

SB 64

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST:

Revision Date: April 8, 1987
 Title: An Act relating to the Alaska
Industrial Development Authority
 Sponsor: Kelly, Kerttula, Farks, et al.
 Requestor: _____

Bill Version: CSSB 64 (RULES)
 Publish Date: _____

Agency Affected: Commerce & Econ. Dev.
 BRU: Alaska Industrial Dev. Auth.

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		65.0	65.0	65.0	65.0	65.0
TRAVEL		10.0	10.0	10.0	10.0	10.0
CONTRACTUAL		25.0	15.0	15.0	15.0	15.0
SUPPLIES		5.0	5.0	5.0	5.0	5.0
EQUIPMENT		5.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		110.0	95.0	95.0	95.0	95.0

CAPITAL		16,000.0	31,000.0	36,000.0	36,000.0	36,000.0
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REVENUE		16,110.0	31,095.0	36,095.0	36,095.0	36,095.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		16,110.0	31,095.0	36,095.0	36,095.0	36,095.0
TOTAL						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See Attached.

Prepared by: Bert Wagon, Executive Director Phone: 274-1651
 Division: Alaska Industrial Development Authority Date: April 8, 1987

Approved by Commissioner: J. Anthony Smith Date: April 8, 1987
 Agency: Commerce and Economic Development

Distribution (by preparer):

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

5381W4887c

RECEIVED

APR 08 1987

LEGISLATIVE FINANCE

FISCAL NOTE CSSB 64 (RULES)

ANALYSIS

Should this bill become law, the costs to be incurred in operating the expended program are subject to the demand. The figures in the note are estimates of what may occur under this legislation. It is intended that the operating costs would be absorbed into the existing budget of the Authority so that no increase above the current requested budget would be required. This is possible due to the fact that the Authority currently holds a position vacant that could be utilized to handle many of the functions required by this bill.

All funds, both operating and capital, would be Authority program receipts with no general fund appropriation required.

SENATE COMMITTEE REPORT

FURTHER:

3/6/87

DATE TURNED INTO OFFICE 3/26/87

Mr. President:

FINANCE Committee considered SB 64

export enterprises under the Alaska Industrial Development Authority.

and recommended:

replace with CS FOR SB 64 (Finance) same title
 or adopt _____ CS FOR _____ new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous
 zero fiscal impact

MEMBERS SIGNING DO PASS

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

OTHER RECOMMENDATIONS

[Signature]
[Signature]

[Signature] Do Pass
Chairman signature and recommendation

Committee Backup Attached

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: CSSB 64 (L&G) ^{Fin.}
Publish Date: 3/6/87

Revision Date: February 11, 1987
Title: An Act relating to the Alaska
Industrial Development Authority
Sponsor: Kelly, Kerttula, Faiks, et al.
Requestor: _____

Agency Affected: Commerce & Econ. Dev.
BRU: Alaska Industrial Dev. Auth.

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		65.0	65.0	65.0	65.0	65.0
TRAVEL		10.0	10.0	10.0	10.0	10.0
CONTRACTUAL		25.0	15.0	15.0	15.0	15.0
SUPPLIES		5.0	5.0	5.0	5.0	5.0
EQUIPMENT		5.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		110.0	95.0	95.0	95.0	95.0

CAPITAL		15.0	30.0	35.0	35.0	35.0
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REVENUE		125.0	125.0	130.0	130.0	130.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		125.0	125.0	130.0	130.0	130.0
TOTAL						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See Attached.

Prepared by: Bert Wagon, Executive Director
Division: Alaska Industrial Development Authority

Phone: 274-1651
Date: 2/13/87

Approved by Commissioner: Anthony Smith
Agency: Commerce and Economic Development

Date: 2/13/87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary
- 5381W21387a

5867

FISCAL NOTE CSSB 64 (L&C)

ANALYSIS

Should this bill become law, the costs to be incurred in operating the expended program are subject to the demand. The figures in the note are estimates of what may occur under this legislation. It is intended that the operating costs would be absorbed into the existing budget of the Authority so that no increase above the current requested budget would be required. This is possible due to the fact that the Authority currently holds a position vacant that could be utilized to handle many of the functions required by this bill.

