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SENATE STATE AFFAIRS COMMITTEE

Bill Number SB 489 Title AK Indust. Develop. Authority Date received 2/14

Fiscal Note	Position Paper	Date requested	From	Amount	Date Rec'd Note	Rec'd Paper
✓						2/14
	Don's letter		Committee			2/13

CONTACTS

Backup list

2/29 Jon Rubin, A.G.  
 2/29 Terry Elder, Commerce  
 2/29 Katie Walker "  
 2/29 Bert Wagner, AIDA  
 Kent Dawson, Commerce  
 Brian Allen, AEL  
 Ron Lehr  
 Dave Rose

HEARING INFORMATION

Scheduled 3/6

NOTES:

Jim Kelly would like back up  
 it comes in.

FINAL ACTION \_\_\_\_\_

DATE \_\_\_\_\_

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: \_\_\_\_\_  
 Title: Relating to the Alaska  
Industrial Development Authority  
 Sponsor: Governor  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Commerce & Economic Development  
 Program Category Affected: Development  
 BRU, Program or Subprogram(s) Affected:  
Alaska Industrial Development Authority

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL. II ACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Bertram Wagnon, Executive Director Phone: 274-1651  
 Division: Alaska Industrial Development Authority Date: 2/11/84

Approved by Commissioner: Richard A. Lyon Date: 2/11/84  
 Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

*Fiscal Note*



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 13, 1984

The Honorable Jalmar Kerttula  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which will enable the Alaska Industrial Development Authority (AIDA) to assume a more active role, under AS 44.88, in the development of those basic facilities necessary for sustained economic development in the state.

Firms which seek to develop major industrial projects in the state are often hampered by a lack of basic infrastructure facilities. As a consequence, firms are faced with the difficult choice of bearing the large capital requirements necessary to provide for these facilities, or of foregoing the development of a project which may otherwise be a substantial benefit to the state. This problem is particularly acute in rural areas of the state, where the absence of transportation facilities inhibits economic and industrial development.

This bill would enhance the opportunities for significant economic development through the establishment of a financing vehicle which will promote cooperation between the public and private sector, and between the financing sector and the local communities. As explained more fully below, the bill establishes a structure to extend the benefits of tax-exempt financing to reduce the costs of project development. At the same time, the bill preserves the right of local communities to assume an active role in the development of their surrounding areas.

Sections 1 -- 4 of the bill amend existing provisions in AS 44.88 to allow AIDA to own and operate projects. Under present law, AIDA serves only as a secondary financing entity. The ability to own and operate projects is necessary to extend the benefits of tax-exempt financing

*Governor's Letter. 2/13/84*

to a greater range of qualified projects. Sections 5 and 6 exempt AIDA from certain financing limitations for those projects it owns and operates. These technical revisions are necessary to assure that AIDA has the requisite flexibility to provide financing for projects which AIDA owns and operates.

Section 7 of the bill establishes an economic development fund. Assets of the fund may only be used to finance and operate projects which AIDA intends to own and operate. Importantly, the economic development fund is explicitly segregated from other assets of the authority. If a project is financed under the economic development fund, the authority may not use or pledge its other assets to assist in the financing of the project. The bill also establishes stringent safeguards to assure that assets of the economic development fund are used only to support prudent, economically viable projects. In particular, the authority may not provide financing for a project unless the authority determines that the project applicant is financially responsible and that the project will generate sufficient revenues to satisfy the debt service obligations. Section 8 authorizes the authority to issue up to \$500 million in bonds to finance projects under the economic development fund.

The projects financed under this bill may so substantially affect the area in which they are located that local involvement and approval is essential. Section 7 of the bill also provides for the establishment of regional development advisory councils in the unorganized borough. The councils consist of five members appointed by the governor, and will be formed only after a project proposal is received by AIDA. No project which costs in excess of \$10 million may be financed under the economic development fund unless the applicable council or municipal body approves the project. Similarly, AIDA is obligated to solicit the review of the advisory council or the governing municipal body before the execution of agreements relating to the operation of the project.

This bill is designed to establish a financing mechanism which will promote diversified economic growth in our state. I look forward to working with the members of the legislature on this important piece of legislation, and I urge your prompt consideration and approval.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield  
Governor



# Alaska State Legislature

## Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V

Juneau, Alaska 99811  
(907) 465-4954

Official Business

### MEMORANDUM

TO: Senate State Affairs Committee

FROM: Senate State Affairs Committee Staff

RE: SB 489

DATE: March 5, 1984

The attached bill expands the responsibilities of the Alaska Industrial Development Authority to allow it to finance facilities that it would own and operate for costs up to \$500 million per project.

The purpose of this is to encourage construction of facilities, particularly for transportation, necessary for economic development. To assure local involvement, the bill provides for regional development advisory councils in the unorganized borough; projects in excess of \$10 million may not be financed unless approved by the local advisory council or governing municipal body.

This bill was originally proposed by the Administration as the "AIDA alternative" to SB 151, relating to regional resource development authorities. SB 151 passed last year, but there have so far been no efforts to establish any of the permitted authorities.

### Fiscal information

Zero fiscal note

### Back-up information

Governor's Transmittal letter  
AIDA statutes

*Work file*



# Alaska State Legislature

## Senate Committee on State Affairs

Vic Fischer, Chairman • 1024 W. 6th Ave., Suite 204 C,  
Anchorage, Alaska 99501  
(907) 278-3654

Official Business

April 17, 1984

TO: Senate State Affairs Committee Members  
FROM: Senate State Affairs Committee Staff  
RE: Attached draft of CS SB 489 (AIDA bill)

The attached draft was developed in cooperation with the Alaska Industrial Development Authority (AIDA), the Department of Commerce, and the Department of Law.

The changes have been highlighted. They attempt to alleviate concerns expressed by committee members during the March 6 hearing without impairing the proposed functions of AIDA. Under the draft, AIDA will still be authorized to own and operate projects and to use state appropriations to supplement bonds in the financing of such projects.

Changes made in the draft are basically of two types:

1. Legislative oversight. Committee members expressed concern that, under the bill, AIDA could finance projects that it would own without specific legislative approval. The Department of Law has said that legislative approval on a project-by-project basis is unconstitutional. A reduced debt authorization will, in practice, have the effect of allowing the legislature to approve projects financed under the expanded powers. Accordingly, the debt authorization level established in sec. 8 (page 10) has been reduced from \$500,000,000 to \$20,000,000. (In addition, existing law, 44.98.090(g) prohibits AIDA from issuing more than \$50,000,000 in bonds in any one-year period without legislative authorization.)

2. Minimization of state financial assistance. Because the bill provides for a "blend" of bonds and appropriations through the Economic Development Fund (EDF), committee members expressed concern about the criteria for project selection and financing. This is addressed in the bill through a requirement for a finance plan (page 6), a statement that it is the legislature's intent to minimize the cost to the state (sec. 9, page 10), and a provision that appropriations to the EDF may be as repayable loans (page 6, line 3). Projects must also meet the economic and financial criteria on page 8 (essentially the same as in the regional resource development authority bill-- SB 151-- last year) and existing AIDA law.

The CS also addresses process in two places. The process for the establishment of a regional resource advisory council is clarified in 44.88.174 (page 7), and the point at which findings must be made and approval obtained is moved forward to the AIDA approval rather than bonding stage (middle of page 8).

this section, the executive director of the authority shall certify the facts regarding the loan in writing. Upon the certification an amount equal to the unpaid balance, accrued interest, and costs attributable to that loan shall be paid from the multifamily housing loans security fund to the enterprise development fund of the authority, or if the balance in the multifamily housing loans security fund is less than the amount of the unpaid balance, accrued interest, and costs attributable to the loan, the remaining balance of the multifamily housing loans security fund shall be paid to the enterprise development fund of the authority. The authority shall consider a loan fully discharged for purposes of (j) of this section upon payment from the multifamily housing loans security fund to the enterprise development fund under this subsection.

"(j) Not later than 60 days after all multifamily housing loans that have been made from the multifamily housing loan account of the enterprise development fund of the authority have been discharged, or considered to be discharged under (i) of this section, any balance remaining in the multifamily housing loans security fund shall be transferred by the authority to the state general fund.

"(k) In this section,

"(1) 'authority' means the Alaska Industrial Development Authority;

"(2) 'multifamily housing project' means a specific building, structure, work, or improvement of five or more dwelling units, or a group of these buildings, structures, works, or improvements, the primary purpose of which is to provide rental dwelling accommodations and which qualifies for tax-exempt financing under sec. 103 of the Internal Revenue Code of 1954, as amended (26 U.S.C. sec. 103), or sec. 11(b) of the National Housing Act of 1937, as amended; 'multifamily housing project' includes the acquisition, construction, or rehabilitation of land, buildings, and improvements for rental dwellings, accommodations, and other facilities that may be incidental or appurtenant to rental dwelling accommodations."

Section 73 of ch. 113 provides: "Section 69 of this Act is repealed."

Section 75 of ch. 113, provides: "Section 73 of this Act takes effect on the day after the transfer of funds by the Alaska Industrial Development Authority to the state general fund is made under sec. 69(j) of this Act, or, if there are no funds available to make the transfer, on the 61st day after all multifamily housing loans that have been made from the multifamily housing loan account of the enterprise development fund of the Alaska Industrial Development Authority are discharged or are considered to be discharged under sec. 69(i) of this Act."

**Article 1. Creation and Organization.**

**Section**

- 10. Legislative finding and policy
- 50. Meetings, compensation, officers and employees

**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. (§ 1 ch 64 SLA 1967; am § 1 ch 64 SLA 1977; am §§ 44 — 48 ch 106 SLA 1980; am § 28 ch 115 SLA 1981)

**Effect of amendments.** — The 1981 amendment substituted "and" for "small" preceding "business" and deleted "tourism, mining, and commercial fishing" preceding "enterprises" in paragraphs (3), (4) and (5) of subsection (a). The amendment also added "the" preceding "other facilities" and substituted "(5) of this subsection" for "AS 44.88.010(a)(5)" in paragraph (3) of subsection (a). In subsection (a)(4), the amendment substituted "and the other facilities referred to in (5) of this

subsection are" for "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, is" preceding "essential to the development." The amendment deleted "for private operation" following "facilities for industrial parks" near the end of subsection (a)(5). In subsection (b), the amendment added "and expansion" preceding "of manufacturing," substituted "and" for

ALIDA Statutes

"small" preceding "business" deleted "tourism, mining, and commercial fishing" preceding "enterprises" and substituted "(a)(5) of this section" for "AS 44.88.010(a)(5)," preceding "by creating the public corporation."

Editor's notes. — For findings of the legislature concerning multifamily housing projects, see § 69(a), ch. 113, SLA 1982, quoted in the editor's notes following the chapter analysis.

**Sec. 44.88.030. Membership of authority.**

Editor's notes. — Section 50, ch. 106, SLA 1980, purported to add a subsection (e); it was effective, however, on the effective date of the amendment to the Alaska

Constitution proposed in 1980 Legislative Resolve No. 43, which was defeated at the general election held in November, 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. (§ 1 ch 64 SLA 1967; am §§ 52, 53 ch 106 SLA 1980; am §§ 29, 30 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment added the third and fourth sentences of subsection (a) and added subsection (d).

**Article 2. Purpose and Powers.**

**Section**

- 70. Purpose of the authority
- 80. Powers of the authority
- 85. Administrative procedure

**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 44.88.010(a)(5) within the state. (§ 1 ch 64 SLA 1967; am § 54 ch 106 SLA 1980; am § 31 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment substituted "and" for "small" preceding "business," and deleted "tourism, mining, and commercial fishing" preceding "enterprises."

Editor's notes. — For purpose of the authority with respect to multifamily housing projects, see § 69(b), ch. 113, SLA 1982, quoted in the editor's notes following the chapter analysis.

**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. (§ 1 ch 64 SLA 1967; am §§ 55 — 59 ch 106 SLA 1980; am §§ 32, 33 ch 115 SLA 1981)

**Effect of amendments.** — The 1981 amendment substituted "and" for "small" preceding "business" and deleted "tourism, mining, and commercial fishing" preceding "enterprise projects" in paragraph (12). In paragraph (18), the amendment added "made to finance the costs of projects in Alaska" following "commercially insured loans" and substituted

"federal and state chartered financial institutions or by the Alaska Commercial Fishing and Agriculture Bank" for "commercial banks in Alaska."

**Editor's notes.** — For powers of the authority with respect to multifamily housing projects, see § 69(c), ch. 113, SLA 1982, quoted in the editor's notes following the chapter analysis.

**Sec. 44.88.085. Administrative procedure.** (a) Except for AS 44.62.310 and 44.62.312 regarding public meetings, and except for AS 44.62.320(a) regarding legislative review of regulations, the provisions of the Administrative Procedure Act regarding the adoption of regulations (AS 44.62.040 — 44.62.320) do not apply to the authority. The authority shall make available to members of the public copies of the regulations adopted under (b) — (e) of this section. Within 45 days after adoption of a regulation under (b) — (e) of this section, the chairman

of the authority shall submit the regulation adopted to the chairman of the Administrative Regulation Review Committee under AS 20.400 — 24.20.460.

The authority may adopt regulations under this section by method or by resolution or in any other manner permitted by its bylaws.

(c) The authority may adopt regulations to carry out the purposes of this chapter, and shall adopt regulations necessary for the following purposes:

(1) determination of borrower eligibility;

(2) loan guidelines and terms including, but not limited to, maximum loan amounts and required loan-to-value ratios, but excluding loan interest rates;

(3) characteristics of projects eligible for loans or purchase of loans; and

(4) the qualifications of loan originators and servicers and the method of allocating amounts available for the purchase of loans.

(d) Except as provided in (e) of this section, at least 15 days before the adoption, amendment, or repeal of a regulation on a subject specified in (c) of this section, the authority shall give public notice of the proposed action by publishing the notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to every person who has filed a request for notice of proposed regulations with the authority. The public notice must include a statement of the time, place, and nature of the proceedings for the adoption, amendment, or repeal of the regulation and must include an informative summary of the subject of the proposed action. On the date and at the time and place designated in the notice, the authority shall give each interested person or an authorized representative of the person, or both, the opportunity to present statements, arguments, or contentions orally or in writing and shall give members of the public an opportunity to present oral statements, arguments, or contentions for a total period of at least one hour. The authority shall consider all relevant matter presented to it before taking the proposed action on the regulation. At a hearing under this subsection, the authority may continue or postpone the hearing to a time and place determined by the authority and announced at the hearing before taking the action to continue or postpone the hearing. A regulation adopted, amended, or repealed by the authority may vary from the informative summary specified in this subsection if the subject matter of the action taken on the regulation remains the same and if the original notice of the proposed action was written so as to assure that members of the public are reasonably notified of the subject matter of the proposed action in order for them to determine whether their interests could be affected by the authority's proposed action on that subject.

(e) The adoption, amendment, or repeal of a regulation on a subject specified in (c) of this section may be made as an emergency regulation

if, in the order of adoption, the authority states the facts constituting the emergency and makes a finding that the adoption of the regulation is necessary for the immediate preservation of the orderly operation of the authority's loan and bonding programs. The requirements of (d) of this section do not apply to the initial adoption of an emergency regulation covering a subject specified in (c) of this section; however, upon adoption of an emergency regulation under this subsection, the authority shall, within 10 days after that adoption, publish notice of the adoption in accordance with the notice procedures specified in (d) of this section. An emergency regulation adopted under this subsection may not remain in effect for more than 120 days unless, before the expiration of that period, the authority adopts that regulation as a permanent regulation in accordance with the procedures specified in (d) of this section.

(f) A regulation adopted under (b) — (e) of this section takes effect immediately upon its adoption by the authority or at such other time as specified by the authority in its order of adoption. (§ 53 ch 113 SLA 1982)

**Article 3. Financial Provisions.**

<p><b>Section</b>                  90. Bonds of the authority                  105. Capital reserve funds and capital reserve fund requirement                  155. Enterprise development fund</p>	<p><b>Section</b>                  157. Loan insurance and loan insurance account                  158. Small enterprise loan account                  159. Interest rates</p>
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**Editor's notes.** — For financing provisions concerning multifamily housing projects, see § 69, ch. 113, SLA 1982, quoted in the editor's notes following the chapter analysis.

**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. (§ 1 ch 64 SLA 1967; am §§ 60, 61 ch 106 SLA 1980; am § 35 ch 115 SLA 1981)

**Effect of amendments.** — The 1981 amendment rewrote paragraph (1) of subsection (g).

**Sec. 44.88.105. Capital reserve funds and capital reserve fund requirement.** (a) For the purpose of securing one or more issues of its

(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 of 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. (§ 65 ch 106 SLA 1980; am § 38 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment rewrote this section.

