

HB

22

Introduced: 1/20/83  
Referred: Labor & Commerce,  
Judiciary and Finance

1.) HAWGER -  
2.) -

INTERSTATE  
BANKING  
RESIDENCY REQUIREMENT

1 IN THE HOUSE

BY LINDAUER

2

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 22

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act establishing a state residence requirement for loans purchased by the Alaska Industrial Development Authority."

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

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Section 1. AS 44.88.155(d) is amended by adding a new paragraph to read:

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(9) may not be made unless the project applicant is a

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(A) resident of the state;

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(B) business enterprise in which the majority interest is owned by residents of the state; or

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(C) business enterprise that maintains its headquarters, executive offices, and administrative offices in the state, that maintains its principal place of business in the state, and that derives more than half of its business revenue from business done in the state; in this paragraph "business enterprise" includes the parent company of a business enterprise.

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① BANKS -

② S.B.A. -

③ CORPORATION DOMESTIC OWNED BY MAJORITY SHARE. OUT OF STATE CORPORATION

④ EQUAL PROTECTION LAWS

⑤ PROTECT HAS TO BE IN STATE

⑥ FROM ONE OF

⑦ ALASKA BUSINESSES FIRST / INTERSTATE

OUTSIDE - ⑧

# Alaska State Legislature

Representative John Lindauer  
District 10-A  
3933 Geneva Place  
Anchorage, AK 99508



While in Juneau  
Pouch V  
Juneau, AK 99811  
465-3709

## House of Representatives

January 21, 1983

TO: House Labor and Commerce Committee

FROM: Representative John Lindauer *John Lindauer*

SUBJECT: House Bill #22: "An Act establishing a state residence requirement for loans purchased by the Alaska Industrial Development Authority."

The purpose of this bill is to limit AIDA loans to residents of Alaska and businesses operating in Alaska.

"Many state loan programs and programs using state money already have restrictions that prohibit them from making loans to anyone but state residents. This is the case with agricultural loans (AS 03.10), commercial fishing loans (AS 16.10.300. et seq.), mining loans (AS 27.09), student loans (AS 14.40.741, et seq.), and loans made by the Commercial Fishing and Agricultural Bank (AS 44.81.210 (a) (1)). Other loan programs tend to be limited to state residents by their internal structure. AHFC loans, for example, are generally limited to owner-occupied residencies and thus are made only to persons actually residing in the state. Other examples of self-limiting loan programs are the Municipal Bond Bank Authority (AS 44.85), assisting Alaskan municipalities only, and the Bulk Fuel Revolving Loan Fund (AS 45.87) which assists Alaskan communities and individuals. These programs do not have specific residency requirements, but such requirements are probably not necessary due to the nature of the loan programs."

AIDA has no residency provisions and it is the intent of this bill that only Alaskans participate in this loan program.

The intent is to only qualify business entities who (a) do business within the state of Alaska; (b) have a majority of their employees employed within the geographic bounds of Alaska; and (c) have their corporate headquarters within Alaska.

<sup>1</sup> Linn H. Asper, Legislative Counsel, memorandum to Representative John Lindauer, December 2, 1982.

STATE OF ALASKA

WALT FURNACE, CHAIRMAN  
RICK UEHLING, VICE CHAIRMAN  
JOHN COWDERY  
NIILO E. KOPONEN  
HUGH MALONE  
JOHN RINGSTAD  
RON WENDTE



POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3892

HOUSE LABOR AND COMMERCE COMMITTEE

April 5, 1983

To: Representative Walt Furnace, Chairman  
House Labor and Commerce Committee

From: *Jefferson B. Barry*  
Jefferson B. Barry  
Professional Aide

Re: Sponsor Substitute for House Bill 22

Introductory Analysis

SSHB22 is an act which establishes a state residence requirement for loans purchased by the Alaska Industrial Development Authority. The purpose, as stated by the sponsor, is "to only qualify business entities who (a) do business within the state of Alaska; (b) have a majority of their employees employed within the geographic bounds of Alaska; and (c) have their corporate headquarters within Alaska." In dealing with any program which requires residency immediate questions of constitutionality need to be addressed. The attached memorandum from Legislative Counsel Linn Asper touch on the surface of these concerns but skirt the main questions. Even with a narrow scope of review, Mr. Asper could only conclude, "that a case can be made that the residence requirement it contains is constitutional."

Zobel, Hicklin, Lynden, Shelev, and other cases which have been filed over residency requirements have pointed out the necessity for the legislation to clearly enunciate a state benefit, public purpose, not intrude into commerce (private), and be based on a rational basis for establishing the residency requirement. Since SSHB22 establishes a residency requirement for AIDA, it is necessary to examine the purpose, policy, and rationale which created AIDA and see where SSHB22 fits into the general statutes.

The legislative findings, determinations and declarations about AIDA are found in AS 44.88.010(a)(1)-(7). These seven findings relate to unemployment and the need to stimulate economic activity in the state. AS 44.88.010(b) states; "It is declared to be the policy of the state, in the interests of promoting the health, security and general welfare of all the people of the state, and a public purpose, to increase job opportunities and otherwise to encourage the economic growth of the state, including the development of its natural resources, through the establishment and expansion of manufacturing, industrial, and business enterprises and the other facilities referred to in (a)(5) of this section by creating the public corporation with power, duties and functions as provided in AS 44.88.010-44.88.220." The purpose of SSHB22 would be to create a benefit for "Alaska" businesses and may create a climate detrimental to the stated purposes of AS 44.88.010(a) and (b).

Since the purpose of AIDA is to encourage the development of the economy, not to see who may get the profit of a particular enterprise, SSHB22 may have a chilling effect on the ability of otherwise eligible business to invest in the Alaskan marketplace and create the jobs, etc. if they are disqualified on the basis of residency. This also raises the question of how to treat franchises of national corporations.