All funds, both operating and capital, would be Authority program receipts with no general fund appropriation required.



From The
**SENATE
FINANCE COMMITTEE**

March 26, 1987

Legal Services:

Please prepare a Senate Finance Committee Substitute for SB 64 based on the committee substitute from International Trade and the attached amendment by Senator Zharoff and return the original to Kathy, Room 413, Capitol Building. The bill was reported out of committee at the meeting this morning and will be read across at the 11:00 a.m. Floor Session.

Thank you,

kathy
4935

By ZHAROFF 3/26/87

#/
Moved
Adopted

Draft Amendment To CSSB64(I.T.)

For Discussion

Page 22, Line 24- Add a new section to read:

(c) The authority may not issue bonds in an amount greater than \$ 10,000,000 to assist in the acquisition, financing or operation of a development project under this section without prior legislative approval.

Page 27, Line 17- Add Sec. 10, ch. 162, SLA 1984 to the repealer.

* Sec. 41. AS 44.88.156, 44.88.158(c), and secs. 10 and 11, ch. 162, SLA 1984, are repealed.

The proposed amendment would allow the authority to obtain up to \$10,000,000 of ownership interest in a development project without legislative approval.

This basically uses the language contained in Section 10, Chapter 162, SLA 1984 and includes a \$10,000,000 threshold.

Original sponsors: Kelly, Kerttula,
Faiks, et al.

1 IN THE SENATE

Finance
BY THE SENATE ~~SPECIAL COMMITTEE~~
~~ON INTERNATIONAL TRADE~~

2

CS FOR SENATE BILL NO. 64 *(Finance)*
(I.T)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

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

9

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

10

* Section 1. AS 44.88.010 is amended to read:

11

Sec. 44.88.010. LEGISLATIVE FINDING AND POLICY. (a) The legis-

12

lature finds, determines, and declares that

13

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

15

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

18

(3) the state lacks the basic manufacturing, industrial,
19 export, small business, and business enterprises and the other facili-
20 ties referred to in [(5) OF] this subsection necessary to permit
21 adequate development of its natural resources and the balanced growth
22 of its economy;

23

(4) the establishment and expansion of industrial, manu-
24 facturing, export, small business, and business enterprises in Alaska
25 and the other facilities referred to in [(5) OF] this subsection are
26 essential to the development of the natural resources and the long-
27 term economic growth of the state, and will directly and indirectly
28 alleviate unemployment in the state;

29

(5) the expansion of export trade is vital to the health

1 and growth of the state's economy;

2 (6) many Alaska businesses could benefit from additional
3 financial and technical assistance with respect to the exportation of
4 their products and services;

5 (7) the United States Export-Import Bank has been mandated
6 by the Export-Import Bank Act Amendments of 1983 to provide technical
7 assistance and export financing support to small businesses in coop-
8 eration with state export finance agencies;

9 (8) Alaska-based exporters can be effectively assisted
10 through the establishment, as part of the Alaska Industrial Develop-
11 ment Authority, of an export financing program designed to work with
12 the U.S. Export-Import Bank and other federal, state, and private
13 institutions;

14 (9) the achievement of the goal of full employment, and of
15 establishment and continuing operation and development of industrial,
16 manufacturing, export, small business, and business enterprises in the
17 state, including, without limitation, facilities for transportation,
18 facilities for pollution control and waste disposal, facilities for
19 the local furnishing of gas, facilities for water, facilities for
20 industrial parks, mass commuting vehicles, facilities for local dis-
21 trict heating or cooling, parking facilities, or storage or training
22 facility relating to a plant or facility, will be accelerated and
23 facilitated by the creation of an instrumentality of the state with
24 powers to incur debt, to own and operate facilities, to make and
25 insure loans to finance, and to assist private lenders to make loans
26 to finance, the establishment, operation, and development of indus-
27 trial, manufacturing, export, small business, and business enter-
28 prises, including, without limitation, facilities for transportation,
29 facilities for pollution control and waste disposal, facilities for