**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.

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. (§ 62 ch 106 SLA 1980; am §§ 36, 37 ch 115 SLA 1981)

*Effect of amendments.* — The 1981 amendment added "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" following "marketability of the bonds" in the second sentence of subsection (a) and added subsections (f) and (g).

**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;

NL - a few  
comments -  
V. 4/10

AIDA

NL

DRAFT

April 5, 1984

TO: Senate State Affairs Committee Members

FROM: Senator Vic Fischer

RE: Attached draft of CS SB 489 (AIDA bill)

The attached draft was developed in cooperation with the Alaska Industrial Development Authority (AIDA), the Department of Commerce, and the Department of Law.

The changes have been highlighted. They attempt to alleviate concerns expressed by committee members during the March 6 hearing without impairing the proposed functions of AIDA. Under the draft, AIDA will still be authorized to own and operate projects and to use state appropriations to supplement bonds in the financing of such projects.

Changes made in the draft are basically of two types:

1. Legislative oversight. Committee members expressed concern that, under the bill, AIDA could finance projects that it would own without specific legislative approval. (Existing AIDA law, 44.88.090(g), prohibits AIDA from issuing more than \$50,000,000 in bonds in any one-year period without legislative authorization.) The Department of Law has said that legislative approval on a project-by-project basis is unconstitutional. A reduced debt authorization will, in practice, have the effect of allowing the legislature to approve projects financed under the expanded powers. Accordingly, the debt authorization level established in sec. 8 (page 10) has been reduced from \$500,000,000 to \$20,000,000.

2. Minimization of state financial assistance. Because the bill provides for a "blend" of bonds and appropriations through the Economic Development Fund (EDF), committee members expressed concern about the criteria for project selection and financing. This is addressed in the bill through a requirement for a finance plan (page 6), a statement that it is the legislature's intent to minimize the cost to the state (sec. 9, page 10), and a provision that appropriations to the EDF may be as repayable loans (page 6, line 3). Projects must also meet the economic and financial criteria on page 8 (essentially the same as in the regional resource development authority bill-- SB 151-- last year) and existing AIDA law.

CS for SB 489 will be brought before the committee on Tuesday, April 10.

April 17, 1984

TO: Senate State Affairs Committee Members  
FROM: Senate State Affairs Committee Staff  
RE: Attached draft of CS SB 489 (AIDA bill)

The attached draft was developed in cooperation with the Alaska Industrial Development Authority (AIDA), the Department of Commerce, and the Department of Law.

The changes have been highlighted. They attempt to alleviate concerns expressed by committee members during the March 6 hearing without impairing the proposed functions of AIDA. Under the draft, AIDA will still be authorized to own and operate projects and to use state appropriations to supplement bonds in the financing of such projects.

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1. Legislative oversight. Committee members expressed concern that, under the bill, AIDA could finance projects that it would own without specific legislative approval. The Department of Law has said that legislative approval on a project-by-project basis is unconstitutional. A reduced debt authorization will, in practice, have the effect of allowing the legislature to approve projects financed under the expanded powers. Accordingly, the debt authorization level established in sec. 8 (page 10) has been reduced from \$500,000,000 to \$20,000,000. (In addition, existing law, 44.88.090(g) prohibits AIDA from issuing more than \$50,000,000 in bonds in any one-year period without legislative authorization.)
2. Minimization of state financial assistance. Because the bill provides for a "blend" of bonds and appropriations through the Economic Development Fund (EDF), committee members expressed concern about the criteria for project selection and financing. This is addressed in the bill through a requirement for a finance plan (page 6), a statement that it is the legislature's intent to minimize the cost to the state (sec. 9, page 10), and a provision that appropriations to the EDF may be as repayable loans (page 6, line 3). Projects must also meet the economic and financial criteria on page 8 (essentially the same as in the regional resource development authority bill-- SB 151-- last year) and existing AIDA law.

The CS also addresses process in two places. The process for the establishment of a regional resource advisory council is clarified in 44.88.174 (page 7), and the point at which findings must be made and approval obtained is moved forward to the AIDA approval rather than bonding stage (middle of page 8).

SB 489 (AIDA)

Please rewrite Sec. 44.88.174 (a) to read:

Within thirty days after the authority has adopted ~~an eligibility~~ an eligibility resolution with respect to a proposal for development of a project within ~~a region~~, <sup>the unorganized borough</sup> the governor shall appoint a Regional Resource Advisory Council. A separate council may be established in each area of the state within the unorganized borough in which a regional housing authority is established under 18.55.996. The purpose of a council is to assist the authority in its review of a project that has been proposed for development in that region and ~~which~~ <sup>that</sup> the authority intends to finance under 44.88.172.

Keep (b) and (c) the same.

~~Add a new (d):~~

Linn - Please give us a new Q with this one change. Thanks.

Nancy Lind  
x4954

Can we get it today (Monday)?

Asper  
4/4/84 ✓

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 489 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

10 (a) The legislature finds, determines and declares that

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

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

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

20 (4) the establishment and expansion of industrial, man-  
21 ufacturing, and business enterprises in Alaska and the other facil-  
22 ities referred to in (5) of this subsection are essential to the  
23 development of the natural resources and the long-term economic growth  
24 of the state, and will directly and indirectly alleviate unemployment  
25 in the state;

26 (5) the achievement of the goal of full employment, and of  
27 establishment and continuing operation and development of industrial,  
28 manufacturing, and business enterprises in the state, including,  
29 without limitation, facilities for [AIR AND WATER] transportation,

1 facilities for pollution control and waste disposal, facilities for  
2 the local furnishing of gas, facilities for water, [AND] facilities  
3 for industrial parks, mass commuting vehicles, facilities for local  
4 district heating or cooling, parking facilities, or a storage or  
5 training facility relating to a plant or facility, will be accelerated  
6 and facilitated by the creation of an instrumentality of the state  
7 with powers to incur debt, to own and operate facilities. [AND] to  
8 make and insure loans to finance, and to assist private lenders to  
9 make loans to finance, the establishment, operation, and development  
10 of industrial, manufacturing, and business enterprises, including,  
11 without limitation, facilities for [AIR AND WATER] transportation,  
12 facilities for pollution control and waste disposal, facilities for  
13 the local furnishing of gas, facilities for water, [AND] facilities  
14 for industrial parks, mass commuting vehicles, facilities for local  
15 district heating or cooling, parking facilities, or a storage or  
16 training facility relating to a plant or facility;

17 (6) it is in the public interest to promote the prosperity  
18 and general welfare of all citizens of the state by stimulating com-  
19 mercial and industrial growth and expansion by encouraging an increase  
20 of private investment by banks, investment houses, insurance com-  
21 panies, and other financial institutions, including pension and re-  
22 tirement funds, to help satisfy the need for economic expansion;

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

26 \* Sec. 2. AS 44.88.070 is amended to read:

27 Sec. 44.88.070. PURPOSE OF THE AUTHORITY. The purpose of the  
28 authority is to promote, develop and advance the general prosperity  
29 and economic welfare of the people of Alaska, to relieve problems of

1 unemployment, and to create additional employment by providing various  
2 means of financing and means of facilitating the financing of indus-  
3 trial, manufacturing, and business enterprises and the other facil-  
4 ities referred to in AS 44.88.010(a)(5) within the state, and by own-  
5 ing and operating the enterprises and other facilities.

6 \* Sec. 3. AS 44.88.080 is amended to read:

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

10 (1) to sue and be sued;

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

12 (3) to make and alter bylaws for its organization and  
13 internal management;

14 (4) to adopt regulations governing the exercise of its  
15 corporate powers;

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

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

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

26 (8) to sell, by installment sale or otherwise, exchange,  
27 donate, convey or encumber in any manner by mortgage or by creation of  
28 any other security interest, real or personal property owned by it, or  
29 in which it has an interest, including a project, when, in the

1 judgment of the authority, the action is in furtherance of its corpo-  
2 rate purposes;

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

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

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

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

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

18 (14) to acquire, manage, and operate projects as the author-  
19 ity considers [A PROJECT WHEN IT BECOMES] necessary or appropriate  
20 [DESIRABLE] to serve a public purpose [DO SO TO SAFEGUARD THE AUTHORITY  
21 FROM LOSSES];

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

25 (16) to accept gifts, grants, or loans from a federal  
26 agency, from an agency or instrumentality of the state or of a munici-  
27 pality, or from any other source;

28 (17) to enter into contracts or other transactions with a  
29 federal agency, with an agency or instrumentality of the state or of a

1 municipality, or with a private organization or other entity consis-  
2 tent with the exercise of any power under this chapter;

3 (18) to facilitate the expansion of a secondary market for  
4 the resale of federally or commercially insured loans made to finance  
5 the costs of projects in Alaska held by federal and state chartered  
6 financial institutions or by the Alaska Commercial Fishing and Agri-  
7 culture Bank;

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

14 \* Sec. 4. AS 44.88.105 is amended by adding a new subsection to read:

15 (h) Notwithstanding any other provision of this section, the  
16 authority may waive or modify the requirements of (a) of this section  
17 establishing maximum costs of \$10,000,000 for a project and the re-  
18 quirements of (f) of this section as it considers appropriate and  
19 prudent in order to finance a project if the authority intends to own  
20 the project. However, if the authority intends to lease or otherwise  
21 permit the state to use or occupy a majority of the project, the  
22 authority may only establish a reserve fund under (g) of this section  
23 to secure bonds issued to finance a project.

24 \* Sec. 5. AS 44.88.155 is amended by adding a new subsection to read:

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

29 \* Sec. 6. AS 44.88 is amended by adding new sections to read:

1           Sec. 44.88.172. ECONOMIC DEVELOPMENT FUND. (a) The economic  
2 development fund is established in the authority. The fund consists  
3 of money or assets appropriated, loaned, or transferred to the author-  
4 ity, and other money or assets deposited in the fund by the authority.  
5 The fund may only be used to finance, acquire, manage, and operate  
6 projects that the authority intends to own and operate.. The term  
7 "operate" includes operation directly by the authority, or by an agent  
8 of the authority.

9           (b) If a project is financed or developed through use of the  
10 assets of the economic development fund, the authority may not pledge  
11 or use other assets of the authority to assist in the financing,  
12 development, or operation of the project. However, whether or not the  
13 authority uses the economic development fund, it may issue bonds to  
14 finance a project and may secure the bonds with a mortgage, pledge, or  
15 assignment of the project or of revenues, money, or agreements attrib-  
16 utable to the project or the bonds.

17           Sec. 44.88.173. FINANCE PLAN. (a) Before approving a project  
18 financed under AS 44.88.172, the authority shall prepare a finance  
19 plan. The finance plan must include an estimate of the total cost of  
20 the project, and a description of the sources of money that will be  
21 used to finance the total cost of the project. The finance plan must  
22 also include an estimate of the operational costs of the completed  
23 project, as well as a description of the source of the money that is  
24 to be used to pay the operational costs.

25           (b) The authority shall give preference to a project that does  
26 not require financial assistance from the state. If the authority  
27 determines that a project requires state financial assistance, and if  
28 the authority further determines that it is desirable to finance the  
29 project, the authority shall recommend a method of financing that

1 minimizes cost to the state. A finance plan required under (a) of  
2 this section must identify the method of financing that minimizes the  
3 cost to the state.

4 (c) The authority shall submit a finance plan prepared under  
5 this section to the state bond committee, the governor, and the legis-  
6 lature before issuing bonds or otherwise incurring debt for the proj-  
7 ect. If a project requires financial assistance from the state, the  
8 state financial assistance must be available before bonds are issued  
9 for the project.

10 Sec. 44.88.174. REGIONAL DEVELOPMENT ADVISORY COUNCIL. (a) A  
11 Regional Development Advisory Council may be established in each area  
12 of the state within the unorganized boroughs in which a regional  
13 housing authority is ~~established~~ under AS 18.55.996, to assist the  
14 authority in its review of projects ~~that~~ the authority intends to  
15 finance under AS 44.88.172. A council may be organized in a region  
16 only after the authority has received a proposal for the development  
17 of a project within the region.

18 (b) A Regional Development Advisory Council consists of five  
19 members registered to vote in the region. The ~~governor shall~~ appoint  
20 the members to reflect the economic and geographic diversity of the  
21 region. Council members serve three-year terms at the pleasure of the  
22 governor, except that the initial members may be appointed for less  
23 than three years so that the term of at least one of the members  
24 expires each year. The governor shall appoint a chairperson who shall  
25 call meetings as required and preside over the deliberations of the  
26 council. A majority of the council constitutes a quorum for conduct-  
27 ing the business of the council.

28 (c) Members of a Regional Development Advisory Council do not  
29 receive compensation for their services on the council, but are en-

1 titled to per diem and travel expenses authorized by law for state  
2 boards and commissions under AS 39.20.180.

3 Sec. 44.08.175. APPROVAL OF PROJECTS. (a) Before entering into  
4 an agreement to finance or to develop a proposed project with a cost  
5 in excess of \$10,000,000 that is financed under AS 44.88.172, the  
6 authority shall obtain the approval of each Regional Development  
7 Advisory Council or municipality in the area in which the proposed  
8 project is to be located. Approval under this subsection must be  
9 evidenced by a certified copy of a resolution of the council or of the  
10 governing body of the municipality.

11 (b) Before approving a project <sup>[issuing bonds to provide financing for a project]</sup> for which bonds must be issued to  
12 provide financing, the authority shall <sub>under 44.88.172</sub>

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

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

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

20 (B) the project applicant is financially responsible;

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

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

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

1 (F) the scope of the project is sufficient to provide  
2 a reasonable expectation of a benefit to the economy of the  
3 state; and

4 (G) the project is in compliance with applicable law.

5 Sec. 44.88.176. HEARING TO CONSIDER PROPOSED PROJECT. Before  
6 considering a resolution regarding the approval or rejection of the  
7 development or financing of a proposed project with a cost in excess  
8 of \$10,000,000, that is financed under AS 44.88.172, a Regional  
9 Development Advisory Council shall conduct a public hearing within the  
10 region. If a proposed project is located within a municipality, the  
11 governing body of a municipality shall conduct a hearing on the pro-  
12 posed project.

13 Sec. 44.88.177. OPERATION OF PROJECTS. If a project is financed  
14 under AS 44.88.172, the authority shall solicit the review and advice  
15 of the Regional Development Advisory Council or governing body in the  
16 area in which a project is located before the execution of contracts,  
17 agreements, resolutions, or other matters that directly concern the  
18 development, maintenance, and operation of a project.

19 \* Sec. 7. AS 44.88.220(5) is amended to read:

20 (5) "project" means

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

22 (i) in connection with making, processing, pre-  
23 paring, or producing in any manner, goods, products or  
24 substances of any kind or nature or in connection with  
25 developing or utilizing a natural resource, or extracting,  
26 smelting, transporting, converting, assembling or producing  
27 in any manner, minerals, raw materials, chemicals, com-  
28 pounds, alloys, fibers, commodities and materials, products  
29 or substances of any kind or nature;

1                   (ii) [, ANY PLANT OR FACILITY USED OR INTENDED  
2 FOR USE] as an industrial park; [OR] in connection with [AIR  
3 AND WATER] transportation; [, OR ANY PLANT OR FACILITY] for  
4 the prevention, limitation or control of [AIR OR WATER]  
5 pollution; [,] for the disposal of sewage or solid waste;  
6 [,] for the local furnishing of gas; [, OR] for the furnish-  
7 ing of water; as or in connection with mass commuting vehi-  
8 cles; for local district heating or cooling; as a parking  
9 facility; or as a storage or training facility directly  
10 related to a plant or facility described in this paragraph;

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

13                   (C) commercial activity by a small enterprise;

14 \* Sec. 8. In addition to any other authorization to issue bonds or  
15 notes, the authority may issue bonds in a principal amount not to exceed  
16 <sup>[\*500,000,000]</sup> \$20,000,000 to assist in the acquisition, financing, or operation of proj-  
17 ects under AS 44.88.172, enacted by sec. 6 of this Act.

18 \* Sec. 9. It is the intent of the legislature to minimize the cost of  
19 state financial assistance for projects funded under AS 44.88.172, enacted  
20 by sec. 6 of this Act. To the extent possible, financial assistance shall  
21 be extended in the form of loans.

22 \* Sec. 10. This Act takes effect immediately in accordance with AS 01.-  
23 10.070(c).

SENATE STATE AFFAIRS  
COMMITTEE MEETING

March 6, 1984

Butrovich Room

Tape reading 000

The meeting of the Senate State Affairs Committee was called to order at 3:10 p.m., by Senator Vic Fischer, Chair. All members were present.