The questions of interstate commerce certainly need to be addressed. If the purpose of AIDA is to develop the economy, it would seem contradictory to prevent qualified firms from participating based on the location of home office or where they were incorporated. The idea of giving an Alaska based firm a competitive advantage in industry engaged in interstate commerce has not found favor in the courts. The fundamental policy question that needs to be answered is for whose benefit is AIDA established? Is it to meet the goals set forth in AS 44.88.010 or to ensure that only Alaska businessmen receive the profits of business conducted in or based out of Alaska? Should the state be concerned and use the resources of the state for the establishment and development of the economy or should the state underwrite the profit(s) of "Alaska business."

# STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

## LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 2, 1983

SUBJECT: Residence requirement for applicants for AIDA  
loans (CSSSHB 22)

TO: Representative John Lindauer

FROM: *elga* Linn H. Asper  
Legislative Counsel

I have prepared a proposed committee substitute for SSHB 22, that would impose a residence requirement for applicants for AIDA loans. Your concern in making this request, as I understand it, was to eliminate constitutional problems raised by the bill. The only significant change I have made is to delete the inclusion of parent companies in the concept of "business enterprise". The effect of that clause was to bar all out-of-state enterprises from consideration for an AIDA loan unless they relocated in Alaska. As rewritten an outside enterprise could get a loan if an Alaskan subsidiary were formed, controlled by state residents.

The primary purpose of this memorandum is to advise that it may be impossible to write a bill that will accomplish your purpose and still escape constitutional scrutiny. This is so largely because the state of the law is that residence requirements are in full retreat in this state and elsewhere. You are well aware of the Zobel cases, involving durational residency requirements for individuals, but in addition a 1974 case, Lynden Transport v. State, 532 P.2d 700 (Alaska), held that an advantage given resident trucking enterprises over nonresidents was an unconstitutional violation of the equal protection clauses of the federal and state constitutions. Since Lynden Transport involved a permit to do business in the state and your bill concerns access to state subsidized loans, a distinction might be drawn that would favor your proposed legislation, but the potential for a court challenge remains. Lynden Transport has since been cited with favor in Hicklin v. Orbeck, 565 P.2d 167, and Sheley v. Alaska Bar Association, 620 P.2d

Representative John Lindauer

Page 2

February 2, 1983

642, both of which struck down state durational residence requirements. Nevertheless, because your bill relates to access to a state benefit rather than the ability to do business in the state and because it does not impose a durational residence requirement, it may be easier to establish a rational basis for the residence requirement to justify the distinction between residents and nonresidents. Therefore, although I am not able to guarantee that your bill, as rewritten, satisfies all constitutional requirements, I do believe that a case can be made that the residence requirement it contains is constitutional.

LHA:ljb

Enclosure

ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

400 -  
200-million - Bonds

January 25, 1983

Honorable Wilt Furnace, Chairman  
House Labor and Commerce Committee  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Furnace:

On January 25th, at your committee hearing for SS HB22 there were certain questions which Commissioner Lyon indicated would be answered by letter.

Question #1: Does the Authority finance any projects located outside Alaska?


Answer: No. Any project financed by the Authority must be located within the state of Alaska.

Question #2: Please supply the committee with information on the six loans made to possible non-residents.

<u>NAME</u>	<u>\$ AMOUNT</u>	<u>PROJECT DESCRIPTION LOCATION/ JOBS</u>	<u>HEADQUARTERS LOCATION</u>
ADA Investment	\$ 455,000	Construct Warehouse Anchorage/10	Seattle
Lynden Transport	\$ 610,000	Purchase Freight Terminal Deerhorse/15	Seattle
Mueller, Robert	\$ 560,000	Purchase Warehouse - Anchorage/05	Honolulu
Holiday Parks	\$ 525,000	Construct Manufacturing Bldg Fairbanks/10	Seattle
Forward Alaska, Inc.	\$1,000,000	Purchase/Renovate Camp Deerhorse/10	Texas
Peterson Pete	\$ 130,000	Remodel Building Anchorage/15	Seattle

If we can provide any further information please let us know.

Sincerely,



Bertram L. Wagnon  
Executive Director

BLW:ty

12/30/82 -  
6/2/82 -

1 - 100 million - Bonds ISSUED -  
{ TAX EXEMPTION,  
{ VALUE OF ASSET BASE -  
CASH FLOW - HOW MUCH OF THE INCOME IS  
PLEGGED FOR MORE!

Sec. 44.88.010. LEGISLATIVE FINDING AND POLICY.

(a) The legislature finds, determines and declares that

(1) there exist areas of the state in which seasonal and nonseasonal unemployment exist;

(2) this unemployment is a serious menace to the health, safety and general welfare, not only to the people in those areas, but also to the people of the entire state;

(3) the state lacks the basic manufacturing, industrial, and business enterprises and the other facilities referred to in (5) of this subsection necessary to permit adequate development of its natural resources and the balanced growth of its economy;

(4) the establishment and expansion of industrial, manufacturing, and business enterprises in Alaska and the other facilities referred to in (5) of this subsection are essential to the development of the natural resources and the long-term economic growth of the state, and will directly and indirectly alleviate unemployment in the state;

(5) the achievement of the goal of full employment, and of establishment and continuing operation and development of industrial, manufacturing, and business enterprises in the state, including facilities for air and water transportation, facilities for pollution control and waste disposal, facilities for the local furnishing of gas, facilities for water, and facilities for industrial parks, will be accelerated and facilitated by the creation of an instrumentality of the state with powers to incur debt and to make and insure loans to finance, and to assist private lenders to make loans to finance, the establishment, operation, and development of industrial, manufacturing, and business enterprises, including facilities for air and water transportation, facilities for pollution control and waste disposal, facilities for the local furnishing of gas, facilities for water, and facilities for industrial parks;

(6) it is in the public interest to promote the prosperity and general welfare of all citizens of the state by stimulating commercial and industrial growth and expansion by encouraging an increase of private investment by banks, investment houses, insurance companies, and other financial institutions, including pension and retirement funds, to help satisfy the need for economic expansion;

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

(b) It is declared to be the policy of the state, in the interests of promoting the health, security and general welfare of all the people of the state, and a public purpose, to increase job opportunities and otherwise to encourage the economic growth of the state, including the development of its natural resources, through the establishment and expansion of manufacturing, industrial, and business enterprises and the other facilities referred to in (a)(5) of this section by creating the public corporation with power, duties and functions as provided in AS 44.88.010 44.88.220.

