed in the manner, be payable in the
25 medium of payment, at the place or places, and be subject to the terms
26 of redemption which the resolution or a subsequent resolution may
27 provide.

28 (c) All bonds, regardless of form or character, shall be nego-
29 tiable instruments for the purposes of the Uniform Commercial Code.

1 (d) All bonds may be sold at public or private sale in the
2 manner, for the price or prices, and at the time or times that the
3 authority may determine.

4 (e) The superior court shall have jurisdiction to hear and
5 determine suits, actions or proceedings relating to an authority,
6 including without limitation suits, actions or proceedings brought to
7 foreclose or otherwise enforce a mortgage, pledge, assignment or
8 security interest or brought by or for the benefit or security of a
9 holder of its bonds or by a trustee for or other representative of the
10 holders.

11 (f) Before issuing bonds for a project under this chapter an
12 authority shall submit to the state bond committee a description of
13 the bond issue and an independent economic feasibility analysis of the
14 project and expected revenues. This information may be contained in a
15 preliminary prospectus, offering circular or official statement relat-
16 ing to the bond issue. Bonds may not be issued unless the state bond
17 committee finds, based upon the information submitted by the authority
18 under this subsection and other information that is reasonably avail-
19 able to it, that the project revenues can be reasonably expected to be
20 adequate for payment of the principal and interest on the bonds to be
21 issued, and that issuance of the bonds by the authority would not be
22 expected to adversely affect the ability of the state or its political
23 subdivisions to market bonds.

24 Sec. 30.13.070. TRUST INDENTURES AND TRUST AGREEMENTS. In the
25 discretion of the authority, an issue of bonds may be secured by a
26 trust indenture or trust agreement between the authority and a corpo-
27 rate trustee, that may be a trust company, bank, or national banking
28 association, with corporate trust powers, located inside or outside
29 the state, or by a secured loan agreement or other instrument or under

1 a resolution giving powers to a corporate trustee, after this in this
2 section referred to as "trust agreement", by means of which the autho-
3 rity may

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

8 (A) the application, investment, deposit, use and
9 disposition of the proceeds of the bonds of the authority or of
10 money or other property of the authority or in which it has an
11 interest;

12 (B) the fixing and collection of rents or other con-
13 sideration for, and the other terms to be incorporated in an
14 agreement with respect to a project;

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

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

20 (E) the vesting in a trustee of rights, powers,
21 duties, funds, or property in trust for the benefit of bond-
22 holders, including, without limitation, the right to enforce
23 payment, performance and all other rights of the authority or of
24 the bondholders, under a lease, contract of sale, mortgage,
25 security agreement, or trust agreement with respect to a project
26 by mandamus or other proceeding or by taking possession of by
27 agent or otherwise and operating a project and collecting rents
28 or other consideration and applying the same in accordance with
29 the trust agreement;

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

4 (3) provide for any other matters that in any way affect
5 the security or protection of the bonds.

6 Sec. 30.13.080. VALIDITY OF PLEDGE. It is the intention of the
7 legislature that a pledge made in respect of bonds shall be perfected
8 and shall be valid and binding from the time the pledge is made; that
9 the money or property so pledged and thereafter received by an author-
10 ity shall immediately be subject to the lien of the pledge without
11 physical delivery or further act; and that the lien of the pledge
12 shall be valid and binding against all parties having claims of any
13 kind in tort, contract, or otherwise against the authority irrespec-
14 tive of whether the parties have notice. Neither the resolution,
15 trust agreement or any other instrument by which a pledge is created
16 need be recorded or filed under the provisions of the Uniform Commer-
17 cial Code to be perfected or to be valid, binding, or effective
18 against the parties. This section does not affect title to or convey-
19 ances of real property, and does not limit the applicability of
20 AS 34.15.290.

21 Sec. 30.13.090. NONLIABILITY ON BONDS. (a) Neither the members
22 of an authority nor a person executing the bonds are liable personally
23 on the bonds or are subject to personal liability or accountability by
24 reason of the issuance of the bonds.

25 (b) The bonds issued by an authority do not constitute an in-
26 debtedness or other liability of the state or of a political subdivi-
27 sion of the state, but shall be payable solely from the income and
28 receipts or other funds or property of the authority. The authority
29 may not pledge the faith or credit of the state or of a political

1 subdivision of the state, except the authority, to the payment of a
2 bond, and the issuance of a bond by the authority does not directly or
3 indirectly or contingently obligate the state or a political subdivi-
4 sion of the state to apply money from, levy or pledge any form of
5 taxation to the payment of the bond.

6 Sec. 30.13.100. PLEDGE OF THE STATE. The state pledges to and
7 agrees with the holders of bonds issued under this chapter and with
8 the federal agency which loans or contributes funds in respect to a
9 project, that the state will not limit or alter the rights and powers
10 vested in an authority by this chapter to fulfill the terms of a
11 contract made by the authority with the holders or federal agency, or
12 in any way impair the rights and remedies of the holders until the
13 bonds, together with the interest on them with interest on unpaid
14 installments of interest, and all costs and expenses in connection
15 with an action or proceeding by or on behalf of the holders, are fully
16 met and discharged. The authority is authorized to include this
17 pledge and agreement of the state, insofar as it refers to holders of
18 bonds of the authority, in a contract with the holders, and insofar as
19 it relates to a federal agency, in a contract with the federal agency.

20 Sec. 30.13.110. EXEMPTION FROM TAXATION. The real and personal
21 property of an authority and its assets, income and receipts are
22 declared to be the property of a political subdivision of the state
23 and, together with any project financed under this chapter are exempt
24 from all taxes and special assessments of the state or a political
25 subdivision of the state. All bonds of an authority are declared to
26 be issued by a political subdivision of the state and for an essential
27 public and governmental purpose and to be a public instrumentality,
28 and the bonds, and the interest on them, the income from them and the
29 transfer of the bonds, and all assets, income and receipts pledged to

1 pay or secure the payment of the bonds, or interest on them, shall at
2 all times be exempt from taxation by or under the authority of the
3 state, except for inheritance and estate taxes and taxes on transfers
4 by or in contemplation of death. Nothing in this section affects or
5 limits an exemption from license fees, property taxes, or excise,
6 income, or other taxes, provided under any other law, nor does it
7 create a tax exemption with respect to the interest of any business
8 enterprise or other person, other than the authority, in any property,
9 assets, income, receipts, project or lease whether or not financed
10 under this chapter.