Senator Vic Fischer, Chair  
Senator Bill Ray  
Senator Arliss Sturgulewski  
Senator Tim Kelly  
Senator Pat Rodey

The first order of business was SB 489.

Terry Elder, Deputy Commissioner, Department of Commerce, Economic Development testified in support of the bill. He advised what it was they wanted the bill to do. Transportation facilities and other Economic Development facilities are a need in statewide basis. They would like to expand the ability (???) of AIDA to utilize the federal tax exempt regulations that allow certain facilities to be financed \_\_\_\_\_ and bonds that will provide a stimulus to the states economy. Being a statewide agency, it is already in existence, last year issuing 2 million dollars in bonds. He stated that with the recognized name on Wall Street, they simply wished to expand its ability to access federal tax exempt from regulations. That also, in this bill they are trying to take a generic approach that will allow it to look at facilities that would be revenue producing facilities in all parts of the state, organized or unorganized sectors of the state, that we have a certain local provision where the industrial authority \_\_\_\_\_ (?)

Senator Vic Fischer: Why should AIDA get into the business of owning facilities.

Terry Elder: The ownership of the facility will either be a government agency it will allow it to be financed \_\_\_\_\_ tax exempt.

Senator Vic Fishcer: This a very major policy issue. If it is to be state owned, if they're (?) transportation facilities, why not have DOT own it. They can issue tax exempt bonds just as well.

Terry Elder: If DOT were given the ability to \_\_\_\_\_ (?) that would be another way to do it.

Senator Vic Fischer: We could authorize DOT to issue revenue bonds, just as ASHA can do it, and other branches. AIDA at this point does not own state facilities. The other concern, what affect might this have state finances, its credit rating and so on, if AIDA can go out \_\_\_\_\_ (???)

Terry Elder: First of all there are a number of constraints, its not going out on its own \_\_\_\_\_ (?????) there would be a tie into the administration. Number 2, this is created giving AIDA the ability to do these things - but its not funded, and consequently it will require legislation and the legislative fund, any project that it would be undertaking. Thirdly, it requires some input from the locality before any project is approved.

The impact on the state would be that the credit rating is concerned, these bonds would not be moral obligations to the state, it would not be direct allegations to the state. They would be obligations of AIDA.

Senator Vic Fischer: Last year we passed SB 151, to set up regional development authorities. This sounds as if we're talking about duplicating mechanism.

Terry Elder: Last year, essentially of what they can do, SB 151 authorities are similar to AIDA. Our testimony last year, we indicated while we supported the objectives of SB 151, we preferred statewide authorities, such as AIDA, rather than creating potentially nine seperate \_\_\_\_\_ (?) authorities which SB 151 allows. The letter of transmittal of the governor's indicated that during the interim, for this session, we would be working on what was called previously the AIDA alternative, and thats what this is. We just think its more efficient, and use one central financing authority that already exists, and its already sold million dollars worth of bonds and is a recognized name on Wall Street.

Senator Bill Ray: This is the alter (?) ego of the ASHA program which has to do with just housing alone, that this is a program wheret certain developments could be built, owned and operated by the authority for transportation.

Terry Elder: That is correct. I wouldn't say that its the alter(?) ego of ASHA, but that is part correct.

Senator Bill Ray: ASHA owns and operates \_\_\_\_\_ (?) These guys will own and operate \_\_\_\_\_ (?) but they won't own and operate buildings a competition with ASHA. They will own and operate things they cannot - they are constraint by law to build \_\_\_\_\_ (?)

Senator Arliss Sturgulewski: It doesn't look like you really set up any criteria with those projects \_\_\_\_\_ (???)

Whether they should be economic, whether theres any kind of studies that need to be done - at least that was one of the material \_\_\_\_\_ (?) SB 171, there was some criteria for \_\_\_\_\_ (??) talk about an economic development fund. I do not know what it really means and what the real intent of it. Are we talking just \_\_\_\_\_ or are we talking about the state owning Kodiak harbors or the facilities in the Pribilof -- whats the purpose - just anything that comes along - looks kinda good, why we can get capital monies thrown in and then utilize proportion of revenue bonds....It doesn't seem to me that there is real direction in the legislation, except that it allows for an entity to vastly expand its ability to go out and do things and own them. Could it built the Knik Crossing?

(?) Kni. Crossing, sure.

Terry Elder: The authority would have to make some findings regarding the \_\_\_\_\_ (?) viability. Also the fact that the \_\_\_\_\_ would have to go to the bond market. Certainly these would have to be revenue producing facilities and would have to certainly cover the ....

Senator Sturgulewski: Where does it say that.

Senator Vic Fischer: Also, we have the exerieence of the Alaska Power Authority where they've gone out and now this state is stuck(?)

Senator Sturgulewski: I'm sure you're going to give me the section.

Senator Ray: \_\_\_\_\_ Issuing bonds and financing projects may secure the bonds of a mortgage budget assignment(?)

Senator Sturgulewski: That could be true, after a lot of other dollars were put in, thats what I'm saying. It doesn't say that \_\_\_\_\_,,,

Senator Ray: They could built a toll bridge for Knik Arm with this.

Senator Kelly: Why should you be able to build a toll with this without \_\_\_\_\_ (????)

Terry Elder: It would require legislative approval from the standpoint of \_\_\_\_\_ we're simply hearing the authority of the ability to finance certain projects -- of any projects that could be financed without the fund by the legislator \_\_\_\_\_ (???)

(?) I don't understand this.

(?) Where is the legislator in this bill - (?) connected to.

Terry Elder: The fact that the economic development funds is simply the fund with n the \_\_\_\_\_ (???) and has to be zero balanced(???) Theres nothing that AIDA could do unless the legislature appropriates funds for the projects. We could bond for a balance for utilizing the appropriations the legislature provides to the authority. \_\_\_\_\_ bonded for the balance.

Senator Kelly: I still don't know where the legislature is tied in with the project.

Terry Elder: I think they're tied in to the appropriation funds.

Senator Sturgulewski: Where?

Terry Elder: To be able to zero balance, there is no money in there. There is nothing that they could do, its separate from all the other programs, and literally could do nothing without some \_\_\_\_\_(???)

Senator Vic Fischer: Didn't you say that the authority would be able to borrow. If you can borrow, you don't need appropriation.

Terry Elder: Whats highly unlikely \_\_\_\_\_(??) you could bond the (?)amount.

Senator Vic Fischer: But if you could, then the authority could go ahead without legislative \_\_\_\_\_(?).

Senator Sturgulewski: We would, in addition to any other authorization issue bond to those authority may issue bonds with principal amount not to exceed 5 hundred million to assist in etceteras. So I assume that if there were projects for which you could go to bonding, you could at least do it at the half million dollars without legislative approval.

Senator Kelly: \_\_\_\_\_ theres a new mine development (??) discovered somewhere out in the middle of nowhere----(???) the governor could tell his commissioners that i want to put in a \_\_\_\_\_(??) \_\_\_\_\_(????)and then they get \_\_\_\_\_(????) then they go \_\_\_\_\_(????????) and those few people commit the state of Alaska to a 2 hundred million dollars \_\_\_\_\_ somewhere? Without coming back to the legislature? And thats all they have to do? Your talking about eight people in the state who are going to commit for 200 million dollars?

Terry Elder: I doubt it will work that way.

Senator Kelly: But could it work that way?

Senator Ray: You have people dealing with 6 billion dollars now. Five or six people who don't come to Alaska everytime they want to invest anything. Your permanent fund investment corporation, they don't do it. When you have an organization thats of but separate from the state, those are the reasons that you put them from the state so that they don't have the same constraints. Now if you don't like the concept - eliminate AIDA. Eliminate permanent fund. So that everytime you want to spend a dime of the permanent fund - it comes between Arliss and me and Pat and you and .....

Senator Kelly: You can't - AIDA and permanent fund, they're invested. These people could be spending.

Senator Ray: If you don't think the permanent fund isn't going to spend any of your money in the stock market, or in the gold reserve and \_\_\_\_\_(?) the rest of it, you're out of town.

Senator Rodey: That I recommend on page 4, under Approval of projects, that we add the requirement of a resolution of the legislator. I suppose you should have a resolution from the municipality, but it could be the new fish creek city council, a newly formed area. I think for any amount.

Senator Ray: Why do we need to, why not just turn the money over to DOT, keep it in the general fund - and we don't need these guys to tell us what to do.

Senator Rodey: They're only going to be doing big projects

Terry Elder: \_\_\_\_\_ (?????????????)

Senator Ray: You're missing what Senator Rodey said, you should clarify.

Senator Vic Fischer: Its not necessarily the large projects because it amends the authority to cover mass commuting vehicles. It could be a dozen busses, etc---

Your point was Senator Rodey, there should be legislative approval.

Senator Rodey: Certainly over 10 million \_\_\_\_\_ ?????  
\_\_\_\_\_ ?????? It isn't looked \_\_\_\_\_ to  
see exactly where 10 million isn't the appropriate amount \_\_\_\_\_ (???)

Senator Ray: But they're operating now. What is your limit now??

Terry Elder: There are exempt facilities-----

Senator Rodey: There's a significant difference, the state doesn't own their  
\_\_\_\_\_ (???????) their financing projects, the projects  
themselves are responsible for the debt they  
created \_\_\_\_\_ (?????) and the entity also

Senator Kelly: Owning and operating \_\_\_\_\_ (?) facilities, you  
said that you wanted to be able to do that. So we could go on tax exempt  
bond. You have 2 hundred million dollar \_\_\_\_\_ last year, was that some of  
that tax exempt bond. Well then your really don't need \_\_\_\_\_ tax exempt  
-----

Terry Elder: That was past rules \_\_\_\_\_ (???) There is federal legislation coming  
at us which is highly likely to limit the ability of all states, this state in  
particular to issue tax exempt economic development bonds, and consequently  
to avoid some of those restrictions - ownership of \_\_\_\_\_ public entities  
that are required. Otherwise it would be \_\_\_\_\_ (???)

Senator Sturgulewski: Lets assume thats true. Right now one of the criticism  
thats been leveled at the the current program \_\_\_\_\_ (???) is  
looking into, obviously is the lack of revenue \_\_\_\_\_ federal government  
could also \_\_\_\_\_ (?) some of the projects that are being done.  
With the passage of this, and assuming that you can take \_\_\_\_\_ running  
from private and other sources, and kind of create a pool. Thats the way I  
read the legislation. Does that mean then that the state could be in business  
involving Wein or Mark Air(??) terminal or McDonalds or whatever? It seems to  
me that the legislation is broad enough in order to do it and that would be

developing the economic structures \_\_\_\_\_ (??) if the other program is not available. The way I read it you could(?) (/)couldn't.(?)

Senator Vic Fischer: It sounds very socialistic.(??)

(??) Worse than that.

Senator Sturgulewski: It has interesting ramifications.

Senator Ray: This is probably the Anchorage Chamber of Commerce.....

Bert Wagon: The definition section limits what the authority could involve \_\_\_\_\_ (??) Also federal regulations and essentially the its \_\_\_\_\_ federal regulations. If the federal government essentially gives the state the break of tax exempt \_\_\_\_\_ bonding, it seems to me the state should take advantage \_\_\_\_\_ bonding.

Senator Kelly: I've got to find out why a wanted mass transit....

Terry Elder: I'll have Bert Wagon answer.

Bert Wagon: (Executive Director of the Alaska <sup>Industrial</sup> ~~Municipal~~ Development Authority. He explained that "mass commuting vehicles", the Alaska Marine Highways system, is technically under the IRS code, qualifies as mass commuting vehicles.

First, the most important point of the bill is it changes the authority. Right now the authority is only a financing entity. This bill would allow the authority to own projects. It would allow them to own only the projects contained in the definition section of the bill - page 6. Section 9 \_\_\_\_\_ it's basically Resources correction - its existing definition from our statute. If you look at 2 the additions there and the items under 2 \_\_\_\_\_ the generally facilities which the federal tax code call exempt facilities. That is not the direct language in the tax code, it has been modified primarily by the uses of brackets and underlines.

Senator Ray: Is there a similiarity between this and the capital project program.

Bert Wagon: This bill creates the economic development fund. It has zero money in it.

Senator Sturgulewski: Under the present program that you're having some problems with because of the federal legislation, if this were passed as it is now - what would you foresee AIDA being, if it didn't get into a lot of new project, like new ports. Would you be operating your program at all under tax exempt

Bert Wagon: This bill would not have an impact, either positive or negative on the existing operation of the authority. If this bill go nowhere, it will neither harm nor hurt the existing operations of the authority. There are bills pending in Congress that should change some of the rules for tax exempt finance. We are unable to predict what those changes will be. Its save to say they're will be additional restrictions.

Senator Sturgulewski: Pursued the question - exactly why this legislative?? Is it to get the state into significant known kinds of developments. What are you looking at with this legislation. What do you want to do?

Bert Wagon: This bill was designed for two basic reasons; number 1, there will be projects that the state may want to be involved in financially to take place, and that a device could be written in this bill to allow funds be used for marginal projects that may be in the public interests to take place. The second reason, in addition to number one, this bill would enable the financing for those projects to be done through tax exempt \_\_\_\_\_???

Senator Ray: Whats your role limitation now?

Bert Wagon: My role limitation \_\_\_\_\_?? but basically I can do anything under 10 million -- if it falls within certain limits of bank(?) participation.

Under this bill if AIDA \_\_\_\_\_(???) The loan limit would be 50 million unless I came to the legislature. Theoretically under this bill if the legislature approved I could do a single one 500 million dollar project.

Senator Kelly: Where is that 50 million? Is that in statute outside of this bill.

Bert Wagon: Yes it is. 44.88.090 (g)2

Senator Vic Fischer: In other words you could do a project now up to 50 million. You could lend money.

Bert Wagon: That is correct. I could what is referred to as a straight(??) \_\_\_\_\_(???) up to 50 million without coming to the legislature, with the exception that if it is over 6 (???) million I have to go to the local governing entity and get their permission for any over 6 million. That will only be for revenue bond issue that were supported by the particular project.

Senator Vic Fischer: What guarantee would it be that the state would not get stuck with repaying bonds with covering operating maintenance costs and whatever else.

Bert Wagon: The only guarantees in the law you would have would be basically to \_\_\_\_\_(?????????????)

Senator Sturgulewski: I would only say on that the legislators can appropriate dollars in the economic development fund. So you're really not looking at any criteria for a total project.

Bert Wagon: You are correct - the bill is designed where, if the legislature were so inclined, \_\_\_\_\_(?????)

.....  
.....

Senator Ray: On line 13, page 1, and on line 24 .....without limitation, what are you saying there.

.....  
.....  
.....  
Bert Wagnor: Like this bill is separate from the existing authority. I can finance things that are exempt.....the only \_\_\_\_\_(??) walk along is depending upon what Congress does. If we didn't have this pending Congressional action, parking garages are exempt facilities, I could finance those -----.....

Senator Vic Fischer: The difference then here would be - you could at this time finance port for NANA Red dog(???)But without this legislation the state wouldn't subsidize it. It would be a regular business transaction. Is that the difference - there would be no subsidy built in through the development fund.

Bert Wagnon: Without this bill if you did a (?)port(?) based upon a revenue \_\_\_\_\_(?) the port would have to produce absolutely enough revenues to enable marketing of the bonds.

Senator Vic Fischer: Spend more time on this bill , look at the legislative approval-----(?)

Senator Ray: Going on the past performance of AIDA and seeing what they can do - and liking what they have done, particularly under the able management before us now, perhaps with a revision here of a project over the 10 million and perhaps a legislative approval - I wouldn't have any problems with it.

Senator Kelly: There are other issues involved outside of legislative oversight . Hold the bill over to another meeting.

Senator Sturgulewski: I think we should take a good look at what the power authority and how it operates the kinds of relationship that has to the state in terms of project approval and bonding, questions of needed to oversight some standards for AIDA in order to approve projects. There should be some standards that we set out what we expect this agency to do.

Senator Vic Fischer: What I would appreciate members doing with giving me their suggestions for changes, my staff would be glad to work with any and all of you. We will not be able to get to this bill - probably two weeks.

Senate bill 421 was next order of business. The chair explained this was another bill requested by the Governor. The bill relates to public contracts.

Meter reading  
058

Bob Stewart, deputy director for administrative services, department of Administration testified and explained the bill. Basically this is a housekeeping bill, it neither expands nor reduces rights of potential

contractors or bidder as it currently exists. It merely provides more clarification and moves the concepts into the contracting areas as opposed to the claims against the state area.

Senator Fischer explained the Committee Substitute is designed simply to make a correction requested with the fiscal note. On substitute, line 12, first word "professional", on page 1, substituted for "personal", the end of line 11 on the original.