1 the local furnishing of gas, facilities for water, facilities for
2 industrial parks, mass commuting vehicles, facilities for local dis-
3 trict heating or cooling, parking facilities, or a storage or training
4 facility relating to a plant or facility;

5 (10) [(6)] it is in the public interest to promote the
6 prosperity and general welfare of all citizens of the state by

7 (A) stimulating commercial and industrial growth and
8 expansion by encouraging an increase of private investment by
9 banks, investment houses, insurance companies, and other finan-
10 cial institutions, including pension and retirement funds, to
11 help satisfy the need for economic expansion;

12 (B) encouraging the production of raw materials and
13 goods for export, the expansion of exports of raw materials and
14 goods, and the rendering of services abroad by residents of the
15 state through the establishment of a program that provides finan-
16 cial assistance in cooperation with federal, state, and private
17 institutions for these purposes in the form provided in this
18 chapter;

19 (C) creating the Alaska Industrial Development and
20 Export Authority with the powers necessary to accomplish the
21 objectives stated in this paragraph, including the power to issue
22 taxable and tax-exempt bonds and to acquire ownership interests
23 in projects as provided in this chapter;

24 (11) [(7)] it is in the state's interest to import private
25 capital to create new economic activity which would not otherwise take
26 place in the state.

27 (b) It is declared to be the policy of the state, in the inter-
28 ests of promoting the health, security, and general welfare of all the
29 people of the state, and a public purpose, to increase job

1 opportunities and otherwise to encourage the economic growth of the
2 state, including the development of its natural resources, through the
3 establishment and expansion of manufacturing, industrial, export,
4 small business, and business enterprises and the other facilities
5 referred to in (a) [(a)(5)] of this section by creating the Alaska
6 Industrial Development and Export Authority [PUBLIC CORPORATION] with
7 the powers [POWER], duties, and functions [AS] provided in this chap-
8 ter [AS 44.88.010 - 44.88.220].

9 * Sec. 2. AS 44.88.010 is amended by adding a new subsection to read:

10 (c) It is further declared to be the policy of the state, in the
11 interests of promoting the health, security, and general welfare of
12 all the people of the state, and a public purpose of the state, to
13 accomplish the objectives set out in (b) of this section through the
14 provision of financial support in cooperation with federal, state, and
15 private institutions for the purpose of increasing the export of
16 Alaska goods, talent, raw materials, and services.

17 * Sec. 3. AS 44.88 is amended by adding a new section to article 1 to
18 read:

19 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AU-
20 THORITY REVOLVING FUND. The Alaska Industrial Development and Export
21 Authority revolving fund is established in the authority. The re-
22 volving fund consists of appropriations made to the revolving fund by
23 the legislature, money or other assets transferred to the revolving
24 fund by the authority, and unrestricted payments on loans made or
25 purchased by the authority. Amounts deposited in the revolving fund
26 may be pledged to the payment of bonds of the authority or expended
27 for the purposes of the authority under this chapter.

28 * Sec. 4. AS 44.88.070 is amended to read:

29 Sec. 44.88.070. PURPOSE OF THE AUTHORITY. The purpose of the

1 authority is to promote, develop, and advance the general prosperity
2 and economic welfare of the people of Alaska, to relieve problems of
3 unemployment, and to create additional employment by

4 (1) providing various means of financing and means of
5 facilitating the financing, in cooperation with federal, state, and
6 private institutions, of industrial, manufacturing, export, small
7 business, and business enterprises and the other facilities referred
8 to in AS 44.88.010(a) in [AS 44.88.010(a)(5) WITHIN] the state;

9 (2) [, AND BY] owning and operating the enterprises and
10 other facilities described in AS 44.88.172;

11 (3) fostering the expansion of exports of Alaska goods,
12 services, and raw materials;

13 (4) cooperating and acting in conjunction with other orga-
14 nizations, public and private, the objects of which are the promotion
15 and advancement of export trade activities in the state;

16 (5) establishing a source of funding credit guarantees and
17 insurance, not otherwise available, to support export development;

18 (6) providing and cooperating or participating with feder-
19 al, state, and private institutions to provide actual and potential
20 Alaska exporters, particularly small- and medium-sized exporters, with
21 financial assistance in support of export transactions.