HISTORY (Sec. 1 ch 64 SLA 1967; am sec. 1 ch 64 SLA 1977; am secs. 44 48 ch 106 SLA 1980; am sec. 28 ch 115 SLA 1981)

Sec. 44.88.020. CREATION OF AUTHORITY.

There is created the Alaska Industrial Development Authority. The authority is a public corporation of the state and a body corporate and politic constituting a political subdivision within the Department of Commerce and Economic Development, but with separate and independent legal existence.

HISTORY (Sec. 1 ch 64 SLA 1967; am sec. 104 ch 218 SLA 1976)

Sec. 44.88.030. MEMBERSHIP OF AUTHORITY.

(a) The membership of the authority consists of

(1) the commissioner of revenue and the commissioner of commerce and economic development;

(2) one other person appointed by the governor who serves as the head of a principal department of the executive branch; and

(3) two public members appointed by the governor.

(b) If a member described in (a)(1) or (a)(2) of this section is unable to attend a meeting of the authority, he may by an instrument in writing filed with the authority, designate his deputy or assistant to act in his place as a member at the meeting. For all purposes of this chapter, the designee is a member of the authority at the meeting.

(c) Members of the authority described in (a)(2) and (a)(3) of this section serve two-year terms. However, the initial appointment of one member described in (a)(3) of this section shall be for a one-year term.

(d) If a vacancy occurs in the membership of the authority, the governor shall immediately appoint a member for the unexpired portion of the term POSTPONED EFFECTIVE DATE

(e) Effective on the effective date of the amendment to the Constitution proposed in 1980 Legislative Resolve No. 43 The appointment or reappointment of a member of the authority under (a)(2) or (a)(3) of this section is subject to confirmation by a majority vote of the members of the legislature in joint session. If the legislature fails to confirm the appointment of the head of a principal department of the executive branch as a member, the governor shall appoint the head of another principal department of the executive branch to serve as a member subject to confirmation under this subsection. A member appointed to fill a vacancy under (d) of this section is subject to confirmation under this subsection.

HISTORY (Sec. 1 ch 64 SLA 1967; am sec. 7 ch 207 SLA 1975; am sec. 2 ch 64 SLA 1977; am secs. 49, 50 ch 106 SLA 1980)

Sec. 44.88.040. CHAIRMAN AND VICE-CHAIRMAN.

The members of the authority shall elect a chairman from among themselves. A vice-chairman may be elected by the authority from among its other members. The vice-chairman presides over all meetings in the absence of the chairman and has other duties which the authority may direct.

HISTORY (Sec. 1 ch 64 SLA 1967; am sec. 105 ch 218 SLA 1976; am sec. 51 ch 106 SLA 1980)

Sec. 44.88.050. MEETINGS, COMPENSATION, OFFICERS AND EMPLOYEES.

(a) A majority of the members of the authority constitutes a quorum for the transaction of business or the exercise of a power or

function at a meeting of the authority. In case of a tie vote on a motion or resolution pending before the authority the motion or resolution shall be presented to the governor and if approved by him, is considered adopted by the authority. The authority may meet and transact business by electronic media if

(1) public notice of the time and locations where the meeting will be held by electronic media has been given in the same manner as if the meeting were held in a single location;

(2) participants and members of the public in attendance can hear and have the same right to participate in the meeting as if the meeting were conducted in person; and

(3) copies of pertinent reference materials, statutes, regulations, and audio-visual materials are reasonably available to participants and to the public. A meeting by electronic media as provided in this subsection has the same legal effect as a meeting in person.

(b) The public members of the authority receive \$100 compensation for each day spent on official business of the authority and may be reimbursed by the authority for actual and necessary expenses at the same rate paid to members of state boards under AS 39.20.180.

(c) The authority 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. The executive director and employees of the authority are in the exempt service under AS 39.25.010 - 39.25.220.

(d) The authority shall keep minutes of each meeting and send a certified copy to the governor and to the Legislative Budget and Audit Committee.

HISTORY (Sec. 1 ch 64 SLA 1967; am secs. 52, 53 ch 106 SLA 1980; am secs. 29, 30 ch 115 SLA 1981)

#### Sec. 44.88.070. PURPOSE OF THE AUTHORITY.

The purpose of the authority is to promote, develop and advance the general prosperity and economic welfare of the people of Alaska, to relieve problems of unemployment, and to create additional employment by providing various means of financing and means of facilitating the financing of industrial, manufacturing, and business enterprises and the other facilities referred to in AS 44.83.010(a)(5) within the state.

HISTORY (Sec. 1 ch 64 SLA 1967; am sec. 54 ch 106 SLA 1980; am sec. 31 ch 115 SLA 1981)

#### Sec. 44.88.080. POWERS OF THE AUTHORITY.

In furtherance of its corporate purposes, the authority has the following powers in addition to its other powers:

- (1) to sue and be sued;
- (2) to have a seal and alter it at pleasure;
- (3) to make and alter bylaws for its organization and internal management;
- (4) to adopt regulations governing the exercise of its corporate powers;

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

(6) to lease to others a project acquired by it for the rentals and upon the terms and conditions the authority may consider advisable, including, without limitation, provisions for options to purchase or renew;

(7) to issue bonds, in accordance with AS 44.88.090, to pay the cost of a project and to secure payment of the bonds as provided in AS 44.88.010 44.88.220;

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

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

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

(11) to enter into contracts or agreements with respect to the exercise of any of its powers, and do all things necessary or convenient to carry out its corporate purposes and exercise the powers granted in AS 44.88.010 - 44.88.220;

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

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

(14) to acquire, manage, and operate a project when it becomes necessary or desirable to do so to safeguard the authority from losses;

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

(16) to accept gifts, grants, or loans from a federal agency, from an agency or instrumentality of the state or of a municipality, or from any other source;

(17) to enter into contracts or other transactions with a federal agency, with an agency or instrumentality of the state or of a municipality, or with a private organization or other entity consistent with the exercise of any power under AS 44.88.010 44.88.220;

(18) to facilitate the expansion of a secondary market for the resale of federally or commercially insured loans made to finance the costs of projects in Alaska held by federal and state chartered financial institutions or by the Alaska Commercial Fishing and Agriculture Bank.