Senator Sturgulewski made a motion to move the bill.

Senator Ray objected and proposed to move the original bill with the amendment changing the word "personal" to "professional".

SB 421 moved out of committee.

SB 495 was next to come before the committee.

Mary Lou Meiners, Director of the Division of Elections testified and explained the committee substitute they had requested on the original bill.

The committee discussed the use of social security numbers, date of birth, disclosure of sex, and party affiliations on the registration form.

SB 495 was held over for a new committee substitute.

The meeting adjourned.

Changes to SB 489 (AIDA)

Economic Development Fund. page 3, line 13. Add "Grants or loans from" in front of "the fund"

? Specify that loan repayments go to the General Fund.

Add a new section after line 24, page 3. FINANCE PLAN.

For any project proposed by the authority under 44.88.173 the authority shall complete a finance plan that recommends the most appropriate means to finance <sup>the</sup> project, including but not limited to any combination of (1) revenue bonds of the authority, (2) loans from the EDF with recommended terms, rates of interest, and deferments if any, and (3) grants from the EDF.

When the authority determines that financial assistance from the state is necessary, the authority shall recommend a method of financing of least-cost to the state. Loans to restructure debt shall be recommended whenever possible in preference to grants.

Money from the EDF for construction of projects may not be spent until a completed finance plan is approved by the authority and submitted to the State Bond Committee, the Governor, and the Legislature. Bonds or debt for a project financed through the EDF may not be sold until the necessary financing, as recommended by the finance plan, is appropriated to the EDF.

? Wherever it reads "bonds" (page 4, line 26 for example) add "or debt".

page 5, line 7: Add before "financially", "economically and"

page 5, line 8: Add after "bonds", "and loans"

Introduced: 2/14/84  
Referred: State Affairs  
and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 489

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the Alaska Industrial Development

7

Authority; and providing for an effective date."

8

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

9

\* Section 1. AS 44.88.010(a)(5) is amended to read:

10

(5) the achievement of the goal of full employment, and of

11

establishment and continuing operation and development of industrial,

12

manufacturing, and business enterprises in the state, including,

13

without limitation, facilities for [AIR AND WATER] transportation,

14

facilities for pollution control and waste disposal, facilities for

15

the local furnishing of gas, facilities for water, [AND] facilities

16

for industrial parks, mass commuting vehicles, facilities for local

17

district heating or cooling, parking facilities, or a storage or

18

training facility relating to a plant or facility, will be accelerated

19

and facilitated by the creation of an instrumentality of the state

20

with powers to incur debt, to own and operate facilities, [AND] to

21

make and insure loans to finance, and to assist private lenders to

22

make loans to finance, the establishment, operation, and development

23

of industrial, manufacturing, and business enterprises, including,

24

without limitation, facilities for [AIR AND WATER] transportation,

25

facilities for pollution control and waste disposal, facilities for

26

the local furnishing of gas, facilities for water, [AND] facilities

27

for industrial parks, mass commuting vehicles, facilities for local

28

district heating or cooling, parking facilities, or a storage or

29

training facility relating to a plant or facility;

377 is  
transp.  
facilities  
only  
OK

ownership

44.88.090(g)

1 \* Sec. 2. AS 44.88.070 is amended to read:

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

10 \* Sec. 3. AS 44.88.080(14) is amended to read:

11 (14) to acquire, manage, and operate projects as the author-  
12 ity considers [A PROJECT WHEN IT BECOMES] necessary or appropriate  
13 [DESIRABLE] to serve a public purpose [DO SO TO SAFEGUARD THE AUTHORI-  
14 TY FROM LOSSES];

15 \* Sec. 4. AS 44.88.080 is amended by adding a new paragraph to read:

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

22 \* Sec. 5. AS 44.88.105 is amended by adding a new subsection to read:

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

hand participation

OK

OK

OK

brood

1 authority may only establish a reserve fund under (g) of this section  
2 to secure bonds issued to finance a project.

3 \* Sec. 6. AS 44.88.155 is amended by adding a new subsection to read:

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

8 \* Sec. 7. AS 44.88 is amended by adding new sections to read:

9 Sec. 44.88.173. ECONOMIC DEVELOPMENT FUND. (a) There is estab-  
10 lished in the authority the economic development fund. The fund  
11 consists of money or assets appropriated or transferred to the author-  
12 ity, and other money or assets deposited in the fund by the authority.

13 The fund may only be used to finance, ~~acquire,~~ <sup>with state loan,</sup> manage, and operate  
14 projects which the authority intends to own and operate. The term  
15 "operate" includes operation directly by the authority, or by an agent  
16 of the authority.

17 (b) If a project is financed or developed through use of the  
18 assets of the economic development fund, the authority may not pledge  
19 or use other assets of the authority to assist in the financing,  
20 development, or operation of the project. However, whether or not the  
21 authority uses the economic development fund, the authority may issue  
22 bonds to finance a project and may secure the bonds with a mortgage,  
23 pledge, or assignment of the project or of revenues, money, or agree-  
24 ments attributable to the project or the bonds.

25 ~~FINANCE PLAN~~ Sec. 44.88.174. REGIONAL DEVELOPMENT ADVISORY COUNCIL.

26 (a) A Regional Development Advisory Council may be established  
27 in each area of the state within the unorganized boroughs in which a  
28 regional housing authority is established under AS 18.55.996, to  
29 assist the authority in its review of projects which the authority

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Reg. Transp.  
Facility Dev.  
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Local  
Mortgages  
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1 intends to finance under AS 44.88.173. A council may be organized in  
2 a region only after the authority has received a proposal for the  
3 development of a project within the region.

4 (b) A Regional Development Advisory Council consists of five  
5 members registered to vote in the region. The governor shall appoint  
6 the members to reflect the economic and geographic diversity of the  
7 region. Council members serve three-year terms at the pleasure of the  
8 governor, except that the initial members may be appointed for less  
9 than three years so that the term of at least one of the members  
10 expires each year. The governor shall appoint a chairperson who shall  
11 call meetings as required and preside over the deliberations of the  
12 council. A majority of the council constitutes a quorum for transact-  
13 ing the affairs of the council.

14 (c) Members of a Regional Development Advisory Council receive  
15 no compensation for their services on the council, but are entitled to  
16 per diem and travel expenses authorized by law for state boards and  
17 commissions under AS 39.20.180.

18 Sec. 44.88.175. APPROVAL OF PROJECTS. (a) Before entering into  
19 an agreement to finance or to develop a proposed project which costs  
20 in excess of \$10,000,000, and which is financed under AS 44.88.173,  
21 the authority shall obtain the approval of each Regional Development  
22 Advisory Council or municipality in the area in which the proposed  
23 project is to be located. Approval under this subsection must be  
24 evidenced by a certified copy of a resolution of the council or of the  
25 governing body of the municipality.

26 (b) Before <sup>approving a project that involves issuing bonds</sup> ~~issuing bonds~~ <sup>a debt</sup> to provide financing for a project  
27 under AS 44.88.173, the authority shall

- 28 (1) obtain approval under (a) of this section;  
29 (2) find, on the basis of all information reasonably

info into report - (c)

1 available to it, that

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

6 (B) the project applicant is financially responsible;

7 (C) the project is <sup>economically +</sup> financially ~~feasible~~ and able to  
8 produce revenue adequate to repay the bonds <sup>+ loan</sup> with which it is  
9 financed;

10 (D) provision to meet increased demand on public  
11 facilities that might result from the project is reasonably  
12 assured;

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

17 (F) the scope of the project is sufficient to provide  
18 a reasonable expectation of a benefit to the economy of the  
19 state; and

20 (G) the project is in compliance with applicable law.

21 Sec. 44.88.176. HEARING TO CONSIDER PROPOSED PROJECT. Before  
22 considering a resolution regarding the approval or rejection of the  
23 development or financing of a proposed project which costs in excess  
24 of \$10,000,000, and which is financed under AS 44.88.173, a Regional  
25 Development Advisory Council shall conduct a public hearing within the  
26 region. If a proposed project is located within a municipality, the  
27 governing body of a municipality shall conduct a hearing on the pro-  
28 posed project.

29 Sec. 44.88.177. OPERATION OF PROJECTS. If a project is financed

(c)  
make  
plan

157 strong  
local control/  
participation

1 under AS 44.88.173, the authority shall solicit the review and advice  
2 of the council or governing body in the area in which a project is  
3 located before the execution of contracts, agreements, resolutions, or  
4 other matters that directly concern the development, maintenance, and  
5 operation of a project.

6 \* Sec. 8. In addition to any other authorization to issue bonds or  
7 notes, the authority may issue bonds in a principal amount not to exceed  
8 \$500,000,000 to assist in the acquisition, financing, or operation of  
9 projects under AS 44.88.173.

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change  
to 20M

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

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

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

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

massive  
extraction

complies w/  
fuel tax code

1 \* Sec. 10. This Act takes effect immediately in accordance with AS 01.-  
2 10.070(c).

AMENDMENT

SB 489

page 9, line 6

Add a new (H) to read:

- (H) issuance of the bonds would not be expected to adversely affect the ability of the state or its political subdivisions to market 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 ~~ten~~ 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 <sup>44.88.172. the</sup> ~~this chapter~~ an  
29 authority shall submit to the state bond committee a description of

add to  
44.88.175

*the finance plan required under 44.08.173*

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

AIDA bill

BIO M ly. approval  
for all AIDA

Ron Levin -  
full time issuer -

Review + findings by  
State Board Com.

seen by Dave Rose -  
PF City bonds.

274-1651

Ron -

377

~~legitimate~~

legitimate concern.

leaving Tues a.m.  
Best leaving Mon.  
back 19, then you again.

who on IDB issues.  
problem w/

# Legislative Digest

## A Forecast and Review

CK  
JH  
CJ  
ST  
SK  
NL

**Bargaining In Billions:**

**OFFICE COPY**

February 25, 1984  
No. 7/84

## BLACKMAIL FOR "SUSITNA FUND"

Repeal of the so-called Susitna "blackmail clause" may be linked to the Governor's Major Projects Fund, and a new proposal to channel a portion of those revenues to Susitna and Bradley Lake. The inclusion of Bradley Lake in the potential compromise may also be significant as a future alternative and compromise should Susitna falter. The problem with the Susitna "equity/blackmail" clause--attached to the authorization of the four-dam pool now in controversy--is that it presents a "catch-22" situation, especially for Susitna backers and Southcentral region lawmakers. The clause effects \$280 million in state grants (a gift) already invested in the four dams, and would convert that equity to interest bearing debt/equity if \$5 billion is not invested in Susitna by 1991.

The short term debt used to construct the four dams is now coming due, beginning in May. This means the state must either: (1) appropriate and pay cash for the remaining \$200 million in short-term debt, (2) finance the remaining \$200 million with longer term revenue bonds, or (3) go into default.

The state and the Alaska Power Authority have proposed financing the remaining debt with longer term revenue bonds, (option 2). However, this requires (for bond buyers) evidence of feasibility and ability to repay, which means power-use contracts with the communities to be served. However, the communities to be served would not sign those agreements unless guaranteed that their wholesale power rates would be at, or below, their present alternative diesel capacity. Hence, the Alaska Power Authority has proposed a rate stabilization package, requiring \$35 million initially (as a bond reserve) and a total of \$65 million. On this basis bond buyers appear to have assurances they need to buy the bonds. (continued page 5)

### Projects Bills Moving Quickly

The six capital projects bills are now moving swiftly in the House and Senate. The swift pace of the bills means project lobbyists had best be alert concerning their projects. By the end of this week each House will probably have sent their three bills to the "other House." The bills will quickly find their way to the Finance Committees where they will "pause" for a time to get finishing touches. The bills are: HB-635, Development, HB-636, Transportation, HB-637, University of Alaska, SB-364, Erosion Control, SB-403, Education, and SB-420, Water and Sewer. (continued page 4)

#### -- Inside --

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Heatings.....	8

## ... Rural Affairs/Local Gov't ...

### Rural Electric Loans

State rural electrification loans would be available at two percent interest to Alaska's REA electric co-ops if recently introduced legislation is adopted. A pair of companion bills (SR-443 by Moss and HB-699 by Resources) would create a rural electrification loan fund. Utilities would repay the loans at varying rates depending on the average costs of bringing service to new customers. The Department of Commerce currently administers a revolving loan fund for purposes that include extension of electrical service, but interest rates have been high and the fund little used.

### Native U-A Scholarship Increase

More and larger University of Alaska scholarships would be available to Alaska Natives with passage of SB-426. Senator Ferguson has proposed increasing the number of yearly scholarships from 15 to 50. The current stipend of \$500 a year would be increased to include the full costs of tuition, fees, room and board, incidental expenses of \$100 a month, and two round trip air tickets from home to school each year. The bill is in Health, Education, and Social Services with a further referral to Finance.

### IRAs And Native Corporations

HB-629, by Lindauer, classifies Native governments organized under the federal Indian Reorganization Act or Native corporations under ANCSA as political subdivisions of the state for purposes of determining eligibility to receive state financial assistance.

\* SB-422, by Ferguson would appropriate \$6.6 million for a reindeer research facility on the Seward Peninsula.

\* HB 594 by Fuller would provide an \$80,400 grant to the Reindeer Herders' Association for a study of the distribution and movement of caribou near reindeer herds on the Seward Peninsula.

### Local Tax Exemptions

A municipality would be able to exempt or exclude residential property from taxation under a legislation reported out by the House Community and Regional Affairs Committee. Current law limits the exemption to \$10,000 per residence. The bill, HB-255, by Malone, is now in House Finance.

### School Asbestos Removal

Senator Joe Josephson has introduced two bills to facilitate removal of asbestos in schools and public buildings. SB-373 establishes an Asbestos Health Hazard Program to coordinate efforts and insure compliance with federal asbestos standards. SB-374 appropriates \$75,000 for training school and other personnel in inspection methods, \$15 million to eliminate asbestos, and \$2 million for renovations to public facilities to eliminate asbestos health hazards.

### Town Meeting Government

HB-615, by Representative Koponen, authorizes the incorporation of town meeting home rule cities. If passed, communities could establish a directly democratic local government using town meetings. A companion measure HJR-61 proposes a constitutional amendment authorizing the legislature to recognize a city organized as a direct democracy. Both proposals are in Community and Regional Affairs Committee.

### Religious Schools Deregulation

The House has passed SB-354, exempting private and religious schools from state regulations except those that apply to health and safety standards. The bill, which has widespread support, requires that private and religious schools keep annual student records and give nationally standardized tests to all students enrolled in grades four, six, and eight. The state would no longer have any right to regulate class size, minimum course of study or require that teachers be certified.

## Direct Funding For School Construction

Alaska school construction, both urban and rural, now appears to be a matter of direct legislative funding. We previously cited the cutback in state support of local school bond debt from 90% to 50%, plus the administration tossing REAA school priorities directly to the legislature, as two strategic policy events that led to statewide direct funding.

However, another policy benchmark was passage of HB-279 in 1982 (Chapter 92). This enactment ironically kicked debt support from 80% to 90%, but in another section formalized the option of urban school districts to bypass bonding and submit their needs directly to the state along with the REAA's. Previous to that time nothing prohibited urban districts from occasionally seeking direct funding, but they generally had to make an "exceptional" case. Chapter 92 created the specific invitation to large urban districts, while the reduction in debt support underscored the "practicality" of seeking direct funding.

The future of the school funding process will be determined by how schools are packaged, in what appears to be an evolving process within the legislature of multiple capital projects bills devoted to specified purposes. Exactly how this will take place is not clear at this point, however, if that process tends to become institutionalized in the ongoing legislative process, methods of judging and prioritizing school funding needs may find some order and stability. Lawmakers may be able to plug school funding into that system in a manner that permits some balance and tempering against the shifting balances of legislative power (organization) as it now affects districts, especially single member districts that may find themselves "out" of a position of influence in any given legislature.

## Debate May Focus On ARR Extension

The under current of debate over the acquisition of the Alaska Railroad is beginning to focus on rail system extension. Language on the extension could simply be "dropped" from the legislation. However, rural lawmakers are going an extra step wanting specific language in the bill "prohibiting" extension (and presumably major work thereto) without legislative approval. Pending bills are HB-512 (Hayes), HB-543 (Gov), being worked on in House Transportation/Finance and SB-352 (Kerttula) and HB-370 (Gov), being worked on in Senate Transportation/Finance.

## Consensus On New Debt ?

One area of legislative/administration consensus that marks the current legislative session is on the issue of new state debt. There seems to be strong agreement that the state should not issue new state general obligation bonds (GOB). The strength of this consensus, given that cash funds are available for a reasonable size projects budget, may hold through 1985. If so, annual state payments will reduce state debt substantially by the time the state might bond in 1988. There also seems to be a desire to discourage local government debt.