11 Sec. 30.13.120. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
12 bonds of an authority are securities in which all public officers and
13 bodies of the state and all municipalities and municipal subdivisions,
14 all insurance companies and associations and other persons carrying on
15 an insurance business, all banks, bankers, trust companies, savings
16 banks, savings associations, including without limitation savings and
17 loan associations and building and loan associations, investment
18 companies and other persons carrying on banking business, all adminis-
19 trators, guardians, executors, trustees and other fiduciaries, and all
20 other persons who are now or may afterward be authorized to invest in
21 bonds or other obligations of the state, may properly and legally
22 invest money including capital in their control or belonging to them.
23 Notwithstanding any other provisions of law, the bonds of an authority
24 are also securities that may be deposited with and may be received by
25 all public officers and bodies of the state and all municipalities and
26 municipal subdivisions for any purpose for which the deposit of bonds
27 or other obligations of the state is now or may afterward be autho-
28 rized.

29 Sec. 30.13.125. AUDIT. The legislative auditor shall audit or

1 shall cause to have audited annually the financial records of an
2 authority. The legislative auditor may prescribe the form and content
3 of the financial records of an authority and shall have access to
4 these records at any reasonable time.

5 Sec. 30.13.130. EQUAL USE AND ACCESS. If an authority owns,
6 leases, or otherwise operates or controls, or participates in the
7 financing of, a facility, the authority shall, to the maximum extent
8 possible, provide for equal rights of access to and use of the facil-
9 ity by members of the public and other persons or entities upon terms
10 and conditions that are fair and reasonable. However, this subsection
11 does not prevent an authority from establishing fair and reasonable
12 limitations on use of or access to a facility to the extent the limi-
13 tations are necessary in connection with the nature of the facility or
14 the demand for use of or access to the facility. This section applies
15 to the establishment of rates and rate structures as well as all other
16 factors, terms, and conditions relating to the use of or access to the
17 facility, including without limitation the design and location of the
18 facility. The members of the authority shall make a written finding
19 concerning compliance of the facility with the provisions of this
20 section. A written finding signed by at least three of the five
21 elected members and two of the three appointed members that the facil-
22 ity complies with the provisions of this section shall constitute a
23 conclusive presumption of compliance.

24 Sec. 30.13.140. JURISDICTION. An authority is not subject to
25 the jurisdiction of the Alaska Transportation Commission.

26 Sec. 30.13.150. SUCCESSION. Whenever a borough of the first or
27 second class or a home rule municipality is created with an area
28 coterminous with or inclusive of the area of an authority, the author-
29 ity shall be integrated into the borough or home rule municipality

1 within one year of incorporation. On integration the borough or home
2 rule municipality succeeds to all the rights, powers, duties, assets,
3 and liabilities of the authority, except that any indebtedness of an
4 authority does not constitute a general obligation of the borough or
5 home rule municipality payable from taxes levied by the borough or
6 home rule municipality. The borough or home rule municipality may not
7 levy any taxes to pay the indebtedness.

8 Sec. 30.13.900. DEFINITIONS. In this chapter, unless the con-
9 text otherwise requires,

10 (1) "authority" means a public body created under AS 30.-
11 13.010;

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

14 (3) "cost" includes the cost of acquisition or construction
15 of all or any part of transportation facilities and of all or any
16 property, rights, easements and franchises considered by an authority
17 to be necessary, useful, or convenient, including without limitation
18 reimbursements to the authority or any other person of money expended
19 for the purposes of the authority and interest or discount on bonds to
20 finance those expenses, engineering and inspection costs and legal
21 expenses, the cost of financial, professional and other advice, and
22 the cost of issuance of bonds;

23 (4) "district" means the area within the boundaries of an
24 authority;

25 (5) "person" includes a corporation, company, partnership,
26 firm, association, organization, business trust, society, state or
27 agency or subdivision of the state, municipality of the state, or an
28 authority, as well as a natural person;

29 (6) "transportation facilities", or "facilities", or

1 "projects" means harbor, port, shipping and transportation facilities
2 of all kinds, including harbors, channels, turning basins, anchorage
3 areas, jetties, breakwaters, waterways, canals, locks, tidal basins,
4 wharves, docks, piers, slips, bulkheads, public landings, warehouses,
5 terminals, refrigerating and cold storage plants, rolling stock, car
6 ferries, tugs, boats, conveyors, tunnels, bridges, highways, roads and
7 railroads, and appliances of all kinds for the handling, storage, in-
8 spection and transportation of freight and natural resource products;
9 it also includes all property, rights, easements and franchises rela-
10 tive to a facility and necessary or convenient for the acquisition,
11 construction or operation of the facility, but does not include air-
12 port facilities.

13 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
14 10.070(c).

Offered: 5/26/83
Referred: Resources and
Finance

Original sponsors: Fahrenkamp, Kerttula,
Ferguson and P.Fischer

1 IN THE SENATE BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 151 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Regional Resource Development
7 Authorities; and providing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS AND POLICY. The legislature finds,
10 determines, and declares that:

11 (1) In most areas of the state, there is a lack of basic trans-
12 portation and port facilities adequate to permit the development of natural
13 resource enterprises, including mining enterprises.

14 (2) The development of natural resource enterprises, including
15 mining enterprises, is essential to the long-term economic growth of the
16 state and will directly and indirectly alleviate unemployment in the state.

17 (3) The achievement of full employment and the establishment and
18 continuing development of natural resource enterprises in the state will be
19 accelerated by authorizing the creation of instrumentalities in the various
20 areas of the state with powers to borrow money to provide for the develop-
21 ment of transportation and port facilities, and to own, operate and main-
22 tain transportation and port facilities, as provided in this chapter.

23 (4) The locally elected majority membership of an authority
24 created under this chapter provides a method of assuring that the manner of
25 development and the permanent features of a project will be consistent with
26 the economic, sociological, cultural, environmental, and political aspira-
27 tions of the residents of the particular region.

28 * Sec. 2. AS 30 is amended by adding a new chapter to read:

29 CHAPTER 13. REGIONAL RESOURCE DEVELOPMENT AUTHORITIES.

1 Sec. 30.13.010. CREATION OF AUTHORITY. (a) The residents of
2 each area of the state within the boundaries of a regional educational
3 attendance area established under AS 14.08 may create a public body
4 corporate and politic under the name and style of the "
5 _____ Resource Development Authority" with all or any
6 significant part of the name of the region of the state inserted. The
7 boundaries of the authority created shall be coterminous with the
8 boundaries of the regional educational attendance area. Creation of
9 an authority is initiated by a petition filed with the Department of
10 Community and Regional Affairs and a statement submitted to the gover-
11 nor before July 1, 1986. The petition must include the proposed name
12 of the authority, its boundaries, and a statement of the facilities
13 proposed to be provided by the authority. The petition must be signed
14 by 15 percent of the total number of residents in the regional educa-
15 tional attendance area who cast votes in the preceding general
16 election. The Department of Community and Regional Affairs shall
17 review petitions for content and signatures. If the Department of
18 Community and Regional Affairs determines that the petition is ade-
19 quate, it shall transmit the petition to the director of elections.