HISTORY (Sec. 1 ch 64 SLA 1967; am secs. 55 - 59 ch 106 SLA 1980; am secs. 32, 33 ch 115 SLA 1981)

Sec. 44.88.090. BONDS OF THE AUTHORITY.

(a) Subject to (g) of this section, the authority may borrow money and may issue bonds, including but not limited to bonds on which the principal and interest are payable,

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

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

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

(b) Bonds shall be authorized by resolution of the authority, and be dated and shall mature as the resolution may provide, except that no bond may mature more than 40 years from the date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption which the resolution or a subsequent resolution may provide.

(c) All bonds, regardless of form or character, shall be negotiable instruments for all the purposes of the Uniform Commercial Code.

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

(e) Before the issuance of any bonds, the authority shall make provision by lease or other agreement regarding the project or projects being financed by the issue of the bonds for rentals or other considerations at least sufficient, in the judgment of the authority, to pay the principal of and interest on the bonds as they become due and to create and maintain the reserves therefor as the authority considers necessary or desirable and to meet all obligations in connection with the lease or other agreement and all costs necessary to service the bonds unless the lease or agreement provides that the obligations are to be met or costs are to be paid by a party other than the authority.

(f) The superior court shall have jurisdiction to hear and determine suits, actions or proceedings relating to the authority, including suits, actions or proceedings brought to foreclose or otherwise enforce a mortgage, pledge, assignment or security interest or brought by or for the benefit or security of a holder of its bonds or by a trustee for or other representative of the holders.

(g) The authority may not

(1) issue bonds, other than refunding bonds, in any 12-month period beginning after June 30, 1982, in an amount that exceeds the amount of bonds authorized to be issued during the preceding 12-month period, unless a different amount is authorized by the legislature; or

(2) issue revenue bonds other than refunding bonds for a project under this chapter in an amount greater than \$50,000,000 during any 12-month period beginning after June 30, 1981, unless the issuance is included separately in the estimates required in the report of the authority under AS 44.88.210(b) and unless the legislature, by law, approves the issuance.

(h) The authority may combine, for the purposes of a single offering, bonds financing more than one project under AS 44.88.010 - 44.88.220.

HISTORY (Sec. 1 ch 64 SLA 1967; am secs. 60, 61 ch 106 SLA 1980; am sec. 35 ch 115 SLA 1981)

Sec. 44.88.100. TRUST INDENTURES AND TRUST AGREEMENTS.

In the discretion of the authority, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee (which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee (hereinafter in this section referred to as "trust agreement") by means of which the authority may:

(1) make and enter into any and all the covenants and agreements with the trustee or the holders of the bonds which the authority may determine to be necessary or desirable, including, without limitation, covenants, provisions, limitations and agreements as to

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

(B) the fixing and collection of rents or other consideration for, and the other terms to be incorporated in a lease or contract of sale of a project;

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

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

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

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

(3) provide for any other matters of like or different character which in any way affect the security or protection of the bonds.

HISTORY (Sec. 1 ch 64 SLA 1967)

Sec. 44.88.105. CAPITAL RESERVE FUNDS AND CAPITAL RESERVE FUND REQUIREMENT.

(a) For the purpose of securing one or more issues of its bonds, the authority may establish one or more special funds, called "capital reserve funds", and shall pay into those capital reserve funds the proceeds of the sale of its bonds and other money which may be made available to the authority from other sources for the purposes of the

capital reserve funds. A capital reserve fund may be established only if the authority determines that the establishment of the fund would enhance the marketability of the bonds, and if those costs of a project, as defined in AS 44.88.220, which are to be financed with the proceeds of the bonds, do not exceed \$10,000,000. Money in a capital reserve fund, except as provided in this section, may be used as required only for

(1) the payment of the principal of, and interest on, bonds or of the sinking fund payments with respect to those bonds;

(2) the purchase or redemption of the bonds; or

(3) the payment of a redemption premium required to be paid when the bonds are redeemed before maturity. However, money in a capital reserve fund may not be withdrawn if the withdrawal would reduce the amount in the capital reserve fund to less than the capital reserve requirement, except for the purpose of making payment, when due, of principal, interest, redemption premiums on the bonds, and sinking fund payments when other money of the authority is not available for the payments. Income or interest earned by, or increment to, a capital reserve fund, from the investment of all or part of the fund, may be transferred by the authority to other funds or accounts of the authority if the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(b) If the authority decides to issue bonds secured by a capital reserve fund, the bonds may not be issued if the amount in the capital reserve fund is less than the capital reserve fund requirement, unless the authority, at the time of issuance of the bonds, deposits in the capital reserve fund from the proceeds of the bonds to be issued or from other sources, an amount which, together with the amount then in the fund, is not less than the capital reserve fund requirement.

(c) In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the fund is invested shall be valued by a reasonable method established by the authority by resolution. Valuation shall include the amount of interest earned or accrued as of the date of the valuation.

(d) The chairman of the authority shall annually, no later than January 2, certify in writing to the governor and the legislature the amount, if any, required to restore a capital reserve fund to the capital reserve fund requirement. The legislature may appropriate to the authority the amount certified by the chairman of the authority. The authority shall deposit the amounts appropriated under this subsection during a fiscal year in the proper capital reserve fund. Nothing in this section creates a debt or liability of the state.