The one area of state GOB bond debt that may grow are so-called double-barrel bonds for issue of tax-exempt bonds for veterans housing, a program that also eases pressure on regular AHFC housing bonds. These bonds carry both the state's pledge of payment as well as those of the housing revenues.

## ... Status Of Bills ...

### House Bills Introduced

--HB-689, Rural Electrification Loan,  
(by Resources).....L&C & HSL & FIN  
--HB-690, Fees, Post Mortem Exams,  
(by Finance).....HESS & FIN  
--HB-691, Approps. Capital Projects,  
(by Finance).....FIN

### House Committee Action

--HB-347, Licensing Naturopathic Prac.,  
HESS "MIX REC".....to L&C  
--HB-477, State Aid Health Fac. Const.,  
HESS "DO PASS".....to FIN  
--HCR-51, Bison Range Advisory Committee  
RES "DO PASS".....to RLS  
--HJR-39, Cont. Am, Approp. Reserve Fund  
SA "DO PASS".....to FIN  
--HB-520, Criminal Use of Computer,  
FIN "DO PASS".....to RLS  
--HB-551, Delta Junct. Bison Range,  
RES "DO PASS".....to FIN  
--SJR-34, Disapproving Annex. Haines,  
CRA "DO PASS".....to RLS  
--SB-67, Relocation Utility Facilities,  
L&C "DO PASS".....to RLS  
--HJR-53, Reapportionment Legislature,  
JUD "DO PASS".....to FIN  
--HB-384, Chief School Administrators,  
FIN "DO PASS".....to RLS  
--HB-455, Defects Title State Land,  
FIN "DO PASS".....to RLS  
--HB-456, Advisory Vote Elected AG,  
JUD "DO PASS".....to FIN  
--HB-552, Bison Range, Drift Barrier,  
FIN "DO PASS".....to RLS  
--HB-556, Complaints Human Rts. Comm,  
SA "DO PASS".....to RLS

### House Floor Action

--HB-635, Approps. Development Grants,  
HOUSE PASSED.....to SENATE  
--HB-636, Approps. Transp. Cap. Projects  
HOUSE PASSED.....to SENATE  
--HB-637, Approps. Univ. of Alaska,  
HOUSE PASSED.....to SENATE  
--HB-524, Constitutional Spending Limit  
HOUSE PASSED.....to SENATE  
--HR-12, Legislative Hall Juneau,  
HOUSE PASSED.....to SENATE  
--SB-354, Regulation Private Schools,  
HOUSE PASSED.....to SENATE

### Senate Bills Introduced

--SB-504, Unauthorized Use of Computer,  
(by Governor).....JUD & FIN  
--SB-505, Pacific Rim Fellowship,  
(by Governor).....SA & FIN  
--SCR-38, Out of Court Settlements,  
(by Judiciary).....JUD

### Senate Committee Action

--SB-83, Court Leave State Empls.,  
FIN "DO PASS".....to RLS  
--SB-389, Approp. Kenai River Bridge,  
TRANS "DO PASS".....to FIN  
--SB-475, Approp. N. Anchor River Road  
TRANS "DO PASS".....to FIN  
--HB-373, Life Insurance Policies,  
L&C "DO PASS".....to JUD

### Senate Floor Action

--SJR-34, Disapproving Annexation Haines  
SENATE PASSED.....to HOUSE  
--SB-362, Scholarship Loan Program,  
SENATE PASSED.....to HOUSE  
--SB-420, Approp. Water and Sewer,  
SENATE PASSED.....to HOUSE  
--SB-328, Leg. Immunities/Privileges,  
FAILED SENATE.....on REC

### Projects Bills (from page 1)

(continued from page 1) A final, seventh, capital appropriations measure called the "sweeper" bill, will be considered later in the session. It is expected to contain many of the larger capital projects: Susitna, Alaska Railroad and the Anchorage Fairbanks Inter-tie. Final projects negotiated late in the session between both Houses will most likely be included in the "sweeper bill," along with final negotiations with the Governor.

There is no universal agreement with the multiple bill approach to capital funding, but by and large (at this point) lawmakers seem fairly happy with the method. The system is designed to get the capital bills to the Governor's desk early, so that the Legislature will still be present to deal with gubernatorial vetoes.

## Bargaining Over The "Blackmail Clause"

### (Continued from page 1)

However, the Susitna "equity/blackmail" clause presents further problems if buyers are to be attracted. What the clause means to bond buyers is that they do not know whether their risk should be assessed against \$200 million (present remaining debt), or \$480 million, should the blackmail clause come into effect and grants be converted to debt. It is as if the bond buyer is being asked to take a second mortgage behind Susitna, which is an unlikely position for either buyers to take or bond houses to recommend. What is remarkable about the four-dam package is that the combined project is already salted with \$280 million in grant dollars and apparently still fails feasibility tests without further subsidy.

How did we get to this position. Well, of course things were different back when the dams were authorized and original appropriations made. The state was wallowing in enough money that these latter costs might easily have simply been appropriated if need be. If things were to be done over again, with benefit of hindsight, certainly with a \$280 million gift to the projects, the users (communities) would have been required to sign off on power use contracts before construction began and assume a share of the risk based on energy cost projections. They might have won big had the energy crisis continued, or lost. But that's the way most energy projects are financed.

Now the four-dam financing package is all tangled up with Susitna. The problem for Susitna backers and Southcentral lawmakers is that they may have to "give up" something they thought they had, something no politician likes to do. The Railbelt lawmakers would like to maintain what they feel are political guarantees on Susitna. If they give up the "blackmail clause" they will want some similar provision such as guarantees for Susitna in the Major Projects Fund. If they can't get pound for pound collateral for trading the "blackmail

(continued from previous column) clause", then some kind of reduced collateral will have to do. Lastly, any politician wants to "save face".

The legislature could up and pay the \$200 million due and maintain the "blackmail clause", but it would be politically difficult to squeeze \$200 million out of the current capital pie. Next, they could do what the APA and Sheffield Administration propose, and devise whatever they can as a collateral payment for repealing the clause. Lastly, the state could "default", a move that would leave a terrible fiscal mess and likely a negative impact on state and local bond ratings of all kinds. Default would most certainly kill any chances of financing Susitna, or similar large scale state related revenue bond projects, unless the state were to use its own cash dollars.

The situation is not a happy one for anyone. Even the four-dam pool communities find that the dams produce no "rate benefits" presently, or are likely to in the near future. Perhaps the only lament is that everything would have been wonderful if energy rates had soared as projected.

### Eklutna Where Are You ???

With the major legislative capital bills now being kicked into their respective "other houses", the biggest missing piece from those bills is the Anchorage Eklutna water project. The giant \$220 million project, designed to meet Anchorage water demands in the late 1980's, received \$13.7 million in 1981 and \$22.5 million last year. In November 1983, Anchorage voters also committed to the project with approval of \$55 million in local bonds. Plans called for 25% of funds to be local and 75% to be state (\$55 million vs. \$165 million).

A push and pull over Eklutna could develop in the latter stages of capital bill funding within the legislature, or or negotiations between the executive and the legislature.

### Royalty Oil Contract Process

The Royalty Oil and Gas Board would be essentially taken over by the legislature and its powers expanded if HB-600 by Cowdery becomes law. The new board, with the word "Advisory" dropped from its title, would consist of two members from the House, two members from the Senate, and two public members. The Commissioner of Natural Resources would serve as a non-voting member. Although the legislature would retain the right to veto royalty oil contracts, the board itself would assume most of the approval functions now exercised directly by the legislature.

The Sheffield administration, like the Hammond administration before it, has never formally accepted the constitutionality of the Legislature's deep involvement in the sale of royalty oil and gas. Cowdery's bill would further erode executive prerogatives in this area, and would almost certainly evoke a veto if reached the governor's desk.

HB-600 includes several provisions that Cowdery and several other House members tried unsuccessfully to have added to the royalty oil contracts that were recently approved by the House. The bill has been referred to Resources and Finance, and its future is uncertain.

### Leasing Limited Entry Permits

Persons 60 years or older would be able to lease their limited entry permit to a child, grandchild or the spouse of a child or grandchild under a bill, HB-683, by Representative Herrmann. The Limited Entry Commission could also experiment with allowing entry permit holders under 60 years of age to transfer permits by lease if this bill passes. Herrmann argues the bill would allow young Alaskans with low incomes a chance to participate in commercial fishing, acquiring the skills and capital needed to purchase an entry permit.

### ARC Would "Die" Under Gov Bill

The Alaska Resources Corporation will be dissolved on July 1, 1989 if HB-685, introduced by the Sheffield Administration becomes law. A new board, responsible for disposing of the corporation's assets other than its outstanding loans, would consist of the Commissioner of Revenue, and two other commissioners of principal executive departments.

### Agricultural Marketing Association

SB-480, by Senate President Kerttula, directs the Commissioner of Natural Resources to assist in the establishment of agricultural commodity marketing associations. The Commissioner would have the authority to make matching grants to assist the associations in getting established.

Also introduced by Kerttula is a bill to encourage preferential use of Alaskan agricultural products. SB-411 requires that the state government not use agricultural products from outside if locally produced products of like quality are available and competitively priced.

### Kenai Management Area Bills

Governor Bill Sheffield has introduced a two bill package to provide for the management of fish and wildlife on the Kenai River, giving the Alaska Board of Fisheries authorization to regulate sport fishing guiding activities.

SB-417, establishes a Kenai River Special Management area along 100 miles from Kenai Lake downstream to the mouth of the river. SB-416 would allow the Board of Fisheries to authorize sport fishing in specific areas to have certain controls that would protect habitat and better implement harvest to special management areas. The board could also regulate sports fishing guides by limiting days of operation. Both bills were referred to the Resources committee.

### Lemon Law Being Reworked

The so-called "Lemon law," relating to auto dealer warranties, is undergoing reworking in the Senate Commerce Committee. It appears compromises are possible, but lawmakers are having problems getting them "down on paper." The law resulted in the organization of the Alaska Auto Dealers Association, representing most of the dealers in the state. Last week dealer representatives offered to make "refunds," saying this was preferable to less precise language offering comparable replacement. They say not only would this avoid quarrels over what "comparable" means, but would permit unhappy owners of "lemons" to acquire different makes and models according to their preference.

### AIDA Project "Ownership"

The Sheffield administration has introduced SB-489, allowing the Alaska Industrial Development Authority to own and operate projects, therefore being able to extend tax-exempt financing to a greater range of qualified projects. The bill also establishes an economic development fund, assets of which may be used by AIDA to finance and operate projects it owns. The Authority would be authorized to issue up to \$500 million in bonds to finance projects under the development fund, but stringent safeguards are developed within the legislation to insure the assets are used only to support economically viable programs. The bill also establishes regional development advisory councils in the unorganized borough that would be involved in assessing the impact of large projects on their area, being asked for approval of projects exceeding \$10 million in financing.

This bill is intended to accomplish the same goals as Regional Resource Development Authorities, created last year with passage of SB-151. During debate last year the administration tried to stop creation of the development authorities by introducing an alternative bill using AIDA to accom-

(continued from previous column)  
plish the same goals. SB-151 was introduced to aid NANA Regional Corporation finance port and road facilities related to the development of the Red Dog Mine in northwest Alaska, in which NANA is involved in a venture with Cominco Alaska Inc.. Sheffield has requested support from NANA for passage of HB-489, and if passed this year may push for repeal of Regional Resource Development Authorities next session. The administration bill is considered a stronger bill than presented before, but still lacks the depth of local control offered by the development authorities.

Representative Koponen has introduced legislation making it possible for non-profit and public service facilities to be funded by AIDA. Public service facilities would include student housing facilities, social service facilities, schools, clinics, and community centers.

### New "Interest" Bill

Legislation raising the interest ceiling of revolving credit plans, only under a financial institution, to 24 percent has been introduced by Senator Joe Josephson. Currently the ceiling is 18 percent. Proponents of the legislation believe that this will allow financial institutions to broaden their offerings of credit plans to those with poor credit ratings or none at all, by charging higher interest rates to compensate for taking more risks.

HB-246, by Bettisworth (companion bill SB-276, Josephson) would deregulate interest on loans, in all probability setting no interest ceiling. Hearings on HB-246 will be held in Anchorage, March 3rd, by the Senate Labor and Commerce Committee. If the hearings are well attended, they could very well determine the fate of action on interest deregulation this session.

\*\* HB-584, By Rep. Duncan, asks voter approval for \$700,000 million in tax-exempt revenue bonds for veterans mortgages.

# Committee Hearings

## House

## Senate

### Finance

Tues, February 28, 1:30 p.m.  
HB-560 Jurisdiction Dist. Magis.  
HB-561, Small Claims Court Limits  
Capital Appropriations Bills  
Wedens, February 29th,  
HB-561, Capital Projects  
Thurs, March 1st.  
HB-655, Longevity Bonus

### State Affairs

Thurs, March 1st, 1:15 p.m.  
HB-480, Adoption/Expire Regulations  
Friday, March 2nd, 1:15 p.m.  
HB-564, 572, 344, Permanent Fund Bills

### Judiciary

Thurs, March 1st, 1:15 p.m.  
HB-588, Award of Atty Fees.  
Friday, March 2nd  
HB-140, Death Penalty

### Comm & Reg Affairs

Weds, February 29, 3:15 p.m.  
HB-461, Distrib Municipal Aid

### HESS

Friday, March 2nd, 1:15 p.m.  
HB-565, Hearsay Evidence in Sex Abuse  
HB-566, Training Re; Sex Abuse.

### HESS

Wednesday, February 29, 3:00 p.m.  
SB-446, Safety in Public Schools  
Friday, March 1st, 3:00 p.m.  
SB-457, Mental Health Insurance

### Labor & Commerce

Saturday, March 3, Anchorage Legis Info  
Office --statewide Teleconference.  
HB-246, Interest Rates.

### Resources

Tuesday, February 27th, 3.00 p.m.  
HB-456, Oil & Gas Agreements.

### State Affairs

Thursday, March 1, 3.00 p.m.  
SB-501, Conduct Employees Exec. Branch

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House Hearings Continued.....

### Transportation

Tues, Wedens, Thurs 2/23-3/1, 8.30 a.m.  
HB-512, Alaska Railroad Operation

### Special Fisheries

Tues, 2/28 & Thurs, 3/1, 4.00 p.m.  
HB-518, Fish Business Tax Credit

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3/6 Sen. State Affairs

SB 489 - AIDA bill

Terry Elden, Commerce - support -  
\$200 M last year in bonds  
revenue-producing facilities.

take advantage of fed tax-exemption laws.  
Vic - why own? Ability to access  
tax-exempt market.

Vic - Why not DOT. (but wd. need state  
authorization to issue revenue bonds.)  
Constraints?

Elden - Ed is mostly commissions. Ability  
but not funded.

Vic - relation to SB 157?

Elden - Admin. prefers AIDA than 9 separate  
authorities. This is "AIDA alternative."

Ray - same principle as ASTHA.

Stacy - no criteria for project selection  
(such as in 157). Ex. Dev. Fund. No  
real direction - just allows vast expansion  
in agency.

Elden - revenue bonds

Vic - like APA.

Ray - build Kirk bridge.

Kelly - Where is leg. fed up?

Elden - thru approp. process. "Unlikely they would  
fund for full amount."

Kelly - concerned about lack of leg. check.

Ray - that's why independent agency. Like FF.

Roddy - wants to include leg. approval under  
R: 4 "Approval of projects". - certainly over  
\$10 M.

Kelly - why need tax-ex.

Elder - fed. ley to limit IDBs.

Vic - strands of "socialism"

Kelly - why mass transit?

But Wagnon - executive dir - was involved in bill's development. Ferris et al are mass transit (under fed. code). Only financing entity now.

Stuy - concerned about lack of oversight.

Ray - what motivated?

Wagnon - provisions fed. tax code

Stuy - Under current (What will this Org. do for current program?)

W - Affects existing no operation in no way  
Fed changes will affect, restrict, but don't know exactly.

Stuy - why this ley?

Wagnon - 2 reasons

1. Projects that the state may want to be involved in (state funds).

2. trouble financing (partial) tax exempt.

Ray - limitations now?

Wagnon - under \$10 M, this bill total \$50 M  
no leg approval

Vic - What guarantee state will not get stuck w/ bill?

Wagnon - bond market 175 approval of projects  
Bill designed to "buy down" a project (Subsidize)

Roddy - Should require leg. oversight.

Vic - office bldg?