22 * Sec. 5. AS 44.88.080(7) is amended to read:

23 (7) to issue bonds and otherwise to incur indebtedness, in
24 accordance with AS 44.88.090, in order to pay the cost of a project or
25 development projects or in order to provide money for the authority's
26 purposes under this chapter; the authority may also [AND TO] secure
27 payment of the bonds or other indebtedness as provided in this chap-
28 ter;

29 * Sec. 6. AS 44.88.080 is amended by adding new paragraphs to read:

1 (20) to participate with government or private industry in
2 programs for technical assistance, loans, technology, transfer, or
3 other programs related to the exportation of Alaska goods, services,
4 or raw materials with respect to its financing activities;

5 (21) to provide export finance training for office staff and
6 other individuals involved in export finance assistance, including the
7 training sessions that may be provided by the United States Export-
8 Import Bank or other organizations;

9 (22) to coordinate to the maximum extent possible its
10 efforts to promote the export of Alaska goods, services, and raw
11 materials with programs and goals of the United States Export-Import
12 Bank, the International Trade Administration of the United States
13 Department of Commerce, the Foreign Credit Insurance Association, and
14 other private and public programs designed to provide export assis-
15 tance and export-related financing;

16 (23) to guarantee loans related to qualified export trans-
17 actions under regulations adopted by the authority;

18 (24) to provide financing assistance, in cooperation with
19 federal, state, and private institutions, as provided in this chapter
20 for small business enterprises.

21 * Sec. 7. AS 44.88.085(a) is amended to read:

22 (a) Except for AS 44.62.310 and 44.62.312 regarding public
23 meetings, and except for AS 44.62.320(a) regarding legislative review
24 of regulations, the provisions of the Administrative Procedure Act
25 regarding the adoption of regulations (AS 44.62.040 - 44.62.320) do
26 not apply to the authority. The authority shall make available to
27 members of the public copies of the regulations adopted under [(b) -
28 (e) OF] this section. Within 45 days after adoption of a regulation
29 under [(b) - (e) OF] this section, the chairman of the authority shall

1 submit the regulation adopted to the chairman of the Administrative
2 Regulation Review Committee under AS 24.20.400 - 24.20.460.

3 * Sec. 8. AS 44.88.085(c) is repealed and reenacted to read:

4 (c) The authority may adopt regulations to carry out the pur-
5 poses of this chapter and shall adopt regulations as provided in (g)
6 and (h) of this section.

7 * Sec. 9. AS 44.88.085(d) is amended to read:

8 (d) Except as provided in (e) of this section, at least 15 days
9 before the adoption, amendment, or repeal of a regulation [ON A SUB-
10 JECT SPECIFIED IN (c) OF THIS SECTION], the authority shall give
11 public notice of the proposed action by publishing the notice in at
12 least three newspapers of general circulation in the state and by
13 mailing a copy of the notice to every person who has filed a request
14 for notice of proposed regulations with the authority. The public
15 notice must include a statement of the time, place, and nature of the
16 proceedings for the adoption, amendment, or repeal of the regulation
17 and must include an informative summary of the subject of the proposed
18 action. On the date and at the time and place designated in the
19 notice, the authority shall give each interested person or an autho-
20 rized representative of the person, or both, the opportunity to pre-
21 sent statements, arguments, or contentions orally or in writing and
22 shall give members of the public an opportunity to present oral state-
23 ments, arguments, or contentions for a total period of at least one
24 hour. The authority shall consider all relevant matter presented to
25 it before taking the proposed action on the regulation. At a hearing
26 under this subsection, the authority may continue or postpone the
27 hearing to a time and place determined by the authority and announced
28 at the hearing before taking the action to continue or postpone the
29 hearing. A regulation adopted, amended, or repealed by the authority

1 may vary from the informative summary specified in this subsection if
2 the subject matter of the action taken on the regulation remains the
3 same and if the original notice of the proposed action was written so
4 as to assure that members of the public are reasonably notified of the
5 subject matter of the proposed action in order for them to determine
6 whether their interests could be affected by the authority's proposed
7 action on that subject.