(e) In this section, "capital reserve fund requirement" means the amount required to be on deposit in the capital reserve fund as of the date of computation as determined by resolution of the authority.

(f) The authority may not establish a capital reserve fund to secure an issue of bonds in an amount in excess of \$1,000,000 unless at least 20 percent of the principal amount of the loan for the project is retained by a federal or state chartered financial institution or the Alaska Commercial Fishing and Agriculture Bank.

(g) The authority may establish reserve funds, other than capital reserve funds, to secure one or more issues of its bonds. The authority may deposit in a reserve fund established under this subsection the proceeds of sale of its bonds and other money which may be made

available from any other source. A reserve fund established under this subsection must comply with (a) - (c) of this section. The authority may allow a reserve fund established under this subsection to be depleted without complying with (d) of this section.

HISTORY (Sec. 62 ch 106 SLA 1980; am secs. 36, 37 ch 115 SLA 1981)

Sec. 44.88.110. VALIDITY OF PLEDGE.

It is the intention of the legislature that a pledge made in respect of bonds shall be valid and binding from the time the pledge is made; that the money or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice. Neither the resolution, trust agreement nor any other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code to be valid, binding or effective against the parties.

HISTORY (Sec. 1 ch 64 SLA 1967)

Sec. 44.88.120. NONLIABILITY ON BONDS.

(a) Neither the members of the authority nor a person executing the bonds are liable personally on the bonds or are subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the authority do not constitute an indebtedness or other liability of the state or of a political subdivision of the state, except the authority, but shall be payable solely from the income and receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or of a political subdivision of the state (except the authority) to the payment of a bond and the issuance of a bond by the authority does not directly or indirectly or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond.

HISTORY (Sec. 1 ch 64 SLA 1967)

Sec. 44.88.130. PLEDGE OF THE STATE.

The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency which loans or contributes funds in respect to a project, that the state will not limit or alter the rights and powers vested in the authority by this chapter to fulfill the terms of a contract made by the authority with the holders or federal agency, or in any way impair the rights and remedies of the holders until the bonds, together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, insofar as it refers to holders of bonds of the authority, in a contract with the holders, and insofar as it relates to a federal agency, in a contract with the federal agency.

HISTORY (Sec. 1 ch 64 SLA 1967)

Sec. 44.88.140. EXEMPTION FROM TAXATION.

(a) The real and personal property of the authority and its assets, income and receipts are declared to be the property of a political subdivision of the state and, together with any project financed under this chapter and a leasehold interest created in a project applicant or other person under this chapter, devoted to an essential public and governmental function and purpose, and the property, assets, income, receipts, project and leasehold interests shall be exempt from all taxes and special assessments of the state or a political subdivision of the state, including, without limitation, all boroughs, cities, municipalities, school districts, public utility districts and other taxing units. All bonds of the authority are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose and to be a public instrumentality and the bonds, and the interest on them, the income from them and the transfer of the bonds, and all assets, income and receipts pledged to pay or secure the payment of the bonds, or interest on them, shall at all times be exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death. Nothing in this section affects or limits an exemption from license fees, property taxes, or excise, income or any other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the authority, in any property, assets, income, receipts, project or lease whether or not financed under this chapter.

(b) The authority may enter into agreements with a proposed project applicant or project applicant providing for payments, computed on a formula basis or otherwise, in lieu of taxes, which the authority may consider appropriate. The agreement may provide that the payments be made to the political subdivision of the state in which a project is or is to be located or to any other taxing unit of the state including, without limitation, a borough, city, municipality, school district or public utility district, the area of which is coterminous in whole or in part with that of the political subdivision.

(c) For the purposes of AS 14.17 relating to the computation of the required local effort by a district as defined in AS 14.17.250(3), all property exempted from taxation by this chapter shall be considered taxable real and personal property.

HISTORY (Sec. 1 ch 64 SLA 1967; am sec. 3 ch 64 SLA 1977; am secs. 63, 64 ch 106 SLA 1980)

Sec. 44.88.150. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES.

The bonds of the authority are securities in which all public officers and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies and other persons carrying on a banking business, all administrators,

guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the authority are also securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

HISTORY (Sec. 1 ch 64 SLA 1967)

Sec. 44.88.155. ENTERPRISE DEVELOPMENT FUND.

(a) The enterprise development fund is established in the authority. The enterprise development fund is a trust fund for the uses and purposes of AS 44.88.010 44.88.220. The enterprise development fund consists of money or assets appropriated or transferred to the authority and other money or assets deposited in it by the authority.

(b) The authority may establish in the enterprise development fund a small enterprise loan account, a loan insurance account, and other accounts it considers appropriate.

(c) Money and other assets of the enterprise development fund may be used to secure bonds of the authority, and shall be held and invested by the authority in the types of investments described in AS 37.10.070(a) and AS 39.35.110(a)(9) and (14) or shall be used to purchase loans for projects as defined in AS 44.88.220.

(d) A loan purchased in whole or in part by the authority, other than a loan which is financed with the proceeds of bonds of the authority and secured only by a project applicant or a project,

- (1) may not exceed
  - (A) \$10,000,000; or
  - (B) \$500,000 if the loan is purchased under AS

44.88.158;

- (2) may not exceed the cost of the project or 75 percent of the appraised value of the project, whichever is less, unless the amount of the loan in excess of this limit is federally insured or guaranteed or is insured by a qualified mortgage insurance company;

- (3) may not be for a term longer than three-quarters of the authority's estimate of the life of the project or 25 years from the date the loan is made, whichever is earlier;

- (4) shall contain complete amortization provisions satisfactory to the authority requiring periodic payments by the borrower;

- (5) shall be in the form and contain the terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, acceleration or maturity, secondary liens and other matters the authority prescribes;

- (6) shall be secured as to repayment by a mortgage or other security instrument in the manner the authority determines is feasible to assure timely repayment under a loan agreement entered into with the borrower;

- (7) may not be made unless

(A) at least 10 percent of the principal amount of the loan is retained by the originator of the loan; or

(B) 100 percent of the principal amount of the loan is guaranteed by the United States or an agency or instrumentality of the United States;

(8) must be

(A) at least partially guaranteed by the United States or an agency or instrumentality of the United States, subject to the provisions of AS 44.88.158; or

(B) financed from the proceeds of bonds; or

(C) expected by the authority to be financed from the proceeds of bonds.