Wagnon - not appropriate. looking for infrastructure  
It's going to take public to make some projects work. This is vehicle.

Stacy - Red Dog?

Wayne - Not a project specific bill but did  
consider Red Dog. Could not help w/o  
putting \$ in a c. div. fund.

Vic - read from Leg. Digest.

Ray - "without limitation" - why?

Kelly - If bought and pay + built parking garage,  
would you pay prop. taxes? No.

Wayne - SB 151 analysis.

Vic - need to spend more time on bill.

Ray - supports the bill, w/ some amendments.

Stacy - need to take a gen. look at APA experience,  
need some standards for project approval.

Vic - give suggestions for changes.

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 13, 1984

The Honorable Jalmar Kerttula  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which will enable the Alaska Industrial Development Authority (AIDA) to assume a more active role, under AS 44.8, in the development of those basic facilities necessary for sustained economic development in the state.

Firms which seek to develop major industrial projects in the state are often hampered by a lack of basic infrastructure facilities. As a consequence, firms are faced with the difficult choice of bearing the large capital requirements necessary to provide for these facilities, or of foregoing the development of a project which may otherwise be a substantial benefit to the state. This problem is particularly acute in rural areas of the state, where the absence of transportation facilities inhibits economic and industrial development.

This bill would enhance the opportunities for significant economic development through the establishment of a financing vehicle which will promote cooperation between the public and private sector, and between the financing sector and the local communities. As explained more fully below, the bill establishes a structure to extend the benefits of tax-exempt financing to reduce the costs of project development. At the same time, the bill preserves the right of local communities to assume an active role in the development of their surrounding areas.

Sections 1 -- 4 of the bill amend existing provisions in AS 44.88 to allow AIDA to own and operate projects. Under present law, AIDA serves only as a secondary financing entity. The ability to own and operate projects is necessary to extend the benefits of tax-exempt financing

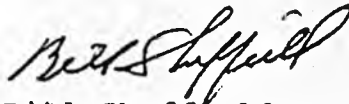
to a greater range of qualified projects. Sections 5 and 6 exempt AIDA from certain financing limitations for those projects it owns and operates. These technical revisions are necessary to assure that AIDA has the requisite flexibility to provide financing for projects which AIDA owns and operates.

Section 7 of the bill establishes an economic development fund. Assets of the fund may only be used to finance and operate projects which AIDA intends to own and operate. Importantly, the economic development fund is explicitly segregated from other assets of the authority. If a project is financed under the economic development fund, the authority may not use or pledge its other assets to assist in the financing of the project. The bill also establishes stringent safeguards to assure that assets of the economic development fund are used only to support prudent, economically viable projects. In particular, the authority may not provide financing for a project unless the authority determines that the project applicant is financially responsible and that the project will generate sufficient revenues to satisfy the debt service obligations. Section 8 authorizes the authority to issue up to \$500 million in bonds to finance projects under the economic development fund.

The projects financed under this bill may so substantially affect the area in which they are located that local involvement and approval is essential. Section 7 of the bill also provides for the establishment of regional development advisory councils in the unorganized borough. The councils consist of five members appointed by the governor, and will be formed only after a project proposal is received by AIDA. No project which costs in excess of \$10 million may be financed under the economic development fund unless the applicable council or municipal body approves the project. Similarly, AIDA is obligated to solicit the review of the advisory council or the governing municipal body before the execution of agreements relating to the operation of the project.

This bill is designed to establish a financing mechanism which will promote diversified economic growth in our state. I look forward to working with the members of the legislature on this important piece of legislation, and I urge your prompt consideration and approval.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield  
Governor

**REQUEST**

Bill/Resolution No.: \_\_\_\_\_  
 Title: Relating to the Alaska  
Industrial Development Authority  
 Sponsor: Governor  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Commerce & Economic Development  
 Program Category Affected: Development  
 BRU, Program or Subprogram(s) Affected:  
Alaska Industrial Development Authority

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
900 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:**

**ANALYSIS:** Attach a separate page for analysis

Prepared By: Bertram Wagon, Executive Director Phone: 274-1651  
 Division: Alaska Industrial Development Authority Date: 2/11/84  
 Approved by Commissioner: Richard A. Lyon Date: 2/11/84  
 Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

I. Purpose	Creates regional authorities to provide financing mechanism for transportation projects, including ownership.	Expands powers of AIDA to allow financing of and ownership of all types of transportation facilities.	Expands powers of AIDA to allow financing of and ownership of transportation facilities and other infrastructure facilities. Intended to also allow for joint public/private projects.
II. Financing Entity	Creates new entities, Regional Resource Development Authorities, based on boundaries of regional housing authorities. Created by petition, then a vote within applicable area. Must have approval of Governor to form. Authority is governed by eight member board of governors, 3 commissioners appointed by governor and 5 members elected from area. State pays all election costs. Board of governors may hire staff, employ professional advisors, etc. Original petition must be filed before July 1, 1986. Applies only to unorganized borough.	Uses AIDA, and adds Regional Development Advisory Councils. There would be up to 6 councils, according to U.S. Dept. of Labor areas. Each council would have five members appointed by the governor from the relevant area. Establishes a Regional Transportation Facility Development Fund, which may be used to finance or develop a transportation facility, or secure bonds issued to finance transportation facilities. This Fund is kept separate from AIDA's existing Enterprise Development Fund.	Use AIDA, and also creates Regional Development Advisory Councils. These councils would be based on the boundaries of regional housing authorities. Each council would have five members appointed by the governor from the relevant area. Establishes an Economic Development Fund which may be used to finance and operate those projects owned and operated by AIDA. This Fund is kept separate from AIDA's existing Enterprise Development Fund.
III. Powers/Limitations	Allows standard corporate powers to regional authorities, plus ability to issue bonds (upon approval of the State bond committee), to own and operate projects, and to levy fees and charges. Authorities may not use state funds to satisfy bond obligations or establish security for bonds. Authority may not use fees or charges from one project to finance an unrelated project.	Allows AIDA to own and operate transportation facilities, levy fees and charges, and issue bonds to finance transportation and related facilities. Before financing a transportation facility AIDA must obtain the approval of the relevant council. Two council members become members of the AIDA board of directors for all actions with respect to a transportation facility in the area of the council. These powers expire on December 31, 1985.	Allows AIDA to own and operate infrastructure projects, levy fees and charges, and issue bonds for a variety of items if the bonds are exempt from federal taxes. AIDA must obtain the approval of the relevant council or municipality before becoming involved in the financing of any infrastructure project which costs in excess of \$10 million.

IV. Eligible Projects	All types of surface and water transportation facilities, including related facilities such as warehouses.	All types of transportation and related facilities.	All types of transportation and related facilities, plus others such as industrial parks, pollution control facilities, waste disposal facilities, mass commuting facilities, etc.
V. Underwriting Standards	Bonds may be issued only if an authority finds project can be expected to produce revenue adequate to repay the bonds with which it is financed. Bonds are secured by project being financed and possibly other designated projects - seems inconsistent with III above.	Bonds may be issued only if AIDA finds the project is able to produce revenue adequate to repay the bonds with which it is financed.	Bonds may be issued only if AIDA finds the project is able to produce revenue adequate to repay the bonds with which it is financed.
VI. Use Provisions	Requires equal use and access for any facility owned, leased, operated or financed by an authority.	Requires equal use and access for any transportation facility owned, leased, operated or financed by AIDA.	Requires equal use and access for any infrastructure facility owned, leased, operated or financed by AIDA.
VII. Public Input Provision	Public input is assumed to derive from local membership on the regional authority. There is no explicit state requirement for public hearing.	Before financing any transportation project, AIDA must obtain approval from relevant council, or municipality. Before providing approval, a council must hold 3 public hearings, and a municipality must hold at least one. Further public input is assumed to derive from regional composition of a council, or municipality.	Before financing any infrastructure project costing in excess of \$10 million, AIDA must obtain approval from the relevant council or municipality. Before providing approval, a council or municipality must hold a public hearing. Further public input is assumed to derive from regional composition of a council, or municipality.

# AIDA

\$20M

grants

not \$ spent until <sup>all</sup> financing arranged.

<sup>approved</sup> 20M 173 all AIDA law applies except what's exempted by Sec. 5 + 6.

50M 44, 88, 90(g)

by approval - 83.185(c) Leg. shall consider + must approve all proposed new projects which cost in excess of \$10M  
may approve a project only by enacting law

change to 10 a 20.

limitation on issuance of bonds?  
60 days notification

substantiating that project + approving a construction cost for that project.

p. 4 line 26  
Before approving a project...

unconstitutional

Rostukowski bill

look at 14B 609  
10am CS  
5:00 tonight.

difference b/w 151 + 409 - state & participation.

finance plan -

blend

rev. bonds only "stand alone"

→ not effective check

bond authorization + approp.

500 → 20M. (name as projects proposed).

151 - 1986 sunset.

look at 151.

make state contribution loan or grant (finance plan).

Loans from the fund may be used  
to restructure

find that

(H) state participation in direct financing  
of the project is minimized, with  
loans to restructure debt used  
whenever possible in preference to  
appro grants.

When fin assistance from the state is  
necessary for a project to meet financial

or debt  
Before issuing bonds, the AIDA must first  
have obtained the state grants or  
loans necessary to <sup>assure</sup> that the project is  
financially feasible & will be able to  
produce revenues adequate to repay the bonds + loans

For any project proposed by the authority under 44.88.173 the aut. shall

Add "or debt" to cover short term debt.

- (B) complete a finance plan that recommends the most appropriate means to finance a project, including <sup>but not limited to</sup>
- (a) any combination of
  - (i) revenue bonds of the authority
  - (ii) loans from the <sup>to</sup> Dev. Fund with specified <sup>!</sup> recommended terms, rates of interest, and deferrals if any.
  - (iii) grants from the EDF.

(D) The finance plan shall be submitted to the S.B.C. for its review <sup>and approval</sup> and to the leg. + gov.

(c) The finance plan when the auth. determines that fin. asst. from the state is necessary, the auth. shall recommend the <sup>method of</sup> ~~least cost~~ <sup>method of financing</sup> ~~to the state~~ + shall include an A.A.

Loans from the EDF under (2) shall be at terms + interest rates ~~may~~ be used to restructure debt. shall be recommended whenever possible to restructure in preference to grants. Before requesting the approval of a RDACA muni,

Money from the EDF for construction of projects may not be ~~used~~ spent until a <sup>complete</sup> finance plan is approved by AIDA + submitted to SBC, gov + leg. ~~But a debt~~ In a project partially financed thru the EDF may just be <sup>is</sup> used until the financing recommended by the finance plan from the EDF <sup>is</sup> approved.

3/12

Elder  
Rusini  
Date

### ADA issues

below

legislative oversight -

provide for leg. approval for all projects over \$10 M.

? SB 151 - repeal.

OK criteria for project selection (Stung) <sup>ex. feasibility determination</sup>

more careful provision for state participation

OK - finance plan - <sup>cost</sup> who to submit to?

- spend no \$ on design/contractor until project fully funded.

EDF - restrict its use - more clearcut

? lack of oversight - State Bond Committee <sup>[?]</sup>  
amending - competition w/ private industry. 2 of 3

Ron Lehr -

talk to Rusini - unconstitutional?

Elder will put in letter.

approve authorization limit - 500 → 20.

Commerce will send us suggestion for CS  
We will talk to Stung. on Wed, then draw  
up draft CS, distribute to all parties

call D. Rose -

bond com. approve (criteria as in 151) <sup>ap 28</sup>  
sale of bonds. p. 8 (b)(2)

process for reg. dev. adv. council. p. 7

note VII → E. Gillespie - we've been awake on both  
make best of sow's ear how important is it  
to go?

we statutory MTF to BF w/ note from VT  
mt. in town Fri, here's a draft that is  
very unish to consider.

TO: Legal Services  
FROM: Senator Vic Fischer  
(contact person -- Nancy Lord, x4954)  
RE: CS for SB 489 (State Affairs)

Please prepare a State Affairs CS for SB 489 to include all of the amendments suggested in the attached letter.

Include as well an amendment to page 4, line 26 to delete "issuing bonds to provide financing" and insert in its place "approving a project that involves issuing bonds".

We would like to have the CS, if possible, by Wednesday, April 4, for a committee meeting the following day. If you anticipate any difficulty in making this deadline or have any questions, please call Nancy Lord.

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

April 2, 1984

The Honorable Victor Fischer  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Dear Senator Fischer:

During recent deliberations regarding SB 489, several concerns were raised regarding the potential difficulties in expanding the functions of the Alaska Industrial Development Authority. (AS 44.88). Nancy Lord of your staff has discussed these concerns with representatives of the Authority. At the request of the Authority, I propose below several possible amendments to the bill which, in the Authority's view, alleviate the expressed concerns without impairing the proposed functions of the Authority.

First. The Authority agrees that it would be desirable to require the preparation and circulation of a Finance Plan prior to approval of a project. The Authority therefore proposes the inclusion of a new section to read as follows:

Sec. \_\_\_\_\_. FINANCE PLAN. (a) Before approving a project financed under AS 44.88.173, the authority shall prepare a finance plan. The finance plan must include an estimate of the total cost of the project, and a description of the sources of funds that will be used to finance the total cost of the project. The finance plan must also include an estimate of the operational costs of the completed project, as well as a description of the source of funds to pay for the operational costs.

(b) The authority shall give preference to projects that require no financial assistance from the state. If the authority determines that a project would require state financial assistance, and if the authority further determines that it is desirable to finance the project, the authority shall recommend a method of financing that minimizes cost to the state. The finance plan required under subsection (a) must identify the

method of financing that mimizes the cost to the state.

(c) The authority shall submit the finance plan to the state bond committee, the governor, and the legislature before issuing any bonds or debt for the project. If a project requires financial assistance from the state, that financial assistance must be made available to the authority before any bonds are issued for the project.

Second. A question was raised concerning the ability to provide state financial assistance in the form of a loan, rather than a grant. Clearly, AIDA enjoys the requisite statutory authority to enter into loan agreements with project applicants. To underscore the ability to extend financial assistance through loans, it may be advisable to amend the second sentence of section 173(a) to read:

The fund consists of money or assets appropriated, loaned, or transferred to the authority, and other money or assets deposited in the fund by the authority.

Third. If it is desirable to articulate a specific preference for financial assistance through loans (in addition to the "least cost" standard established for the finance plan), the following section may prove helpful to clarify legislative intent:

Sec. \_\_\_\_\_. It is the intent of the legislature to minimize the cost of state financial assistance for projects funded under AS 44.88.173. To the extent possible, financial assistance shall be extended in the form of loans.

Fourth. The most substantial opportunity for legislative oversight will be available through the appropriation and/or debt authorization process. While project-by-project review cannot be established by statute, a reduced debt authorization would, in practice, assure that the legislature monitors projects financed under these expanded powers. For that reason, the Authority proposes to reduce the debt authorization level established in Section 8 of the bill from 500 million to 20 million. (page 6, line 8).

The Hon. Victor Fischer  
Alaska State Senate

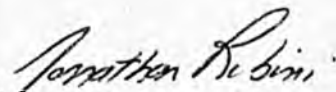
April 2, 1984  
Page 3

Fifth. The Authority does not object to such technical changes as requiring that as a prerequisite to approval the project be "economically" and financially" feasible (page 5, line 7). Similarly, the Authority does not object to the inclusion of "and loans" following "bonds" at page 5, line 8.

If I can be of further assistance in your consideration of SB 489, please contact me at your earliest convenience.