8 * Sec. 10. AS 44.88.085(e) is amended to read:

9 (e) The adoption, amendment, or repeal of a regulation [ON A
10 SUBJECT SPECIFIED IN (c) OF THIS SECTION] may be made as an emergency
11 regulation if, in the order of adoption, the authority states the
12 facts constituting the emergency and makes a finding that the adoption
13 of the regulation is necessary for the immediate preservation of the
14 orderly operation of the authority's [LOAN AND BONDING] programs. The
15 requirements of (d) of this section do not apply to the initial adop-
16 tion of an emergency regulation [COVERING A SUBJECT SPECIFIED IN (c)
17 OF THIS SECTION]; however, upon adoption of an emergency regulation
18 under this subsection, the authority shall, within 10 days after that
19 adoption, publish notice of the adoption in accordance with the notice
20 procedures specified in (d) of this section. An emergency regulation
21 adopted under this subsection may not remain in effect for more than
22 120 days unless, before the expiration of that period, the authority
23 adopts that regulation as a permanent regulation in accordance with
24 the procedures specified in (d) of this section.

25 * Sec. 11. AS 44.88.085(f) is amended to read:

26 (f) A regulation adopted under [(b) - (e) OF] this section takes
27 effect immediately upon its adoption by the authority or at another
28 [SUCH OTHER] time [AS] specified by the authority in its order of
29 adoption.

1 * Sec. 12. AS 44.88.085 is amended by adding new subsections to read:

2 (g) The authority shall adopt regulations necessary for the
3 following purposes in connection with its programs for the financing
4 of projects under AS 44.88.155 - 44.88.159:

5 (1) determination of borrower eligibility;

6 (2) loan guidelines and terms including, but not limited
7 to, maximum loan amounts and required loan-to-value ratios, but ex-
8 cluding loan interest rates;

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

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

14 (h) The authority shall adopt regulations necessary for the
15 following purposes in connection with its program for encouraging the
16 exportation of Alaska goods, services, and raw materials under AS 44.-
17 88.300 - 44.88.390:

18 (1) establishing criteria for the eligibility of exporters
19 and export transactions for the loan guarantees provided in AS 44.88.-
20 300;

21 (2) setting out the minimum equity interest a borrower must
22 have in the borrower's business to qualify for a loan guarantee under
23 AS 44.88.300 - 44.88.390;

24 (3) adoption of collateral or security requirements to
25 ensure the full repayment of loan guarantees and solvency of an insur-
26 ance program established under AS 44.88.300 - 44.88.390;

27 (4) providing guidelines for extension of a loan guarantee
28 under AS 44.88.300 - 44.88.390;

29 (5) setting out the maximum aggregate amount of guaranteed

1 financing available to an exporter and the maximum amount of guaran-
2 teed financing available for a transaction eligible for guaranteed
3 financing;

4 (6) establishing the limits on the interest that may be
5 charged for guaranteed financings, the maximum fees that a participat-
6 ing financial institution may charge for making a loan that will be
7 guaranteed under AS 44.88.300 - 44.88.390, and the terms of and proce-
8 dures for repayment of a guaranteed financing; and

9 (7) establishing procedures for making a claim on the
10 guarantee or insurance in the event of a default.

11 * Sec. 13. AS 44.88.090(a) is amended to read:

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

15 (1) exclusively from the income and receipts or other money
16 derived from the project or development project financed with the
17 proceeds of the bonds or derived from the exporter or exporting trans-
18 action financed, guaranteed, or insured with the proceeds of the
19 bonds; [.]