(e) The authority may adopt regulations for the administration of the enterprise development fund which may include, without limitation, provisions for fees and agreements relating to application, loan commitment, servicing, and origination of loans by other lenders.

(f) The authority may enter into agreements as to the use of the money in the enterprise development fund, including without limitation, trust or custody arrangements with banks or trust companies. It may also pledge, assign, or grant the agreement, interests under an agreement, or interests in the enterprise development fund as may be necessary or appropriate to provide for payment and security for bonds of the authority.

HISTORY (Sec. 65 ch 106 SLA 1980; am sec. 38 ch 115 SLA 1981)

#### Sec. 44.88.157. LOAN INSURANCE AND LOAN INSURANCE ACCOUNT.

(a) The purpose of the loan insurance account is to provide insurance of mortgage loans and other loans made or purchased by the authority, or made by others and approved for insurance by the authority, for a project. The authority may enter into agreements as to the use of money in the loan insurance account and may pledge, assign, or grant interests in the loan insurance account as provided in this section. The authority may adopt regulations and enter into agreements with respect to the exercise of any power or approval relating to the loan insurance account under this section, including, without limitation, agreements as to the use of money in the loan insurance account, agreements with respect to the terms and conditions upon which payments from the loan insurance account will be made with respect to a loan insured under this section, agreements as to separate subaccounts in the loan insurance account for different categories of loans or as to loans made by the authority or any other person, and agreements regarding the payment of and security for bonds issued by the authority. An agreement, the rights of the authority under an agreement, or payments received or to be received under an agreement may be pledged or assigned by the authority for the benefit of the holders of bonds issued by the authority.

(b) The authority may, upon application of a borrower or proposed borrower, insure and make advance commitments to insure loan repayments required under the terms of a loan made by it or by another lender with respect to a project, upon the terms and conditions the authority prescribes. To be eligible for insurance under AS 44.88.010 - 44.88.220, a loan for a project

(1) shall be held by the authority or by a lender approved by the authority as responsible and able to service the loan;

(2) may not exceed \$10,000,000 for a project, or 90 percent of the cost of the project or 90 percent of the appraised value of the project, whichever is less;

(3) may not be made for a term longer than three-quarters of the authority's estimate of the life of the project or 25 years from the date of issuance of the insurance, whichever is earlier;

(4) shall contain complete amortization provisions satisfactory to the authority requiring periodic payments by the borrower; and

(5) shall be in the form and contain the terms with respect to insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, acceleration of maturity, additional and secondary liens, and other matters that the authority prescribes.

(c) In addition to other fees which the authority may charge on loans, the authority may collect or cause to be collected on loans insured under this section, either a loan insurance commitment fee or a loan insurance premium or both. Loan insurance fees and loan insurance premiums are not required to be uniform among the various loans insured. Loan insurance commitment fees and loan insurance premiums shall be deposited in the insurance account by the loan servicer, trustee, or agent designated by the authority to receive them.

(d) If, at any time after receipt by the authority of a payment from the loan insurance account with respect to a loan, the authority recovers an amount on the loan or portion of it from a source other than the loan insurance account, the authority shall apply the amount recovered in the following order: first, to repay the general fund of the state for appropriations made under (g) of this section, and second, to repay the loan insurance account.

(e) Loans may be insured only when the amount either in the loan insurance account insuring the loans or a subaccount in the loan insurance account insuring the loans, as a percentage of the sum of the loans to be insured and all unpaid principal on loans insured by the loan insurance account or the subaccount, equals or exceeds the fund requirement. The fund requirement is calculated as a percentage which the authority determines is actuarially sound for operation of the loan account or a subaccount.

(f) When the authority determines what is actuarially sound with respect to the operation of the loan insurance account or a subaccount in the loan insurance account, it shall consider means of providing sufficient revenue for the operation of the account or subaccount, without regard to amounts which may have been or may, after the date of determination of actuarial soundness, be appropriated under (g) of this section. The authority shall also consider factors including, without limitation, estimates of future defaults and losses of loans insured under this section based on actual default and loss experience on those loans or on similar loans in the state or elsewhere, estimates of recoveries on defaulted or foreclosed loans based on actual default and foreclosure experience on those loans or similar loans in the state or elsewhere, the terms and conditions of the loans insured under this section, estimates of earnings and income of amounts on deposit in the loan insurance account, and other appropriate factors.

(g) On December 1 of each year the authority shall determine the amount on deposit in the loan insurance account and in each subaccount in the loan insurance account. If the amount in the loan insurance account or the amount in a subaccount in the loan insurance account is less than the fund requirement for the account or for the subaccount, the authority shall transfer the amount necessary to restore the loan insurance account or the subaccount to the fund requirement. The transfer shall be made from available money which is not encumbered or restricted for other use under the terms of contracts with bondholders or others. If sufficient money is not available for transfer, the chairman of the authority shall, no later than January 2 of the following year, certify in writing to the governor and to the legislature the amount, if any, required to restore the account or a subaccount to the fund requirement. The legislature may appropriate the

Sec. 44.88.158. SMALL ENTERPRISE LOAN ACCOUNT.

(a) A small enterprise loan account is established in the enterprise development fund. The account may be composed of money or assets appropriated or transferred to the authority, interest on investments and loans of the small enterprise loan account, the unpledged income of the enterprise development fund, and other money or assets deposited in it by the authority.