20 (b) The statement required under (a) of this section to be
21 submitted to the governor must include the purposes for which the
22 authority is to be created, the goals and potential projects the
23 authority intends to accomplish, and an analysis of alternative
24 methods of accomplishing the goals and projects of the proposed au-
25 thority. The governor shall determine whether the accomplishment of
26 the goals and potential projects of the proposed authority would be
27 advantageous to the economic growth of the region and the state and
28 whether the creation of the proposed authority would be an appropriate
29 and desirable method of accomplishing those goals and projects. The

1 governor shall submit findings under this subsection to the division
2 of elections within 90 days after receipt of the statement.

3 (c) The director of elections shall order an election in the
4 area of the proposed authority to determine whether the voters desire
5 the creation of the authority if the director has received the peti-
6 tion and

7 (1) the governor has submitted affirmative findings to the
8 director under (b) of this section; or

9 (2) more than 90 days have elapsed since the statement was
10 submitted to the governor under (a) of this section and the governor
11 has failed to submit negative findings to the division of elections.

12 (d) An order for an election shall be made within 30 days after
13 the requirements of (c) of this section have been met. The election
14 shall be held not less than 30 or more than 120 days after the date of
15 the election order. To the extent practicable, the election shall be
16 held on a date coinciding with the date for other elections in the
17 region. The election order shall specify the dates after which nomi-
18 nation petitions for election of initial officers may be filed.

19 (e) A registered voter who has been a resident within the area
20 of the proposed authority for 30 days before the date of election may
21 vote.

22 (f) If creation of an authority is approved, the director of
23 elections shall, within 10 days of certification, order an election to
24 choose the five initially elected members of the board of governors of
25 the authority. The election shall be held not less than 60 or more
26 than 90 days after the date of the election order. The initially
27 elected members of the board of governors shall take office on the
28 first Monday following certification of their election. Two of the
29 initially elected members shall be designated by lot to serve for a

1 term expiring on the first day of the second November after the date
2 of their election; two of the initially elected members shall be
3 designated by lot to serve for a term expiring on the first day of the
4 third November after the date of their election, and one of the ini-
5 tially elected members shall be designated by lot to serve for a term
6 expiring on the first day of the fourth November after the date of
7 election.

8 (g) Nominations for elected members are made by petition. The
9 petition shall be in the form prescribed by the director of elections
10 and include the name and address of the nominee and the statement of
11 the nominee that the nominee is qualified under this chapter for the
12 office of member of the board of governors of the authority. A
13 nomination petition shall include the signature and resident address
14 of 20 voters in the area of the authority. The director of elections
15 shall supervise the elections in the general manner prescribed by the
16 Alaska Election Code (AS 15). The state shall pay all election costs
17 under this chapter.

18 (h) A copy of each petition for the creation of an authority and
19 of the certificate of the director of elections as to the election
20 shall be filed in the office of the director of elections. Upon proof
21 of filing the authority referred to shall, in any suit, action or
22 proceeding involving the validity or enforcement of, or relating to,
23 any contract or obligation or act of the authority, be conclusively
24 presumed to have been lawfully and properly created as a public body
25 corporate and politic and established and authorized to transact
26 business and exercise its powers under this chapter.

27 Sec. 30.13.020. BOARD OF GOVERNORS. (a) The authority shall be
28 governed by a board of governors consisting of eight members, five of
29 whom shall be elected and three of whom shall be appointed by the

1 governor. Elections of members to succeed those initially elected
2 under AS 30.13.010(f) shall be held on the first Tuesday of October of
3 each year in which a term expires. Terms of elected members shall be
4 two years.

5 (b) Nominations for elected members to succeed those initially
6 elected under AS 30.13.010(f) shall be in accordance with the proce-
7 dures set out in AS 30.13.010(g).

8 (c) The three members appointed by the governor shall be heads
9 of principal departments of the executive branch and shall serve at
10 the pleasure of the governor.

11 (d) The members of the board of governors shall elect a chair-
12 person and a vice chairperson from among its members. Six members of
13 the board of governors constitute a quorum for the transaction of
14 business. Action may be taken and motions or resolutions adopted by
15 the board of governors at a meeting at which a quorum is present by
16 vote of a majority of the members present, unless the bylaws of an
17 authority require a larger number. The board of governors may
18 delegate to one or more of its officers, agents or employees the
19 powers and duties that it considers proper. The board of governors
20 may appoint persons as officers it considers advisable, including an
21 executive director, and may employ professional advisors, counsel,
22 technical experts, agents, and other employees it considers advisable.

23 (e) A member of the board of governors of an authority may not
24 vote on a resolution of the board relating to any agreement to be
25 entered into by the authority under this chapter if the member is a
26 party to the agreement or has a direct ownership or equity interest,
27 beneficially or of record, exceeding one percent in, or is employed
28 by, a firm, partnership, corporation or association that is a party to
29 the agreement. A resolution of the board that is approved by a

1 majority of all the members who are not barred from voting under this
2 subsection is a valid action of the authority for all purposes.

3 Sec. 30.13.030. PURPOSE OF AN AUTHORITY. The purpose of an
4 authority shall be the improvement, establishment and development of
5 facilities in its district for transportation purposes in connection
6 with natural resource enterprises, either directly or by agreement
7 with any public or private entity or person.

8 Sec. 30.13.040. POWERS OF AN AUTHORITY. Subject to AS 30.13.050
9 and AS 30.13.130, in furtherance of its corporate purposes under
10 AS 30.13.030, an authority has the power to

11 (1) sue and be sued;

12 (2) have a seal and alter it at its pleasure;

13 (3) adopt and amend bylaws for its organization and inter-
14 nal management;

15 (4) adopt regulations governing the exercise of its corpo-
16 rate powers;

17 (5) acquire, rent, hold, use and dispose of projects and
18 other real and personal property necessary, useful, or convenient for
19 its purposes upon the terms and conditions the authority may consider
20 advisable;

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

24 (7) accept gifts, loans, or grants, including organiza-
25 tional grants, from, and enter into contracts or other transactions
26 regarding them with, any federal, state, municipal or other agency or
27 instrumentality, private organization, or other person;

28 (8) deposit or invest its funds, subject to agreements with
29 bondholders;

1 (9) charge and collect rents, rates, fees, or other charges
2 for its services and facilities;

3 (10) enter into contracts or other transactions with any
4 federal, state, municipal or other agency, or instrumentality, private
5 organization, or person consistent with the exercise of any powers
6 under this chapter; and

7 (11) do all things necessary and convenient to carry out its
8 corporate purposes and exercise the powers granted in this chapter.

9 Sec. 30.13.050. LIMITATION ON POWERS. An authority has only
10 those powers expressly granted in this chapter, reasonably implied
11 from this chapter, or reasonably necessary or convenient to carry out
12 its corporate purposes and to exercise the powers expressly granted in
13 or reasonably implied from this chapter. An authority does not have
14 powers of eminent domain, taxation, land use planning, zoning, permit-
15 ting, or other similar governmental powers. An authority may not use
16 state grants, appropriations, or other transfers from the state to
17 satisfy bond obligations or otherwise establish collateral or security
18 for bonds issued by the authority or to finance the improvement,
19 establishment, or development of transportation facilities or
20 projects.