20 (2) exclusively from the income and receipts or other money
21 derived from designated projects or development projects or other
22 sources whether or not they are financed, insured, or guaranteed in
23 whole or in part with the proceeds of the bonds; [.] or

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

26 * Sec. 14. AS 44.88.090(e) is repealed and reenacted to read:

27 (e) Before issuing bonds, the authority shall provide for con-
28 sideration at least sufficient, in the judgment of the authority, to
29 pay the principal of and interest on the bonds as they become due and

1 to create and maintain the reserves for the payments that the authori-
2 ty considers necessary or desirable, and to meet all obligations in
3 connection with the lease or agreement and all costs necessary to
4 service the bonds, unless the lease or agreement provides that the
5 obligations are to be met or costs are to be paid by a party other
6 than the authority. If the bonds are being issued to finance a pro-
7 ject or projects under AS 44.88.155 - 44.88.159, then the considera-
8 tion shall be provided by lease or other agreement regarding the
9 project or projects. If the bonds are being issued to finance a
10 development project or development projects under AS 44.88.172 -
11 44.88.177, then the consideration shall be provided by lease or other
12 agreement regarding the development project or development projects.
13 If the bonds are being issued to provide money to finance, guarantee,
14 or insure an exporting transaction under AS 44.88.300 - 44.88.390,
15 then the consideration shall be provided by agreement with the ex-
16 porter.

17 * Sec. 15. AS 44.88.090(g) is amended to read:

18 (g) The authority may not

19 (1) issue bonds, other than refunding bonds, in any 12-
20 month period beginning after June 30, 1982, in an amount that exceeds
21 the amount of bonds authorized to be issued during the preceding
22 12-month period, unless a different amount is authorized by the legis-
23 lature; or

24 (2) issue revenue bonds other than refunding bonds for a
25 project under AS 44.88.155 - 44.88.159, for a development project
26 under AS 44.88.172 - 44.88.177, or to provide money to finance,
27 guarantee, or insure an exporting transaction under AS 44.88.300 -
28 44.88.390, [THIS CHAPTER] in an amount greater than \$50,000,000 during
29 any 12-month period beginning after June 30, 1981, unless the issuance

1 is included separately in the estimates required in the report of the
2 authority under AS 44.88.210(b) and unless the legislature, by law,
3 approves the issuance.

4 * Sec. 16. AS 44.88.090(h) is amended to read:

5 (h) The authority may combine, for the purposes of a single
6 offering, bonds financing more than one project or development project
7 under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, and bonds
8 issued to provide money to finance, guarantee, or insure an exporting
9 transaction under AS 44.88.300 - 44.88.390 [AS 44.88.010 - 44.88.220].

10 * Sec. 17. AS 44.88.100 is amended to read:

11 Sec. 44.88.100. TRUST INDENTURES AND TRUST AGREEMENTS. In the
12 discretion of the authority, an issue of bonds may be secured by a
13 trust indenture or trust agreement between the authority and a corpo-
14 rate trustee (which may be a trust company, bank, or national banking
15 association, with corporate trust powers, located inside or outside
16 the state) or by a secured loan agreement or other instrument or under
17 a resolution giving powers to a corporate trustee (hereinafter in this
18 section referred to as "trust agreement") by means of which the auth-
19 ority may:

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

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

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

1 consideration for, and the other terms to be incorporated in, a
2 lease or contract of sale of a project or development project
3 financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177,
4 or of a facility that is part of an exporting transaction fi-
5 nanced, guaranteed, or insured under AS 44.88.300 - 44.88.390;

6 (C) the assignment by the authority of its rights in
7 the lease or contract of sale of a project or development project
8 financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177,
9 or of a facility that is part of an exporting transaction fi-
10 nanced, guaranteed, or insured under AS 44.88.300 - 44.88.390 or
11 in a mortgage or other security interest created with respect to
12 a project or development project financed under AS 44.88.155 -
13 44.88.159 or 44.88.172 - 44.88.177, or with respect to a facility
14 that is part of an exporting transaction financed, guaranteed, or
15 insured under AS 44.88.300 - 44.88.390 to a trustee for the
16 benefit of the bondholders;