(b) The authority may use money in the small enterprise loan account to purchase the guaranteed portion of a loan made by a private financial institution after June 30, 1981, to a small enterprise to pay the cost of a project, as defined in AS 44.88.220, if the loan is guaranteed by the United States or an agency or instrumentality of the United States, including, but not limited to, the Small Business Administration, the National Marine Fisheries Service, and the Farmers Home Administration.

(c) The authority may purchase loans originated by the Alaska Rural Rehabilitation Corporation which are made to agricultural enterprises. Loans purchased under this subsection may be secured by substitute collateral if the amount of the loan does not exceed 75 percent of the value of the total collateral for the loan. Loans may be purchased under this subsection only from money appropriated to the small enterprise loan account for that purpose.

HISTORY (Sec. 65 ch 106 SLA 1980; am sec. 40 ch 115 SLA 1981)

Sec. 44.88.159. INTEREST RATES.

(a) The interest rate on a loan financed from the proceeds of tax-exempt bonds or excepted by the authority to be financed from the proceeds of tax-exempt bonds is equal to the cost of funds to the authority. In this subsection "cost of funds" means the true interest cost expressed as a rate on tax-exempt bonds of the authority plus an additional percentage as determined by the authority to represent the allocable expenses of operation, costs of issuance, and loan servicing.

(b) The interest rate on a loan financed from the proceeds of taxable bonds or excepted by the authority to be financed from the proceeds of taxable bonds is equal to the cost of funds to the authority. In this subsection "cost of funds" means the true interest cost expressed as a rate on taxable bonds, plus an additional percentage

as determined by the authority to represent the allocable expenses of operation, costs of issuance, and loan servicing costs.

(c) The interest rate on a loan purchased by the authority with money in the small enterprise loan account that is not from the proceeds of the sale of a series of bonds is equal to the most recent index of Aa corporate bond yield averages as published by Moody's Investors Service. HISTORY (Sec. 41 ch 115 SLA 1981)

Sec. 44.88.160. FINDINGS OF THE AUTHORITY.

Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project for which bonds are agreed to be issued by the authority in an amount in excess of \$6,000,000, or before approving insurance or a commitment to insure a loan as provided in AS 44.88.157(b) with a principal amount in excess of \$6,000,000, there must have been filed with the authority a certified copy of a resolution of the governing body of the political subdivision of the state, if any, in which the project is to be located, consenting to the location (which consent need only refer to the general nature of the project ultimately to be acquired as set out in a request of the proposed project applicant). Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project, the authority must find, on the basis of all information reasonably available to it, that

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

(2) the project applicant is financially responsible;

(3) provision to meet increased demand upon public facilities that might result from the project is reasonably assured;

(4) the project will provide or retain employment reasonably related to the amount of the financing by the authority considering the amount of investment per employee for comparable facilities and other relevant factors; and

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

HISTORY (Sec. 1 ch 64 SLA 1967; am sec. 66 ch 106 SLA 1980)

Sec. 44.88.165. DELINQUENT LOANS.

If more than two percent of the total outstanding balance of loans purchased from a financial institution under AS 44.88.010 - 44.88.220 becomes delinquent for 90 days or more, the authority shall discontinue purchasing loans from that financial institution until the delinquency is reduced to less than two percent.

HISTORY (Sec. 42 ch 115 SLA 1981)

Sec. 44.88.170. PURCHASE OF PROJECT AND LEASES.

(a) No provision of this chapter may prevent the inclusion in a lease or other agreement relating to a project of a provision granting the right to purchase the project, or to renew or extend the lease or agreement, upon the terms and conditions which may be provided for in the lease or agreement.

(b) A lease with respect to a project may provide for two or more lessees with the legal relationship between themselves and the authority which the authority may approve, including without limitation, provisions to the effect that the obligations of the lessees under the lease for payment of rental or otherwise between themselves and the authority are several, joint, or joint and several and that the lessees lease the project as tenants-in-common, or otherwise.

HISTORY (Sec. 1 ch 64 SLA 1967)

Sec. 44.88.180. CONFLICTS OF INTEREST.

(a) No member of the authority may vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if he is a party to the lease or contract or has a direct ownership or equity interest in a firm, partnership, corporation or association which may be a party to the contract or lease. If a person may not vote because of this prohibition, for all purposes regarding action of the authority relating to adoption of the resolution, the position of the persons as a member shall be transferred to the first one of the following state officers who is not then acting as a member and would not be prohibited from voting on the resolution because of the same prohibition: commissioner of administration, attorney general, commissioner of revenue, commissioner of health and welfare, commissioner of labor, commissioner of public works, commissioner of public safety.

(b) The state officer serves as a member from time to time and for all purposes of this chapter is a member for the purpose of voting on the resolution but after each vote the authority shall again consist of members referred to in AS 44.88.030 only, until one or more members may not again vote on a resolution because of the prohibition.

HISTORY (Sec. 1 ch 64 SLA 1967)

Sec. 44.88.190. OPERATION OF CERTAIN STATUTES EXCEPTED.

(a) The authority shall not be considered or constitute

(1) a political subdivision of the state as the term is used in AS 37.10.085,

(2) a municipal corporation or political subdivision of the state as the terms are used in AS 29, or

(3) except as provided in AS 44.88.205, a state agency as the term is used in AS 37, but for all other purposes the authority constitutes a political subdivision and an instrumentality of the state as provided in this chapter.

(b) The funds, income or receipts of the authority shall not be considered or constitute money of the state, nor shall real property in which the authority has an interest be considered land owned in fee by the state or to which the state may become entitled or in any way lands belonging to the state, or state lands referred to in Art. VIII of the Alaska Constitution.

HISTORY (Sec. 1 ch 64 SLA 1967; am sec. 67 ch 106 SLA 1980)

Sec. 44.88.200. ANNUAL AUDIT.

The authority shall have its financial records audited annually by the legislative auditor or by a certified public accountant approved by the legislative auditor. The legislative auditor may prescribe the form and content of the financial records of the authority and shall have access to these records at any time.