21 Sec. 30.13.055. CONSIDERATION OF PROJECTS TO BE FINANCED. (a)
22 Before issuing bonds for any project under this chapter, an authority
23 must find, on the basis of all information reasonably available to it,
24 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 and
28 the region within which the authority may exercise its powers;

29 (2) the project is financially feasible and, able to

1 produce revenue adequate to repay the bonds with which it is financed;
2 and

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

6 (b) An authority shall give fair and reasonable consideration to
7 a project presented to it for financing. When the authority deter-
8 mines whether to finance or assist in the financing of the project,
9 the authority shall state the reasons for its determination in a
10 written resolution upon request by a person who presented the project
11 to the authority or a person who presented opposition to the project.
12 The authority shall base its reasons on the information presented to
13 it concerning the project and on other information considered appro-
14 priate by the authority.

15 Sec. 30.13.060. BONDS OF AN AUTHORITY. (a) Subject to the
16 provisions of AS 30.13.055(a), an authority may borrow money and may
17 issue bonds, including but not limited to bonds on which the principal
18 and interest are payable,

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

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

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

26 (b) Bonds shall be authorized by resolution of the authority,
27 and be dated and shall mature as the resolution may provide, except
28 that no bond may mature more than 40 years from the date of its issue.
29 Bonds shall bear interest at the rate or rates, be in the denomina-

1 tions, be in the form, either coupon or registered, carry the regis-
2 tration privileges, be executed in the manner, be payable in the
3 medium of payment, at the place or places, and be subject to the terms
4 of redemption which the resolution or a subsequent resolution may
5 provide.

6 (c) All bonds, regardless of form or character, shall be nego-
7 tiable instruments for the purposes of the Uniform Commercial Code.

8 (d) All bonds may be sold at public or private sale in the
9 manner, for the price or prices, and at the time or times that the
10 authority may determine.

11 (e) The superior court shall have jurisdiction to hear and
12 determine suits, actions or proceedings relating to an authority,
13 including without limitation suits, actions or proceedings brought to
14 foreclose or otherwise enforce a mortgage, pledge, assignment or
15 security interest or brought by or for the benefit or security of a
16 holder of its bonds or by a trustee for or other representative of the
17 holders.

18 (f) Before issuing bonds for a project under this chapter an
19 authority shall submit to the state bond committee a description of
20 the bond issue and an independent economic feasibility analysis of the
21 project and expected revenues. This information may be contained in a
22 preliminary prospectus, offering circular or official statement relat-
23 ing to the bond issue. Bonds may not be issued unless the state bond
24 committee finds, based upon the information submitted by the authority
25 under this subsection and other information that is reasonably avail-
26 able to it, that the project revenues can be reasonably expected to be
27 adequate for payment of the principal and interest on the bonds to be
28 issued, and that issuance of the bonds by the authority would not be
29 expected to adversely affect the ability of the state or its political

1 subdivisions to market bonds.

2 Sec. 30.13.070. TRUST INDENTURES AND TRUST AGREEMENTS. In the
3 discretion of the authority, an issue of bonds may be secured by a
4 trust indenture or trust agreement between the authority and a
5 corporate trustee, that may be a trust company, bank, or national
6 banking association, with corporate trust powers, located inside or
7 outside the state, or by a secured loan agreement or other instrument
8 or under a resolution giving powers to a corporate trustee, after this
9 in this section referred to as "trust agreement", by means of which
10 the authority may

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

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

19 (B) the fixing and collection of rents or other con-
20 sideration for, and the other terms to be incorporated in an
21 agreement with respect to a project;

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

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

27 (E) the vesting in a trustee of rights, powers,
28 duties, funds, or property in trust for the benefit of bond-
29 holders, including, without limitation, the right to enforce

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

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

11 (3) provide for any other matters that in any way affect
12 the security or protection of the bonds.

13 Sec. 30.13.080. VALIDITY OF PLEDGE. It is the intention of the
14 legislature that a pledge made in respect of bonds shall be perfected
15 and shall be valid and binding from the time the pledge is made; that
16 the money or property so pledged and thereafter received by an author-
17 ity shall immediately be subject to the lien of the pledge without
18 physical delivery or further act; and that the lien of the pledge
19 shall be valid and binding against all parties having claims of any
20 kind in tort, contract, or otherwise against the authority irrespec-
21 tive of whether the parties have notice. Neither the resolution,
22 trust agreement or any other instrument by which a pledge is created
23 need be recorded or filed under the provisions of the Uniform Commer-
24 cial Code to be perfected or to be valid, binding, or effective
25 against the parties. This section does not affect title to or convey-
26 ances of real property, and does not limit the applicability of
27 AS 34.15.290.

28 Sec. 30.13.090. NONLIABILITY ON BONDS. (a) Neither the members
29 of an authority nor a person executing the bonds are liable personally

1 on the bonds or are subject to personal liability or accountability by
2 reason of the issuance of the bonds.

3 (b) The bonds issued by an authority do not constitute an in-
4 debtedness or other liability of the state or of a political
5 subdivision of the state, but shall be payable solely from the income
6 and receipts or other funds or property of the authority. The
7 authority may not pledge the faith or credit of the state or of a
8 political subdivision of the state, except the authority, to the
9 payment of a bond, and the issuance of a bond by the authority does
10 not directly or indirectly or contingently obligate the state or a
11 political subdivision of the state to apply money from, levy or pledge
12 any form of taxation to the payment of the bond.

13 Sec. 30.13.100. PLEDGE OF THE STATE. The state pledges to and
14 agrees with the holders of bonds issued under this chapter and with
15 the federal agency which loans or contributes funds in respect to a
16 project, that the state will not limit or alter the rights and powers
17 vested in an authority by this chapter to fulfill the terms of a
18 contract made by the authority with the holders or federal agency, or
19 in any way impair the rights and remedies of the holders until the
20 bonds, together with the interest on them with interest on unpaid
21 installments of interest, and all costs and expenses in connection
22 with an action or proceeding by or on behalf of the holders, are fully
23 met and discharged. The authority is authorized to include this
24 pledge and agreement of the state, insofar as it refers to holders of
25 bonds of the authority, in a contract with the holders, and insofar as
26 it relates to a federal agency, in a contract with the federal agency.