Sincerely,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:   
Jonathan B. Rubini  
Assistant Attorney General

JBR:cyb

cc: Eartram Wagnon  
Exec. Director, AIDA

Terry Elder  
Deputy Comm.  
Dept. of Commerce and Economic Development

# COMMITTEE REPORT

## SENATE

2/14/84

FURTHER: FINANCE

Date 4/17/84

Mr. President

STATE AFFAIRS

SB 489

The Committee on STATE AFFAIRS considered SB 489  
Alaska Industrial Development Authority; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 489(BA)
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS

Kelly - No Rec  
Med Pay No Rec  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature]  
Chairman  
No Rec  
Chairman recommendation

*Senator Jim Kelly*Asper  
4/16/84

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR SENATE BILL NO. 489 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION

## A BILL

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

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

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

10 (a) The legislature finds, determines and declares that

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

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

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

20 (4) the establishment and expansion of industrial, man-  
21 ufacturing, and business enterprises in Alaska and the other facil-  
22 ities referred to in (5) of this subsection are essential to the  
23 development of the natural resources and the long-term economic growth  
24 of the state, and will directly and indirectly alleviate unemployment  
25 in the state;

26 (5) the achievement of the goal of full employment, and of  
27 establishment and continuing operation and development of industrial,  
28 manufacturing, and business enterprises in the state, including,  
29 without limitation, facilities for [AIR AND WATER] transportation,

1 facilities for pollution control and waste disposal, facilities for  
2 the local furnishing of gas, facilities for water, [AND] facilities  
3 for industrial parks, mass commuting vehicles, facilities for local  
4 district heating or cooling, parking facilities, or a storage or  
5 training facility relating to a plant or facility, will be accelerated  
6 and facilitated by the creation of an instrumentality of the state  
7 with powers to incur debt, to own and operate facilities, [AND] to  
8 make and insure loans to finance, and to assist private lenders to  
9 make loans to finance, the establishment, operation, and development  
10 of industrial, manufacturing, and business enterprises, including,  
11 without limitation, facilities for [AIR AND WATER] transportation,  
12 facilities for pollution control and waste disposal, facilities for  
13 the local furnishing of gas, facilities for water, [AND] facilities  
14 for industrial parks, mass commuting vehicles, facilities for local  
15 district heating or cooling, parking facilities, or a storage or  
16 training facility relating to a plant or facility;

17 (6) it is in the public interest to promote the prosperity  
18 and general welfare of all citizens of the state by stimulating com-  
19 mercial and industrial growth and expansion by encouraging an increase  
20 of private investment by banks, investment houses, insurance com-  
21 panies, and other financial institutions, including pension and re-  
22 tirement funds, to help satisfy the need for economic expansion;

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

26 \* Sec. 2. AS 44.88.070 is amended to read:

27 Sec. 44.88.070. PURPOSE OF THE AUTHORITY. The purpose of the  
28 authority is to promote, develop and advance the general prosperity  
29 and economic welfare of the people of Alaska, to relieve problems of

1 unemployment, and to create additional employment by providing various  
 2 means of financing and means of facilitating the financing of indus-  
 3 trial, manufacturing, and business enterprises and the other facil-  
 4 ities referred to in AS 44.88.010(a)(5) within the state, and by own-  
 5 ing and operating the enterprises and other facilities.

6 \* Sec. 3. AS 44.88.080 is amended to read:

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

10 (1) to sue and be sued;

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

12 (3) to make and alter bylaws for its organization and  
 13 internal management;

14 (4) to adopt regulations governing the exercise of its  
 15 corporate powers;

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

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

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

26 (8) to sell, by installment sale or otherwise, exchange,  
 27 donate, convey or encumber in any manner by mortgage or by creation of  
 28 any other security interest, real or personal property owned by it, or  
 29 in which it has an interest, including a project, when, in the

1 judgment of the authority, the action is in furtherance of its corpo-  
2 rate purposes,

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

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

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

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

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

18 (14) to acquire, manage, and operate projects as the author-  
19 ity considers [A PROJECT WHEN IT BECOMES] necessary or appropriate  
20 [DESIRABLE] to serve a public purpose [DO SO TO SAFEGUARD THE AUTHORI-  
21 TY FROM LOSSES];

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

25 (16) to accept gifts, grants, or loans from a federal  
26 agency, from an agency or instrumentality of the state or of a munici-  
27 pality, or from any other source;

28 (17) to enter into contracts or other transactions with a  
29 federal agency, with an agency or instrumentality of the state or of a

1 municipality, or with a private organization or other entity consis-  
2 tent with the exercise of any power under this chapter;

3 (18) to facilitate the expansion of a secondary market for  
4 the resale of federally or commercially insured loans made to finance  
5 the costs of projects in Alaska held by federal and state chartered  
6 financial institutions or by the Alaska Commercial Fishing and Agri-  
7 culture Bank;

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

14 \* Sec. 4. AS 44.88.105 is amended by adding a new subsection to read:

15 (h) Notwithstanding any other provision of this section, the  
16 authority may waive or modify the requirements of (a) of this section  
17 establishing maximum costs of \$10,000,000 for a project and the re-  
18 quirements of (f) of this section as it considers appropriate and  
19 prudent in order to finance a project if the authority intends to own  
20 the project. However, if the authority intends to lease or otherwise  
21 permit the state to use or occupy a majority of the project, the  
22 authority may only establish a reserve fund under (g) of this section  
23 to secure bonds issued to finance a project.

24 \* Sec. 5. AS 44.88.155 is amended by adding a new subsection to read:

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

29 \* Sec. 6. AS 44.88 is amended by adding new sections to read:

1           Sec. 44.88.172. ECONOMIC DEVELOPMENT FUND. (a) The economic  
2 development fund is established in the authority. The fund consists  
3 of money or assets appropriated, loaned, or transferred to the author-  
4 ity, and other money or assets deposited in the fund by the authority.  
5 The fund may only be used to finance, acquire, manage, and operate  
6 projects that the authority intends to own and operate. The term  
7 "operate" includes operation directly by the authority, or by an agent  
8 of the authority.

9           (b) If a project is financed or developed through use of the  
10 assets of the economic development fund, the authority may not pledge  
11 or use other assets of the authority to assist in the financing,  
12 development, or operation of the project. However, whether or not the  
13 authority uses the economic development fund, it may issue bonds to  
14 finance a project and may secure the bonds with a mortgage, pledge, or  
15 assignment of the project or of revenues, money, or agreements attrib-  
16 utable to the project or the bonds.

17           Sec. 44.88.173. FINANCE PLAN. (a) Before approving a project  
18 financed under AS 44.88.172, the authority shall prepare a finance  
19 plan. The finance plan must include an estimate of the total cost of  
20 the project, and a description of the sources of money that will be  
21 used to finance the total cost of the project. The finance plan must  
22 also include an estimate of the operational costs of the completed  
23 project, as well as a description of the source of the money that is  
24 to be used to pay the operational costs.

25           (b) The authority shall give preference to a project that does  
26 not require financial assistance from the state. If the authority  
27 determines that a project requires state financial assistance, and if  
28 the authority further determines that it is desirable to finance the  
29 project, the authority shall recommend a method of financing that

1 minimizes cost to the state. A finance plan required under (a) of  
 2 this section must identify the method of financing that minimizes the  
 3 cost to the state.

4 (c) The authority shall submit a finance plan prepared under  
 5 this section to the state bond committee, the governor, and the legis-  
 6 lature before issuing bonds or otherwise incurring debt for the proj-  
 7 ect. If a project requires financial assistance from the state, the  
 8 state financial assistance must be available before bonds are issued  
 9 for the project.

*Regional Development Authority*

10 Sec. 44.88.174. REGIONAL RESOURCE ADVISORY COUNCIL. (a) Within  
 11 30 days after the authority approves a proposal for development of a  
 12 project in the unorganized borough that is to be financed under  
 13 AS 44.88.172, the governor shall appoint a Regional Resource Advisory  
 14 Council in the area of the state where the project is to be located  
 15 and for which a regional housing authority has been established under  
 16 AS 18.55.996. The purpose of a council is to assist the authority in  
 17 reviewing a project that has been proposed for development in its area  
 18 of the state.

19 (b) A Regional Resource Advisory Council consists of five  
 20 members registered to vote in the region. The governor shall appoint  
 21 the members to reflect the economic and geographic diversity of the  
 22 region. Council members serve three-year terms at the pleasure of the  
 23 governor, except that the initial members may be appointed for less  
 24 than three years so that the term of at least one of the members  
 25 expires each year. The governor shall appoint a chairperson who shall  
 26 call meetings as required and preside over the deliberations of the  
 27 council. A majority of the council constitutes a quorum for conduct-  
 28 ing the business of the council.

29 (c) Members of a Regional Resource Advisory Council do not

1 receive compensation for their services on the council, but are en-  
2 titled to per diem and travel expenses authorized by law for state  
3 boards and commissions under AS 39.20.180.

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

12 (b) Before <sup>[issuing bonds to provide financing for a project]</sup> approving a project financed under AS 44.88.172 for  
13 which bonds must be issued, the authority shall

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

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

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

21 (B) the project applicant is financially responsible;

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

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

27 (E) the project will provide or retain employment  
28 reasonably related to the amount of the financing by the  
29 authority, considering the amount of investment per employee for

1 comparable facilities, and other relevant factors;

2 (F) the scope of the project is sufficient to provide  
3 a reasonable expectation of a benefit to the economy of the  
4 state; and

5 (G) the project is in compliance with applicable law.

6 Sec. 44.88.176. HEARING TO CONSIDER PROPOSED PROJECT. Before  
7 considering a resolution regarding the approval or rejection of the  
8 development or financing of a proposed project with a cost in excess  
9 of \$10,000,000, that is financed under AS 44.88.172, a Regional Re-  
10 source Advisory Council shall conduct a public hearing within the  
11 region. If a proposed project is located within a municipality, the  
12 governing body of a municipality shall conduct a hearing on the pro-  
13 posed project.

14 Sec. 44.88.177. OPERATION OF PROJECTS. If a project is financed  
15 under AS 44.88.172, the authority shall solicit the review and advice  
16 of the Regional Resource Advisory Council or governing body in the  
17 area in which a project is located before the execution of contracts,  
18 agreements, resolutions, or other matters that directly concern the  
19 development, maintenance, and operation of a project.

20 \* Sec. 7. AS 44.88.220(5) is amended to read:

21 (5) "project" means

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

23 (i) in connection with making, processing, pre-  
24 paring, or producing in any manner, goods, products or  
25 substances of any kind or nature or in connect' on with  
26 developing or utilizing a natural resource, or extracting,  
27 smelting, transporting, converting, assembling or producing  
28 in any manner, minerals, raw materials, chemicals,  
29 compounds, alloys, fibers, commodities and materials, pro-

1 ducts or substances of any kind or nature;

2 (ii) [, ANY PLANT OR FACILITY USED OR INTENDED  
3 FOR USE] as an industrial park; [OR] in connection with [AIR  
4 AND WATER] transportation; [, OR ANY PLANT OR FACILITY] for  
5 the prevention, limitation or control of [AIR OR WATER]  
6 pollution; [,] for the disposal of sewage or solid waste;  
7 [,] for the local furnishing of gas; [, OR] for the furnish-  
8 ing of water; as or in connection with mass commuting vehi-  
9 cles; for local district heating or cooling; as a parking  
10 facility; or as a storage or training facility directly  
11 related to a plant or facility described in this paragraph;

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

14 (C) commercial activity by a small enterprise;

15 \* Sec. 8. In addition to any other authorization to issue bonds or  
16 notes, the authority may issue bonds in a principal amount not to exceed  
17 ~~\$20,000,000~~ \$500,000,000 to assist in the acquisition, financing, or operation of proj-  
18 ects under AS 44.88.172, enacted by sec. 6 of this Act.

19 \* Sec. 9. It is the intent of the legislature to minimize the cost of  
20 state financial assistance for projects funded under AS 44.88.172, enacted  
21 by sec. 6 of this Act. To the extent possible, financial assistance shall  
22 be extended in the form of loans.

23 \* Sec. 10. This Act takes effect immediately in accordance with AS 01.-  
24 10.070(c).



# Alaska State Legislature

## Senate Committee on State Affairs

Vic Fischer, Chairman • 1024 W. 6th Ave., Suite 204 C,  
Anchorage, Alaska 99501  
(907) 278-3654

Official Business

April 17, 1984

TO: Senate State Affairs Committee Members  
FROM: Senate State Affairs Committee Staff  
RE: Attached draft of CS SB 489 (AIDA bill)

The attached draft was developed in cooperation with the Alaska Industrial Development Authority (AIDA), the Department of Commerce, and the Department of Law.

The changes have been highlighted. They attempt to alleviate concerns expressed by committee members during the March 6 hearing without impairing the proposed functions of AIDA. Under the draft, AIDA will still be authorized to own and operate projects and to use state appropriations to supplement bonds in the financing of such projects.

Changes made in the draft are basically of two types:

1. Legislative oversight. Committee members expressed concern that, under the bill, AIDA could finance projects that it would own without specific legislative approval. The Department of Law has said that legislative approval on a project-by-project basis is unconstitutional. A reduced debt authorization will, in practice, have the effect of allowing the legislature to approve projects financed under the expanded powers. Accordingly, the debt authorization level established in sec. 8 (page 10) has been reduced from \$500,000,000 to \$20,000,000. (In addition, existing law, 44.88.090(g) prohibits AIDA from issuing more than \$50,000,000 in bonds in any one-year period without legislative authorization.)

2. Minimization of state financial assistance. Because the bill provides for a "blend" of bonds and appropriations through the Economic Development Fund (EDF), committee members expressed concern about the criteria for project selection and financing. This is addressed in the bill through a requirement for a finance plan (page 6), a statement that it is the legislature's intent to minimize the cost to the state (sec. 9, page 10), and a provision that appropriations to the EDF may be as repayable loans (page 6, line 3). Projects must also meet the economic and financial criteria on page 8 (essentially the same as in the regional resource development authority bill-- SB 151-- last year) and existing AIDA law.

The CS also addresses process in two places. The process for the establishment of a regional resource advisory council is clarified in 44.88.174 (page 7), and the point at which findings must be made and approval obtained is moved forward to the AIDA approval rather than bonding stage (middle of page 8).



# Alaska State Legislature

## Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V

Juneau, Alaska 99811  
(907) 465-4954

Official Business

### MEMORANDUM

TO: Senate State Affairs Committee  
FROM: Senate State Affairs Committee Staff  
RE: SB 489  
DATE: March 5, 1984

The attached bill expands the responsibilities of the Alaska Industrial Development Authority to allow it to finance facilities that it would own and operate for costs up to \$500 million per project.

The purpose of this is to encourage construction of facilities, particularly for transportation, necessary for economic development. To assure local involvement, the bill provides for regional development advisory councils in the unorganized borough; projects in excess of \$10 million may not be financed unless approved by the local advisory council or governing municipal body.

This bill was originally proposed by the Administration as the "AIDA alternative" to SB 151, relating to regional resource development authorities. SB 151 passed last year, but there have so far been no efforts to establish any of the permitted authorities.

### Fiscal information

Zero fiscal note

### Back-up information

Governor's transmittal letter  
AIDA statutes

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: \_\_\_\_\_  
 Title: Relating to the Alaska  
Industrial Development Authority  
 Sponsor: Governor  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Commerce & Economic Development  
 Program Category Affected: Development  
 BRU, Program or Subprogram(s) Affected:  
Alaska Industrial Development Authority

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Bertram Wagon, Executive Director Phone: 274-1651  
 Division: Alaska Industrial Development Authority Date: 2/11/84

Approved by Commissioner: Richard A. Lyon Date: 2/11/84  
 Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

12/1/83

*Fiscal Note*



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 13, 1984

The Honorable Jalmar Kerttula  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which will enable the Alaska Industrial Development Authority (AIDA) to assume a more active role, under AS 44.88, in the development of those basic facilities necessary for sustained economic development in the state.

Firms which seek to develop major industrial projects in the state are often hampered by a lack of basic infrastructure facilities. As a consequence, firms are faced with the difficult choice of bearing the large capital requirements necessary to provide for these facilities, or of foregoing the development of a project which may otherwise be a substantial benefit to the state. This problem is particularly acute in rural areas of the state, where the absence of transportation facilities inhibits economic and industrial development.

This bill would enhance the opportunities for significant economic development through the establishment of a financing vehicle which will promote cooperation between the public and private sector, and between the financing sector and the local communities. As explained more fully below, the bill establishes a structure to extend the benefits of tax-exempt financing to reduce the costs of project development. At the same time, the bill preserves the right of local communities to assume an active role in the development of their surrounding areas.

Sections 1 -- 4 of the bill amend existing provisions in AS 44.88 to allow AIDA to own and operate projects. Under present law, AIDA serves only as a secondary financing entity. The ability to own and operate projects is necessary to extend the benefits of tax-exempt financing

*Dennis L. H. 2/13/84*

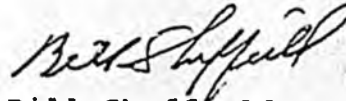
to a greater range of qualified projects. Sections 5 and 6 exempt AIDA from certain financing limitations for those projects it owns and operates. These technical revisions are necessary to assure that AIDA has the requisite flexibility to provide financing for projects which AIDA owns and operates.

Section 7 of the bill establishes an economic development fund. Assets of the fund may only be used to finance and operate projects which AIDA intends to own and operate. Importantly, the economic development fund is explicitly segregated from other assets of the authority. If a project is financed under the economic development fund, the authority may not use or pledge its other assets to assist in the financing of the project. The bill also establishes stringent safeguards to assure that assets of the economic development fund are used only to support prudent, economically viable projects. In particular, the authority may not provide financing for a project unless the authority determines that the project applicant is financially responsible and that the project will generate sufficient revenues to satisfy the debt service obligations. Section 8 authorizes the authority to issue up to \$500 million in bonds to finance projects under the economic development fund.