HISTORY (Sec. 1 ch 64 SLA 1967)

Sec. 44.88.205. OPERATING BUDGET.

For fiscal years beginning after June 30, 1981, the operating budget of the authority is subject to the Executive Budget Act (AS 37.07).

HISTORY (Sec. 68 ch 106 SLA 1980)

Sec. 44.88.210. REPORTS AND PUBLICATIONS.

(a) By January 10 of each year, the authority shall publish a report for distribution to the governor, legislature, and the public. The report shall be written in easily understandable language. The report shall include a financial statement audited by an independent outside auditor, a statement of the authority's investments under this chapter including an appraisal of the investments at market value, a comparison of the authority's performance with the goals of the authority and the levels of bonding and investment activities anticipated in the previous year's report under (b) of this section, and any other information the members of the authority believe would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the authority shall be published in at least one newspaper in each judicial district. The authority may also publish other reports it considers desirable to carry out its purpose.

(b) The authority shall include in its annual report under (a) of this section

(1) an estimate of the investment activity of the authority under this chapter for the following 12-month period; and

(2) an estimate of the amount of bonds to be issued during the following 12-month period.

HISTORY (Sec. 1 ch 64 SLA 1967; am sec. 69 ch 106 SLA 1980)

Sec. 44.88.212. FEES CHARGED BY AUTHORITY.

(a) An application fee may not be charged for an application for authority participation in a loan under AS 44.88.158.

(b) The commitment fee for a loan commitment by the authority may not exceed two percent of the principal amount of the loan.

HISTORY (AS 44.88.085; sec. 34 ch 115 SLA 1981)

Sec. 44.88.220. DEFINITIONS. In AS 44.88.010 - 44.88.220

(1) "authority" means the Alaska Industrial Development Authority created by AS 44.88.010 44.88.220;

(2) "business enterprise" means a single proprietorship, corporation, firm, partnership, or other association of persons organized in any manner, for any business purpose, other than on a nonprofit basis;

(3) "federal agency" means the United States and any officer, department, agency or instrumentality of the United States;

(4) "governing body of a political subdivision" means, when used with respect to the location of a project, the council of a city if the project is to be located in a city in the unorganized borough, or the assembly if the project is to be located in an organized borough or a unified municipality;

(5) "project" means

(A) a plant or facility used or intended for use in connection with making, processing, preparing, or producing in any manner, goods, products or substances of any kind or nature or in connection with developing or utilizing a natural resource, or extracting, smelting, transporting, converting, assembling or producing in any manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and materials, products or substances of any kind or nature, any plant or facility used or intended for use as an industrial park or in connection with air and water transportation, or any plant or facility for the prevention, limitation or control of air or water pollution, for the disposal of sewage or solid waste, for the local furnishing of gas, or for the furnishing of water;

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

(C) commercial activity by a small enterprise;

(6) "plant" or "facility" means real property, whether above or below mean high water, or an interest in it, and the buildings, improvements and structures constructed or to be constructed on or in it, and may include fixtures, machinery, and equipment on it or in it, and tangible personal property, regardless of whether the tangible personal property is attached to or connected with real property, if the owner has agreed not to remove the tangible personal property permanently from the state for the period the authority sets; "plant" or "facility" does not include work in process or stock in trade;

(7) Repealed by sec. 70 ch 106 SLA 1980;

(8) "project cost" or "cost of a project" means all or any part of the aggregate costs determined by the authority to be necessary to finance the construction, expansion, or acquisition of a project, including without limitation the cost of acquiring real or tangible personal property, and, in connection with real property, the cost of constructing buildings and improvements, the cost of constructing means of access to and from the project, the cost of constructing extensions of utility systems to the site of the project; the cost of a project includes, without limitation, the cost of financing the project, interest charges before, during or after construction, expansion, or acquisition of the project, costs related to the determination of the feasibility, planning, design or engineering of the project and, to the extent determined necessary by the authority, administrative expenses, the cost of machinery or equipment to be used in the operation of the project and expenses of installation, replacement or rehabilitation, and all other costs, charges, fees and expenses which may be determined by the authority to be necessary to finance the construction, expansion, or acquisition;

(9) "project applicant" means a business enterprise or enterprises proposing to

(A) use or occupy a project; or

- (B) agree to permit others to use or occupy a project;
- (10) "real property" means land and rights and interests in land, including, without limitation, interests less than full title such as easements, uses, leases, and licenses;
- (11) "lease" includes, when used as a noun, an interest in, or when used as a verb, the transfer of an interest in, property less than fee simple title, including, without limitation, when used as a noun, agreements to use or occupy property;
- (12) "small enterprise" means a business enterprise which is a project applicant with gross income of \$10,000,000 or less for its annual reporting period ending immediately before the application to the authority for a loan;
- (13) Repealed by sec. 51 ch 115 SLA 1981.
- (14) Repealed by sec. 51 ch 115 SLA 1981.
- (15) Repealed by sec. 51 ch 115 SLA 1981.
- (16) "commercial activity" includes work in process or activity involving stock in trade, accounts receivable, or the refinancing of existing indebtedness, subject to the provisions of AS 44.88.158.
- HISTORY (Sec. 1 ch 64 SLA 1967; am secs. 4, 5 ch 64 SLA 1977; am sec. 70 ch 106 SLA 1980; am secs. 43 - 47, 51 ch 115 SLA 1981)

THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 22  
 Title Establishing a State residence requirement for loan purchased by AIDA  
 Requested by House Labor and Commerce Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Alaska Industrial Development Authority  
 Program Category Affected Economic Development  
 BRU, Program, Or Subprogram(s) Affected Alaska Industrial Development Authority  
 (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.						
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 1/24/83 PREPARED BY Bertram Waanon  
 AGENCY Alaska Industrial Development Authority  
 Original: Legislative Finance PHONE 274-1651  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/82) *Q*  
 CMB review by Guy Bell *5*