27 Sec. 30.13.110. EXEMPTION FROM TAXATION. The real and personal
28 property of an authority and its assets, income and receipts are
29 declared to be the property of a political subdivision of the state

1 and, together with any project financed under this chapter are exempt
2 from all taxes and special assessments of the state or a political
3 subdivision of the state. All bonds of an authority are declared to
4 be issued by a political subdivision of the state and for an essential
5 public and governmental purpose and to be a public instrumentality,
6 and the bonds, and the interest on them, the income from them and the
7 transfer of the bonds, and all assets, income and receipts pledged to
8 pay or secure the payment of the bonds, or interest on them, shall at
9 all times be exempt from taxation by or under the authority of the
10 state, except for inheritance and estate taxes and taxes on transfers
11 by or in contemplation of death. Nothing in this section affects or
12 limits an exemption from license fees, property taxes, or excise,
13 income, or other taxes, provided under any other law, nor does it
14 create a tax exemption with respect to the interest of any business
15 enterprise or other person, other than the authority, in any property,
16 assets, income, receipts, project or lease whether or not financed
17 under this chapter.

18 Sec. 30.13.120. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
19 bonds of an authority are securities in which all public officers and
20 bodies of the state and all municipalities and municipal subdivisions,
21 all insurance companies and associations and other persons carrying on
22 an insurance business, all banks, bankers, trust companies, savings
23 banks, savings associations, including without limitation savings and
24 loan associations and building and loan associations, investment
25 companies and other persons carrying on banking business, all adminis-
26 trators, guardians, executors, trustees and other fiduciaries, and all
27 other persons who are now or may afterward be authorized to invest in
28 bonds or other obligations of the state, may properly and legally
29 invest money including capital in their control or belonging to them.

1 Notwithstanding any other provisions of law, the bonds of an authority
2 are also securities that may be deposited with and may be received by
3 all public officers and bodies of the state and all municipalities and
4 municipal subdivisions for any purpose for which the deposit of bonds
5 or other obligations of the state is now or may afterward be autho-
6 rized.

7 Sec. 30.13.125. AUDIT. The legislative auditor shall audit or
8 shall cause to have audited annually the financial records of an
9 authority. The legislative auditor may prescribe the form and content
10 of the financial records of an authority and shall have access to
11 these records at any reasonable time.

12 Sec. 30.13.130. EQUAL USE AND ACCESS. If an authority owns,
13 leases, or otherwise operates or controls, or participates in the
14 financing of, a facility, the authority shall, to the maximum extent
15 possible, provide for equal rights of access to and use of the facil-
16 ity by members of the public and other persons or entities upon terms
17 and conditions that are fair and reasonable. However, this subsection
18 does not prevent an authority from establishing fair and reasonable
19 limitations on use of or access to a facility to the extent the limi-
20 tations are necessary in connection with the nature of the facility or
21 the demand for use of or access to the facility. This section applies
22 to the establishment of rates and rate structures as well as all other
23 factors, terms, and conditions relating to the use of or access to the
24 facility, including without limitation the design and location of the
25 facility. The members of the authority shall make a written finding
26 concerning compliance of the facility with the provisions of this
27 section. A written finding signed by at least three of the five
28 elected members and two of the three appointed members that the facil-
29 ity complies with the provisions of this section shall constitute a

1 conclusive presumption of compliance.

2 Sec. 30.13.140. JURISDICTION. An authority is not subject to
3 the jurisdiction of the Alaska Transportation Commission.

4 Sec. 30.13.150. SUCCESSION. Whenever a borough of the first or
5 second class or a home rule municipality is created with an area
6 coterminous with or inclusive of the area of an authority, the author-
7 ity shall be integrated into the borough or home rule municipality
8 within one year of incorporation. On integration the borough or home
9 rule municipality succeeds to all the rights, powers, duties, assets,
10 and liabilities of the authority, except that any indebtedness of an
11 authority does not constitute a general obligation of the borough or
12 home rule municipality payable from taxes levied by the borough or
13 home rule municipality. The borough or home rule municipality may not
14 levy any taxes to pay the indebtedness.

15 Sec. 30.13.900. DEFINITIONS. In this chapter, unless the con-
16 text otherwise requires,

17 (1) "authority" means a public body created under AS 30.-
18 13.010;

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

21 (3) "cost" includes the cost of acquisition or construction
22 of all or any part of transportation facilities and of all or any
23 property, rights, easements and franchises considered by an authority
24 to be necessary, useful, or convenient, including without limitation
25 reimbursements to the authority or any other person of money expended
26 for the purposes of the authority and interest or discount on bonds to
27 finance those expenses, engineering and inspection costs and legal
28 expenses, the cost of financial, professional and other advice, and
29 the cost of issuance of bonds;

1 (4) "district" means the area within the boundaries of an
2 authority;

3 (5) "person" includes a corporation, company, partnership,
4 firm, association, organization, business trust, society, state or
5 agency or subdivision of the state, municipality of the state, or an
6 authority, as well as a natural person;

7 (6) "transportation facilities", or "facilities", or "pro-
8 jects" means harbor, port, shipping and transportation facilities of
9 all kinds, including harbors, channels, turning basins, anchorage
10 areas, jetties, breakwaters, waterways, canals, locks, tidal basins,
11 wharves, docks, piers, slips, bulkheads, public landings, warehouses,
12 terminals, refrigerating and cold storage plants, rolling stock, car
13 ferries, tugs, boats, conveyors, tunnels, bridges, highways, roads and
14 railroads, and appliances of all kinds for the handling, storage, in-
15 spection and transportation of freight and natural resource products;
16 it also includes all property, rights, easements and franchises rela-
17 tive to a facility and necessary or convenient for the acquisition,
18 construction or operation of the facility, but does not include air-
19 port facilities.

20 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
21 10.070(c).

Offered: 5/27/83
Referred: Finance

Original sponsors: Fahrenkamp, Kerttula,
Ferguson and P.Fischer

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 151 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to Regional Resource Development
7 Authorities; and providing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS AND POLICY. The legislature finds,
10 determines, and declares that:

11 (1) In most areas of the state, there is a lack of basic trans-
12 portation and port facilities adequate to permit the development of natural
13 resource enterprises, including mining enterprises.

14 (2) The development of natural resource enterprises, including
15 mining enterprises, is essential to the long-term economic growth of the
16 state and will directly and indirectly alleviate unemployment in the state.

17 (3) The achievement of full employment and the establishment and
18 continuing development of natural resource enterprises in the state will be
19 accelerated by authorizing the creation of instrumentalities in the various
20 areas of the state with powers to borrow money to provide for the develop-
21 ment of transportation and port facilities, and to own, operate and main-
22 tain transportation and port facilities, as provided in this chapter.

23 (4) The locally elected majority membership of an authority
24 created under this chapter provides a method of assuring that the manner of
25 development and the permanent features of a project will be consistent with
26 the economic, sociological, cultural, environmental, and political aspira-
27 tions of the residents of the particular region.