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

19 (E) the vesting in a trustee of rights, powers,
20 duties, funds or property in trust for the benefit of bond-
21 holders, including, without limitation, the right to enforce
22 payment, performance and all other rights of the authority or of
23 the bondholders [,] under a lease, contract of sale, mortgage,
24 security agreement, or trust agreement with respect to a project
25 or development project financed under AS 44.88.155 - 44.88.159 or
26 44.88.172 - 44.88.177, or with respect to a facility that is part
27 of an exporting transaction financed, guaranteed, or insured
28 under AS 44.88.300 - 44.88.390 by mandamus or other proceeding or
29 by taking possession of by agent or otherwise and operating a

1 project or facility and collecting rents or other consideration
2 and applying the same in accordance with the trust agreement;

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

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

9 * Sec. 18. AS 44.88.105(f) is amended to read:

10 (f) The authority may not establish a capital reserve fund to
11 secure an issue of bonds in an amount in excess of \$1,000,000 unless
12 at least 20 percent of the principal amount of the loan for the proj-
13 ect or development project being financed under AS 44.88.155 -
14 44.88.159 or 44.88.172 - 44.88.177, or of the loan to finance, guaran-
15 tee, or insure an exporting transaction under AS 44.88.300 - 44.88.390
16 is retained by a federal or state chartered financial institution or
17 the Alaska Commercial Fishing and Agriculture Bank.

18 * Sec. 19. AS 44.88.130 is amended to read:

19 Sec. 44.88.130. PLEDGE OF THE STATE. The state pledges to and
20 agrees with the holders of bonds issued under this chapter and with
21 the federal agency that lends [WHICH LOANS] or contributes funds in
22 respect to a project or development project financed under AS 44.88.-
23 155 - 44.88.159 or 44.88.172 - 44.88.177, or in respect to an export-
24 ing transaction financed, guaranteed, or insured under AS 44.88.300 -
25 44.88.390 [,] that the state will not limit or alter the rights and
26 powers vested in the authority by this chapter to fulfill the terms of
27 a contract made by the authority with the holders or federal agency
28 and that the state will not [, OR] in any way impair the rights and
29 remedies of the holders until the bonds, together with the interest on

1 them with interest on unpaid installments of interest, and all costs
2 and expenses in connection with an action or proceeding by or on
3 behalf of the holders [,] are fully met and discharged. The authority
4 is authorized to include this pledge and agreement of the state,
5 insofar as it refers to holders of bonds of the authority, in a con-
6 tract with the holders [,] and, insofar as it relates to a federal
7 agency, in a contract with the federal agency.

8 * Sec. 20. AS 44.88.140 is amended to read:

9 Sec. 44.88.140. EXEMPTION FROM TAXATION. (a) The real and
10 personal property of the authority and its assets, income, and re-
11 ceipts are declared to be the property of a political subdivision of
12 the state and, together with any project or development project fi-
13 nanced under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, [THIS
14 CHAPTER] and a leasehold interest created in a project or development
15 project financed [APPLICANT OR OTHER PERSON] under AS 44.88.155 -
16 44.88.159 or 44.88.172 - 44.88.177 [THIS CHAPTER], devoted to an
17 essential public and governmental function and purpose, and the
18 property, assets, income, receipts, project, development project, and
19 leasehold interests shall be exempt from all taxes and special assess-
20 ments of the state or a political subdivision of the state, including,
21 without limitation, all boroughs, cities, municipalities, school
22 districts, public utility districts and other taxing units. All bonds
23 of the authority are declared to be issued by a political subdivision
24 of the state and for an essential public and governmental purpose and
25 to be a public instrumentality, and the bonds, and the interest on
26 them, the income from them and the transfer of the bonds, and all
27 assets, income and receipts pledged to pay or secure the payments
28 [PAYMENT] of the bonds, or interest on them, shall at all times be
29 exempt from taxation by or under the authority of the state, except

1 for inheritance and estate taxes and taxes on transfers by or in
2 contemplation of death. Nothing in this section affects or limits an
3 exemption from license fees, property taxes, or excise, income or any
4 other taxes, provided under any other law, nor does it create a tax
5 exemption with respect to the interest of any business enterprise or
6 other person, other than the authority, in any property, assets,
7 income, receipts, project, development project, or lease whether or
8 not financed under this chapter.