The projects financed under this bill may so substantially affect the area in which they are located that local involvement and approval is essential. Section 7 of the bill also provides for the establishment of regional development advisory councils in the unorganized borough. The councils consist of five members appointed by the governor, and will be formed only after a project proposal is received by AIDA. No project which costs in excess of \$10 million may be financed under the economic development fund unless the applicable council or municipal body approves the project. Similarly, AIDA is obligated to solicit the review of the advisory council or the governing municipal body before the execution of agreements relating to the operation of the project.

This bill is designed to establish a financing mechanism which will promote diversified economic growth in our state. I look forward to working with the members of the legislature on this important piece of legislation, and I urge your prompt consideration and approval.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield  
Governor

## Overview of Proposed Bill

For significant economic development to occur large capital investment will generally be required for transportation, infrastructure and facilities. This proposed legislation is intended to be a vehicle to promote and assist such development.

This bill is intended to provide a structure to allow public/private development of projects which would be utilized by the private sector. The bill would allow tax exempt financing to be employed in financing these projects.

Under this proposed legislation the authority's power would be expanded to allow the authority to own and operate projects. It is envisioned that the authority would issue tax exempt bonds backed by the authority (not the State) and then rent/lease the facility to a private concern. The rent/lease payments would be of a sufficient level to amortize the debt on the bonds.

This legislation is written not as a project specific bill, but as a framework bill which would allow numerous development type projects to be considered. No appropriation is requested. Fiscal Note impact as written would be 0.

BW/mc5/4  
12084b

*Overview of Proposed SB 489 (Rent/Lease)*

## SECTION - BY - SECTION ANALYSIS

Sec. 1: This section amends the policy statement of the authority to broaden the range of projects that can be financed through the authority as well as allowing the authority to own and operate facilities.

Sec. 2: This section amends the purpose of the authority to allow ownership and operation of certain specified facilities.

Sec. 3: This section amends the list of powers of the authority, to allow the authority to own and operate projects if it serves a public purpose, rather than just in the case of a default.

Sec. 4: This section adds a new paragraph to the authority's list of powers, which permits the authority to levy fees and charges for use of facilities owned by the authority.

Sec. 5: This section allows the authority to waive certain provisions when financing projects the authority intends to own. These waivers permit the authority to establish capital reserve funds for projects costing more than \$10 million, and to not require a 20% bank participation on these projects. However, the authority may not establish a capital reserve fund for a project that would entail the State's "moral obligation" if the State were going to use a majority of the project.

Sec. 6: This section allows the authority to waive provisions of the Enterprise Development Funds if it is used to finance projects owned by the authority.

Sec. 7: This section does the following:

- a) It establishes the Economic Development Fund, which can only be used to finance and operate projects which the authority intends to own and operate.
- b) It establishes Regional Development Advisory Councils. These Councils may be established in the unorganized borough along the boundaries of regional housing authorities. The Councils each consists of five members from the relevant area appointed by the Governor. A Council shall be organized only after the authority receives a project proposal for its area.
- c) It establishes the requirement that the authority must obtain approval from the relevant Regional Development Advisory Council or municipality before any project in their area which costs in excess of \$10 million can be financed with the Economic Development Fund.
- d) Before issuing any bonds to finance a project using the Economic Development Fund, the authority must make various findings, including that the project is advantageous to the state and financially feasible.
- e) Before a Regional Development Advisory Council or municipality can provide approval for projects referenced in this section, it must hold a public hearing within its area.

Section By Section Analysis  
Page Two

- f) It requires that the authority solicit the review of the relevant Council or municipality for any project owned and operated by the authority within their area.

Sec. 8: This section allows the authority to issue up to \$500 million in bonds to finance projects via the Economic Development Fund.

Sec. 9: This section amends the definition list of eligible projects that the authority may provide financing for. The authority may only own and operate only projects that are listed in this section.

Sec. 10: This section allows for an immediate effective date.



## DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

2/28

Teletcopy to

Bert Wagon 907-274-1651

Eric Wohlford 907-276-6401

From Rick Ballard (202-466-5800)

FEB 22 1984

Dear Mr. Chairman:

I appreciated your thoughtful letter of February 16, concerning the possibility of excluding certain types of tax-exempt industrial development bonds (IDBs) from the state-by-state volume limitations of H.R. 4170. We have given the topic a good deal of thought.

As you know, the Administration strongly favors the state-by-state volume limitations that would be imposed on most IDBs by H.R. 4170. Nevertheless, we are aware that the current definition of IDB is very broad. We also are sympathetic to the complaint that imposing volume limitations on IDBs used to finance convention, trade show, and transportation facilities that historically have been owned and operated by State and local governments may impose an undue hardship on those governments, as well as on the public.

To prevent hardship of this sort, we would support a narrow amendment to H.R. 4170 that would exempt IDBs currently qualifying for tax-exempt status under section 103(b)(4)(C) or (D) of the Internal Revenue Code from the volume caps if no person other than the issuer of the bonds is the owner of the facilities for Federal income tax purposes and no person (other than a governmental unit or section 501(c)(3) organization) leases a major portion of the facilities under a long term lease. Thus, IDBs used to finance government-owned and operated convention or trade show facilities, airports, docks, wharves, mass commuting facilities, parking facilities, and storage and training facilities related thereto would be exempt from the volume caps if those facilities are for general public use. Of course, no taxpayer would be able to claim depreciation deductions or investment tax credits with respect to the facilities financed, since they would be owned by the governmental issuer.

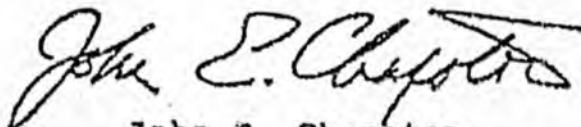
In addition, we would call to your attention the fact that section 103(b)(7) of the Code currently permits the advance refunding of IDBs used to provide convention, trade show, and transportation facilities described in section

Att. from Post Sec's, Dept of Treasury 2/22/84

103(b)(4)(C) and (D). Advance refundings of tax-exempt bonds result in twice as many bonds outstanding as are required for a given project. This doubles the Federal revenue loss associated with the project being financed. In most cases, however, the economic benefits to the project from the advance refunding are substantially less than the additional Federal revenue loss. Accordingly, we would strongly favor elimination of the advance refunding provision for IDBs described in section 103(b)(4)(C) and (D), particularly if these IDBs are exempted from the state-by-state volume caps.

I want to emphasize the Administration's continued commitment to the additional restrictions on private purpose tax-exempt bonds contained in H.R. 4170, including the state-by-state volume limitations. We look forward to working with you to obtain the enactment of this needed legislation.

Sincerely,



John E. Chapoton  
Assistant Secretary  
(Tax Policy)

The Honorable  
Dan Rostenkowski, Chairman  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, D.C. 20515

(3) the obligations of a corporation organized under Act of Congress, if such corporation is an instrumentality of the United States and if under the respective Acts authorizing the issue of the obligations the interest is wholly exempt from the taxes imposed by this title; or

Sec. 2105(a) amended Code Sec. 103(a) by striking out "or" at the end of paragraph (2), inserting "; or" in place of the period at the end of paragraph (3), and adding a new paragraph (4) to read as above. Effective with respect to obligations issued on or after October 4, 1976.

*Caution: References to subsection (a)(4) were probably intended to be references to (a)(2) since (a)(4) was redesignated (a)(2) by § 1901(a)(17)(A) of P.L. 94-455.*

*[Caution: Code Sec. 103(b), below, as amended by P.L. 97-248, applies, generally, to obligations issued after September 3, 1982. See amendment notes below for special rules.—CCH.]*

**[Sec. 103(b)]**

**(b) INDUSTRIAL DEVELOPMENT BONDS.—**

**(1) SUBSECTION (a)(1) OR (2) NOT TO APPLY.—**Except as otherwise provided in this subsection, any industrial development bond shall be treated as an obligation not described in subsection (a)(1) or (2).

**(2) INDUSTRIAL DEVELOPMENT BOND.—**For purposes of this section, the term "industrial development bond" means any obligation—

(A) which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly in any trade or business carried on by any person who is not an exempt person (within the meaning of paragraph (3)), and

(B) the payment of the principal or interest on which (under the terms of such obligation or any underlying arrangement) is, in whole or in major part—

(i) secured by any interest in property used or to be used in a trade or business or in payments in respect of such property, or

(ii) to be derived from payments in respect of property, or borrowed money, used or to be used in a trade or business.

**(3) EXEMPT PERSON.—**For purposes of paragraph (2)(A), the term "exempt person" means—

(A) a governmental unit, or

(B) an organization described in section 501(c)(3) and exempt from tax under section 501(a) (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization),

**(4) CERTAIN EXEMPT ACTIVITIES.—**Paragraph (1) shall not apply to any obligation which is issued as part of an issue substantially all of the proceeds of which are to be used to provide—

(A) projects for residential rental property if at all times during the qualified period—

(i) 15 percent or more in the case of targeted area projects, or

(ii) 20 percent or more in the case of any other project,

of the units in each project are to be occupied by individuals of low or moderate income,

(B) sports facilities,

(C) convention or trade show facilities,

(D) airports, docks, wharves, mass commuting facilities parking facilities, or storage or training facilities directly related to any of the foregoing,

(E) sewage or solid waste disposal facilities or facilities for the local furnishing of electric energy or gas,

(F) air or water pollution control facilities,

(G) facilities for the furnishing of water for any purpose if—

(i) the water is or will be made available to members of the general public (including electric utility, industrial, agricultural, or commercial users), and

(ii) either the facilities are operated by a governmental unit or the rates for the furnishing or sale of the water have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, or by a public

SB 489 cont'd

Governor's transmittal letter dated February 13:

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, ~~I am transmitting a bill which will enable the Alaska Industrial Development Authority (AIDA) to assume a more active role, under AS 44.88, in the development of those basic facilities necessary for sustained economic development in the state.~~

Firms which seek to develop major industrial projects in the state are often hampered by a lack of basic infrastructure facilities. As a consequence, firms are faced with the difficult choice of bearing the large capital requirements necessary to provide for these facilities, or foregoing the development of a project which may otherwise be a substantial benefit to the state. This problem is particularly acute in rural areas of the state, where the absence of transportation facilities inhibits economic and industrial development.

This bill would enhance the opportunities for significant economic development through the establishment of a financing vehicle which will promote cooperation between the public and private sector, and between the financing sector and the local communities. As explained more fully below, the bill establishes a structure to extend the benefits of tax-exempt financing to reduce the costs of project development. At the same time, the bill preserves the right of local communities to assume an active role in the development of their surrounding areas.

Sections 1 -- 4 of the bill amend existing provisions in AS 44.88 to allow AIDA to own and operate projects. Under present law, AIDA serves only as a secondary financing entity. The ability to own and operate projects is necessary to extend the benefits of tax-exempt financing to a greater range of qualified projects. Sections 5 and 6 exempt AIDA from certain financing limitations for those projects it owns and operates. These technical revisions are necessary to assure that AIDA has the requisite flexibility to provide financing for projects which AIDA owns and operates.

Section 7 of the bill establishes an economic development fund. Assets of the fund may only be used to finance and operate projects which AIDA intends to own and operate. Importantly, the economic development fund is explicitly segregated from other assets of the authority. If a project is financed under the economic development fund, the authority may not use or pledge its other assets to assist in the financing of the project. The bill also establishes stringent safeguards to assure that assets of the economic development fund are used only to support prudent, economically

SB 489 cont'd

viable projects. In particular, the authority may not provide financing for a project unless the authority determines that the project applicant is financially responsible and that the project will generate sufficient revenues to satisfy the debt service obligations. Section 8 authorizes the authority to issue up to \$500 million in bonds to finance projects under the economic development fund.

The projects financed under this bill may so substantially affect the area in which they are located that local involvement and approval is essential. Section 7 of the bill also provides for the establishment of regional development advisory councils in the unorganized borough. The councils consist of five members appointed by the governor, and will be formed only after a project proposal is received by AIDA. No project which costs in excess of \$10 million may be financed under the economic development fund unless the applicable council or municipal body approves the project. Similarly, AIDA is obligated to solicit the review of the advisory council or the governing municipal body before the execution of agreements relating to the operation of the project.

This Bill is designed to establish a financing mechanism which will promote diversified economic growth in our state. I look forward to working with the members of the legislature on this important piece of legislation, and I urge your prompt consideration and approval.

Sincerely,

Bill Sheffield  
Governor

SL 490

SENATE BILL NO. 490 by the Rules Committee by request of the Governor, entitled:

"An Act making a supplemental appropriation to the Alaska Court System for the operations of the Alaska Commission on Judicial Conduct; and providing for an effective date."

was read the first time and referred to the Judiciary Committee and the Finance Committee.

I. Purpose	Creates regional authorities to provide financing mechanism for transportation projects, including ownership.	Expands powers of AIDA to include financing of and ownership of various types of transportation facilities.	Expands powers of AIDA to allow financing of and ownership of transportation facilities and other infrastructure facilities. Intended to also allow for joint public/private projects.
II. Financing Entity	Creates new entities, Regional Resource Development Authorities, based on boundaries of regional housing authorities. Created by petition, then a vote within applicable area. Must have approval of Governor to form. Authority is governed by eight member board of governors, 3 commissioners appointed by governor and 5 members elected from area. State pays all election costs. Board of governors may hire staff, employ professional advisors, etc. Original petition must be filed before July 1, 1986. Applies only to unorganized borough.	Uses AIDA, and adds Regional Development Advisory Councils. There would be up to 6 councils, according to U.S. Dept. of Labor areas. Each council would have five members appointed by the governor from the relevant area. Establishes a Regional Transportation Facility Development Fund, which may be used to finance or develop a transportation facility, or secure bonds issued to finance transportation facilities. This Fund is kept separate from AIDA's existing Enterprise Development Fund.	Use AIDA, and also creates Regional Development Advisory Councils. These councils would be based on the boundaries of regional housing authorities. Each council would have five members appointed by the governor from the relevant area. Establishes an Economic Development Fund which may be used to finance and operate those projects owned and operated by AIDA. This Fund is kept separate from AIDA's existing Enterprise Development Fund.
III. Powers/Limitations	Allows standard corporate powers to regional authorities, plus ability to issue bonds (upon approval of the State bond committee), to own and operate projects, and to levy fees and charges. Authorities may not use state funds to satisfy bond obligations or establish security for bonds. Authority may not use fees or charges from one project to finance an unrelated project.	Allows AIDA to own and operate transportation facilities, levy fees and charges, and issue bonds to finance transportation and related facilities. Before financing a transportation facility AIDA must obtain the approval of the relevant council. Two council members become members of the AIDA board of directors for all actions with respect to a transportation facility in the area of the council. These powers expire on December 31, 1985.	Allows AIDA to own and operate infrastructure projects, levy fees and charges, and issue bonds for a variety of items if the bonds are exempt from federal taxes. AIDA must obtain the approval of the relevant council or municipality before becoming involved in the financing of any infrastructure project which costs in excess of \$10 million.

IV. Eligible Projects	All types of surface and water transportation facilities, including related facilities such as warehouses.	All types of transportation and related facilities.	All types of transportation and related facilities, plus others such as industrial parks, pollution control facilities, waste disposal facilities, mass commuting facilities, etc.
V. Underwriting Standards	Bonds may be issued only if an authority finds project can be expected to produce revenue adequate to repay the bonds with which it is financed. Bonds are secured by project being financed and possibly other designated projects - seems inconsistent with III above.	Bonds may be issued only if AIDA finds the project is able to produce revenue adequate to repay the bonds with which it is financed.	Bonds may be issued only if AIDA finds the project is able to produce revenue adequate to repay the bonds with which it is financed.
VI. Use Provisions	Requires equal use and access for any facility owned, leased, operated or financed by an authority.	Requires equal use and access for any transportation facility owned, leased, operated or financed by AIDA.	Requires equal use and access for any infrastructure facility owned, leased, operated or financed by AIDA.
VII. Public Input Provision	Public input is assumed to derive from local membership on the regional authority. There is no explicit state requirement for public hearing.	Before financing any transportation project, AIDA must obtain approval from relevant council, or municipality. Before providing approval, a council must hold 3 public hearings, and a municipality must hold at least one. Further public input is assumed to derive from regional composition of a council, or municipality.	Before financing any infrastructure project costing in excess of \$10 million, AIDA must obtain approval from the relevant council or municipality. Before providing approval, a council or municipality must hold a public hearing. Further public input is assumed to derive from regional composition of a council, or municipality.