28 * Sec. 2. AS 30 is amended by adding a new chapter to read:

29 CHAPTER 13. REGIONAL RESOURCE DEVELOPMENT AUTHORITIES.

1 Sec. 30.13.010. CREATION OF AUTHORITY. (a) The residents of
2 each area of the state within the boundaries of a regional housing
3 authority established under AS 18.55.996 which is located in whole or
4 in part in the unorganized borough of the state may create a public
5 body corporate and politic under the name and style of the "
6 _____ Resource Development Authority" with all or any
7 significant part of the name of the region of the state inserted. The
8 boundaries of the authority created shall be coterminous with the
9 portion of the applicable regional housing authority that lies in the
10 unorganized borough. Creation of an authority is initiated by a
11 petition filed with the Department of Community and Regional Affairs
12 and a statement submitted to the governor before July 1, 1986. The
13 petition must include the proposed name of the authority, its bound-
14 aries, and a statement of the facilities proposed to be provided by
15 the authority. The petition must be signed by 15 percent of the total
16 number of residents in the portion of the applicable regional housing
17 authority that lies in the unorganized borough who cast votes in the
18 preceding general election. The Department of Community and Regional
19 Affairs shall review petitions for content and signatures. If the
20 Department of Community and Regional Affairs determines that the
21 petition is adequate, it shall transmit the petition to the director
22 of elections.

23 (b) The statement required under (a) of this section to be
24 submitted to the governor must include the purposes for which the
25 authority is to be created, the goals and potential projects the
26 authority intends to accomplish, and an analysis of alternative
27 methods of accomplishing the goals and projects of the proposed au-
28 thority. The governor shall determine whether the accomplishment of
29 the goals and potential projects of the proposed authority would be

1 advantageous to the economic growth of the region and the state and
2 whether the creation of the proposed authority would be an appropriate
3 and desirable method of accomplishing those goals and projects. The
4 governor shall submit findings under this subsection to the division
5 of elections within 90 days after receipt of the statement.

6 (c) The director of elections shall order an election in the
7 area of the proposed authority to determine whether the voters desire
8 the creation of the authority if the director has received the peti-
9 tion and

10 (1) the governor has submitted affirmative findings to the
11 director under (b) of this section; or

12 (2) more than 90 days have elapsed since the statement was
13 submitted to the governor under (a) of this section and the governor
14 has failed to submit negative findings to the division of elections.

15 (d) An order for an election shall be made within 30 days after
16 the requirements of (c) of this section have been met. The election
17 shall be held not less than 30 or more than 120 days after the date of
18 the election order. To the extent practicable, the election shall be
19 held on a date coinciding with the date for other elections in the
20 region. The election order shall specify the dates after which nomi-
21 nation petitions for election of initial officers may be filed.

22 (e) A registered voter who has been a resident within the area
23 of the proposed authority for 30 days before the date of election may
24 vote.

25 (f) If creation of an authority is approved, the director of
26 elections shall, within 10 days of certification, order an election to
27 choose the five initially elected members of the board of governors of
28 the authority. The election shall be held not less than 60 or more
29 than 90 days after the date of the election order. The initially

1 elected members of the board of governors shall take office on the
2 first Monday following certification of their election. Two of the
3 initially elected members shall be designated by lot to serve for a
4 term expiring on the first day of the second November after the date
5 of their election; two of the initially elected members shall be
6 designated by lot to serve for a term expiring on the first day of the
7 third November after the date of their election, and one of the ini-
8 tially elected members shall be designated by lot to serve for a term
9 expiring on the first day of the fourth November after the date of
10 election.

11 (g) Nominations for elected members are made by petition. The
12 petition shall be in the form prescribed by the director of elections
13 and include the name and address of the nominee and the statement of
14 the nominee that the nominee is qualified under this chapter for the
15 office of member of the board of governors of the authority. A nom-
16 ination petition shall include the signature and resident address of
17 20 voters in the area of the authority. The director of elections
18 shall supervise the elections in the general manner prescribed by the
19 Alaska Election Code (AS 15). The state shall pay all election costs
20 under this chapter.

21 (h) A copy of each petition for the creation of an authority and
22 of the certificate of the director of elections as to the election
23 shall be filed in the office of the director of elections. Upon proof
24 of filing the authority referred to shall, in any suit, action or
25 proceeding involving the validity or enforcement of, or relating to,
26 any contract or obligation or act of the authority, be conclusively
27 presumed to have been lawfully and properly created as a public body
28 corporate and politic and established and authorized to transact
29 business and exercise its powers under this chapter.

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Sec. 30.13.020. BOARD OF GOVERNORS. (a) The authority shall be governed by a board of governors consisting of eight members, five of whom shall be elected and three of whom shall be appointed by the governor. Elections of members to succeed those initially elected under AS 30.13.010(f) shall be held on the first Tuesday of October of each year in which a term expires. Terms of elected members shall be two years.

(b) Nominations for elected members to succeed those initially elected under AS 30.13.010(f) shall be in accordance with the procedures set out in AS 30.13.010(g).

(c) The three members appointed by the governor shall be the commissioner of transportation and public facilities and the heads of two other principal departments of the executive branch.

(d) The members of the board of governors shall elect a chairperson and a vice chairperson from among its members. Six members of the board of governors constitute a quorum for the transaction of business. Action may be taken and motions or resolutions adopted by the board of governors at a meeting at which a quorum is present by vote of a majority of the members present, unless the bylaws of an authority require a larger number. The board of governors may delegate to one or more of its officers, agents or employees the powers and duties that it considers proper. The board of governors may appoint persons as officers it considers advisable, including an executive director, and may employ professional advisors, counsel, technical experts, agents, and other employees it considers advisable.

(e) A member of the board of governors of an authority may not vote on a resolution of the board relating to any agreement to be entered into by the authority under this chapter if the member is a

1 party to the agreement or has a direct ownership or equity interest,
2 beneficially or of record, exceeding one percent in, or is employed
3 by, a firm, partnership, corporation or association that is a party to
4 the agreement. A resolution of the board that is approved by a major-
5 ity of all the members who are not barred from voting under this
6 subsection is a valid action of the authority for all purposes.

7 Sec. 30.13.030. PURPOSE OF AN AUTHORITY. The purpose of an
8 authority shall be the improvement, establishment and development of
9 facilities in its district for transportation purposes in connection
10 with natural resource enterprises, either directly or by agreement
11 with any public or private entity or person.

12 Sec. 30.13.040. POWERS OF AN AUTHORITY. Subject to AS 30.13.050
13 and AS 30.13.130, in furtherance of its corporate purposes under
14 AS 30.13.030, an authority has the power to

15 (1) sue and be sued;

16 (2) have a seal and alter it at its pleasure;

17 (3) adopt and amend bylaws for its organization and inter-
18 nal management;

19 (4) adopt regulations governing the exercise of its corpo-
20 rate powers;

21 (5) acquire, rent, hold, use and dispose of projects and
22 other real and personal property necessary, useful, or convenient for
23 its purposes upon the terms and conditions the authority may consider
24 advisable;

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

28 (7) accept gifts, loans, or grants, including organiza-
29 tional grants, from, and enter into contracts or other transactions

1 regarding them with, any federal, state, municipal or other agency or
2 instrumentality, private organization, or other person;

3 (8) deposit or invest its funds, subject to agreements with
4 bondholders;

5 (9) charge and collect only those rents, rates, fees, or
6 other charges that are necessary to pay for capital, maintenance, and
7 operating costs of the services and facilities of the authority;

8 (10) enter into contracts or other transactions with any
9 federal, state, municipal or other agency, or instrumentality, private
10 organization, or person consistent with the exercise of any powers
11 under this chapter; and

12 (11) do all things necessary and convenient to carry out its
13 corporate purposes and exercise the powers granted in this chapter.

14 Sec. 30.13.050. LIMITATION ON POWERS. An authority has only
15 those powers expressly granted in this chapter, reasonably implied
16 from this chapter, or reasonably necessary or convenient to carry out
17 its corporate purposes and to exercise the powers expressly granted in
18 or reasonably implied from this chapter. An authority does not have
19 powers of eminent domain, taxation, land use planning, zoning, permit-
20 ting, or other similar governmental powers. An authority may not use
21 state grants, appropriations, or other transfers from the state to
22 satisfy bond obligations or otherwise establish collateral or security
23 for bonds issued by the authority. An authority may not use rents,
24 rates, fees, or other charges collected through operation of a facil-
25 ity to finance the improvement, establishment, and development of
26 unrelated facilities.

27 Sec. 30.13.055. CONSIDERATION OF PROJECTS TO BE FINANCED. (a)
28 Before issuing bonds for any project under this chapter, an authority
29 must find, on the basis of all information reasonably available to it,

1 that

2 (1) the project and its development under this chapter will
3 be economically advantageous to the state and the general public
4 welfare and will contribute to the economic growth of the state and
5 the region within which the authority may exercise its powers;

6 (2) the project is financially sound and, can be expected
7 to produce revenue adequate to repay the bonds with which it is
8 financed; and

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

12 (b) An authority shall give fair and reasonable consideration to
13 a project presented to it for financing. When the authority deter-
14 mines whether to finance or assist in the financing of the project,
15 the authority shall state the reasons for its determination in a
16 written resolution upon request by a person who presented the project
17 to the authority or a person who presented opposition to the project.
18 The authority shall base its reasons on the information presented to
19 it concerning the project and on other information considered appro-
20 priate by the authority.

21 Sec. 30.13.060. BONDS OF AN AUTHORITY. (a) Subject to the
22 provisions of AS 30.13.055(a), an authority may borrow money and may
23 issue bonds, including but not limited to bonds on which the principal
24 and interest are payable,

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

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

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

3 (b) Bonds shall be authorized by resolution of the authority,
4 and be dated and shall mature as the resolution may provide, except
5 that no bond may mature more than 40 years from the date of its issue.
6 Bonds shall bear interest at the rate or rates, be in the denomina-
7 tions, be in the form, either coupon or registered, carry the regis-
8 tration privileges, be executed in the manner, be payable in the
9 medium of payment, at the place or places, and be subject to the terms
10 of redemption which the resolution or a subsequent resolution may
11 provide.

12 (c) All bonds, regardless of form or character, shall be nego-
13 tiable instruments for the purposes of the Uniform Commercial Code.

14 (d) All bonds may be sold at public or private sale in the
15 manner, for the price or prices, and at the time or times that the
16 authority may determine.

17 (e) The superior court shall have jurisdiction to hear and
18 determine suits, actions or proceedings relating to an authority,
19 including without limitation suits, actions or proceedings brought to
20 foreclose or otherwise enforce a mortgage, pledge, assignment or
21 security interest or brought by or for the benefit or security of a
22 holder of its bonds or by a trustee for or other representative of the
23 holders.

24 (f) Before issuing bonds for a project under this chapter an
25 authority shall submit to the state bond committee a description of
26 the bond issue and an independent economic feasibility analysis of the
27 project and expected revenues. This information may be contained in a
28 preliminary prospectus, offering circular or official statement relat-
29 ing to the bond issue. Bonds may not be issued unless the state bond

1 committee finds, based upon the information submitted by the authority
2 under this subsection and other information that is reasonably avail-
3 able to it, that the project revenues can be reasonably expected to be
4 adequate for payment of the principal and interest on the bonds to be
5 issued, and that issuance of the bonds by the authority would not be
6 expected to adversely affect the ability of the state or its political
7 subdivisions to market bonds.

8 Sec. 30.13.070. TRUST INDENTURES AND TRUST AGREEMENTS. In the
9 discretion of the authority, an issue of bonds may be secured by a
10 trust indenture or trust agreement between the authority and a corpo-
11 rate trustee, that may be a trust company, bank, or national banking
12 association, with corporate trust powers, located inside or outside
13 the state, or by a secured loan agreement or other instrument or under
14 a resolution giving powers to a corporate trustee, after this in this
15 section referred to as "trust agreement", by means of which the autho-
16 rity may

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

21 (A) the application, investment, deposit, use and
22 disposition of the proceeds of the bonds of the authority or of
23 money or other property of the authority or in which it has an
24 interest;

25 (B) the fixing and collection of rents or other con-
26 sideration for, and the other terms to be incorporated in an
27 agreement with respect to a project;

28 (C) the assignment by the authority of its rights in a
29 mortgage or other security interest created with respect to a

1 project to a trustee for the benefit of bondholders;

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

4 (E) the vesting in a trustee of rights, powers,
5 duties, funds, or property in trust for the benefit of bond-
6 holders, including, without limitation, the right to enforce
7 payment, performance and all other rights of the authority or of
8 the bondholders, under a lease, contract of sale, mortgage,
9 security agreement, or trust agreement with respect to a project
10 by mandamus or other proceeding or by taking possession of by
11 agent or otherwise and operating a project and collecting rents
12 or other consideration and applying the same in accordance with
13 the trust agreement;

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

17 (3) provide for any other matters that in any way affect
18 the security or protection of the bonds.

19 Sec. 30.13.080. VALIDITY OF PLEDGE. It is the intention of the
20 legislature that a pledge made in respect of bonds shall be perfected
21 and shall be valid and binding from the time the pledge is made; that
22 the money or property so pledged and thereafter received by an author-
23 ity shall immediately be subject to the lien of the pledge without
24 physical delivery or further act; and that the lien of the pledge
25 shall be valid and binding against all parties having claims of any
26 kind in tort, contract, or otherwise against the authority irrespec-
27 tive of whether the parties have notice. Neither the resolution,
28 trust agreement or any other instrument by which a pledge is created
29 need be recorded or filed under the provisions of the Uniform

1 Commercial Code to be perfected or to be valid, binding, or effective
2 against the parties. This section does not affect title to or convey-
3 ances of real property, and does not limit the applicability of
4 AS 34.15.290.

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9 (b) The bonds issued by an authority do not constitute an in-
10 debtedness or other liability of the state or of a political subdivi-
11 sion of the state, but shall be payable solely from the income and
12 receipts or other funds or property of the authority. The authority
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14 subdivision of the state, except the authority, to the payment of a
15 bond, and the issuance of a bond by the authority does not directly or
16 indirectly or contingently obligate the state or a political subdivi-
17 sion of the state to apply money from, levy or pledge any form of
18 taxation to the payment of the bond.

19 Sec. 30.13.100. PLEDGE OF THE STATE. The state pledges to and
20 agrees with the holders of bonds issued under this chapter and with
21 the federal agency which loans or contributes funds in respect to a
22 project, that the state will not limit or alter the rights and powers
23 vested in an authority by this chapter to fulfill the terms of a
24 contract made by the authority with the holders or federal agency, or
25 in any way impair the rights and remedies of the holders until the
26 bonds, together with the interest on them with interest on unpaid
27 installments of interest, and all costs and expenses in connection
28 with an action or proceeding by or on behalf of the holders, are fully
29 met and discharged. The authority is authorized to include this

1 pledge and agreement of the state, insofar as it refers to holders of
2 bonds of the authority, in a contract with the holders, and insofar as
3 it relates to a federal agency, in a contract with the federal agency.

4 Sec. 30.13.110. EXEMPTION FROM TAXATION. The real and personal
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8 from all taxes and special assessments of the state or a political
9 subdivision of the state. All bonds of an authority are declared to
10 be issued by a political subdivision of the state and for an essential
11 public and governmental purpose and to be a public instrumentality,
12 and the bonds, and the interest on them, the income from them and the
13 transfer of the bonds, and all assets, income and receipts pledged to
14 pay or secure the payment of the bonds, or interest on them, shall at
15 all times be exempt from taxation by or under the authority of the
16 state, except for inheritance and estate taxes and taxes on transfers
17 by or in contemplation of death. Nothing in this section affects or
18 limits an exemption from license fees, property taxes, or excise,
19 income, or other taxes, provided under any other law, nor does it
20 create a tax exemption with respect to the interest of any business
21 enterprise or other person, other than the authority, in any property,
22 assets, income, receipts, project or lease whether or not financed
23 under this chapter.

24 Sec. 30.13.120. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
25 bonds of an authority are securities in which all public officers and
26 bodies of the state and all municipalities and municipal subdivisions,
27 all insurance companies and associations and other persons carrying on
28 an insurance business, all banks, bankers, trust companies, savings
29 banks, savings associations, including without limitation savings and

1 loan associations and building and loan associations, investment
2 companies and other persons carrying on banking business, all adminis-
3 trators, guardians, executors, trustees and other fiduciaries, and all
4 other persons who are now or may afterward be authorized to invest in
5 bonds or other obligations of the state, may properly and legally
6 invest money including capital in their control or belonging to them.
7 Notwithstanding any other provisions of law, the bonds of an authority
8 are also securities that may be deposited with and may be received by
9 all public officers and bodies of the state and all municipalities and
10 municipal subdivisions for any purpose for which the deposit of bonds
11 or other obligations of the state is now or may afterward be autho-
12 rized.

13 Sec. 30.13.125. AUDIT. The legislative auditor shall audit or
14 shall cause to have audited annually the financial records of an
15 authority. The legislative auditor may prescribe the form and content
16 of the financial records of an authority and shall have access to
17 these records at any reasonable time.

18 Sec. 30.13.130. EQUAL USE AND ACCESS. If an authority owns,
19 leases, or otherwise operates or controls, or participates in the
20 financing of, a facility, the authority shall, to the maximum extent
21 possible, provide for equal rights of access to and use of the facil-
22 ity by members of the public and other persons or entities upon terms
23 and conditions that are fair and reasonable. However, this subsection
24 does not prevent an authority from establishing fair and reasonable
25 limitations on use of or access to a facility to the extent the limi-
26 tations are necessary in connection with the nature of the facility or
27 the demand for use of or access to the facility. This section applies
28 to the establishment of rates and rate structures as well as all other
29 factors, terms, and conditions relating to the use of or access to the

1 facility, including without limitation the design and location of the
2 facility. The members of the authority shall make a written finding
3 concerning compliance of the facility with the provisions of this
4 section. A written finding signed by at least three of the five
5 elected members and two of the three appointed members that the facil-
6 ity complies with the provisions of this section shall constitute a
7 conclusive presumption of compliance.

8 Sec. 30.13.140. JURISDICTION. An authority is not subject to
9 the jurisdiction of the Alaska Transportation Commission.

10 Sec. 30.13.150. SUCCESSION. Whenever a borough of the first or
11 second class or a home rule municipality is created with an area
12 coterminous with or inclusive of the area of an authority, the author-
13 ity shall be integrated into the borough or home rule municipality
14 within one year of incorporation. On integration the borough or home
15 rule municipality succeeds to all the rights, powers, duties, assets,
16 and liabilities of the authority, except that any indebtedness of an
17 authority does not constitute a general obligation of the borough or
18 home rule municipality payable from taxes levied by the borough or
19 home rule municipality. The borough or home rule municipality may not
20 levy any taxes to pay the indebtedness.

21 Sec. 30.13.900. DEFINITIONS. In this chapter, unless the con-
22 text otherwise requires,

23 (1) "authority" means a public body created under AS 30.-
24 13.010;

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

27 (3) "cost" includes the cost of acquisition or construction
28 of all or any part of transportation facilities and of all or any
29 property, rights, easements and franchises considered by an authority

1 to be necessary, useful, or convenient, including without limitation
2 reimbursements to the authority or any other person of money expended
3 for the purposes of the authority and interest or discount on bonds to
4 finance those expenses, engineering and inspection costs and legal
5 expenses, the cost of financial, professional and other advice, and
6 the cost of issuance of bonds;

7 (4) "district" means the area within the boundaries of an
8 authority;

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

13 (6) "transportation facilities", or "facilities", or "pro-
14 jects" means harbor, port, shipping and transportation facilities of
15 all kinds, including harbors, channels, turning basins, anchorage
16 areas, jetties, breakwaters, waterways, canals, locks, tidal basins,
17 wharves, docks, piers, slips, bulkheads, public landings, warehouses,
18 terminals, refrigerating and cold storage plants, rolling stock, car
19 ferries, tugs, boats, conveyors, tunnels, bridges, highways, roads and
20 railroads, and appliances of all kinds for the handling, storage, in-
21 spection and transportation of freight and natural resource products;
22 it also includes all property, rights, easements and franchises rela-
23 tive to a facility and necessary or convenient for the acquisition,
24 construction or operation of the facility, but does not include air-
25 port facilities.

26 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
27 10.070(c).