9 (b) The authority may enter into agreements with an applicant or
10 [A] proposed [PROJECT] applicant under this chapter [OR PROJECT APPLI-
11 CANT] providing for payments, computed on a formula basis or otherwise
12 [,] in lieu of taxes, which the authority may consider appropriate.
13 The agreement may provide that the payments be made to the political
14 subdivision of the state in which a project or development project is
15 or is to be located or to any other taxing unit of the state includ-
16 ing, without limitation, a borough, city, municipality, school dis-
17 trict or public utility district, the area of which is coterminous in
18 whole or in part with that of the political subdivision.

19 * Sec. 21. AS 44.88.155(a) is amended to read:

20 Sec. 44.88.155. ENTERPRISE DEVELOPMENT ACCOUNT [FUND]. (a) The
21 enterprise development account [FUND] is established in the revolving
22 fund [AUTHORITY]. The enterprise development account [FUND] is a
23 trust fund for the uses and purposes of this chapter [AS 44.88.010 -
24 44.88.220]. The enterprise development account [FUND] consists of
25 money or assets appropriated or transferred to the authority and other
26 money or assets deposited in it by the authority.

27 * Sec. 22. AS 44.88.155(b) is amended to read:

28 (b) The authority may establish in the enterprise development
29 account [FUND] a small enterprise loan account, a loan insurance

1 account, and other accounts it considers appropriate.

2 * Sec. 23. AS 44.88.155(c) is amended to read:

3 (c) Money and other assets of the enterprise development account
4 [FUND] may be used to secure bonds of the authority issued to finance
5 the purchase of loans for projects [,] and shall be held and invested
6 by the authority in the types of investments described in AS 37.10.-
7 070(a) and AS 39.35.110(a)(9) and (14) or shall be used to purchase
8 loans for projects [AS DEFINED IN AS 44.88.220].

9 * Sec. 24. AS 44.88.155(d) is amended to read:

10 (d) A loan purchased in whole or in part by the authority with
11 assets of the enterprise development account or with proceeds of bonds
12 secured by assets of the enterprise development account, other than a
13 loan which is financed with the proceeds of bonds of the authority and
14 secured only by a project applicant or a project,

15 (1) may not exceed

16 (A) \$10,000,000; or

17 (B) \$500,000 if the loan is purchased under AS 44.88.-

18 158;

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

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

26 (4) shall contain complete amortization provisions satis-
27 factory to the authority requiring periodic payments by the borrower;

28 (5) shall be in the form and contain the terms and pro-
29 visions with respect to insurance, repairs, alterations, payment of

1 taxes and assessments, default reserves, delinquency charges, default
2 remedies, acceleration of maturity, secondary liens, and other matters
3 the authority prescribes;

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

8 (7) may not be made unless

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

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

14 (8) must be

15 (A) at least partially guaranteed by the United States
16 or an agency or instrumentality of the United States, subject to
17 the provisions of AS 44.88.158; [OR]

18 (B) financed from the proceeds of bonds; or

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

21 * Sec. 25. AS 44.88.155(e) is amended to read:

22 (e) The authority may adopt regulations for the administration
23 of the enterprise development account including [FUND WHICH MAY IN-
24 CLUDE], without limitation, provisions for fees and agreements re-
25 lating to application, loan commitment, servicing, and origination of
26 loans by other lenders.

27 * Sec. 26. AS 44.88.155(f) is amended to read:

28 (f) The authority may enter into agreements as to the use of the
29 money in the enterprise development account [FUND], including without

1 limitation, trust or custody arrangements with banks or trust com-
2 panies. It may also pledge, assign, or grant the agreement, interests
3 under an agreement, or interests in the enterprise development account
4 [FUND] as may be necessary or appropriate to provide for payment and
5 security for bonds of the authority issued to finance the purchase by
6 the authority of loans for projects.

7 * Sec. 27. AS 44.88.155 is amended by adding a new subsection to read:

8 (h) The provisions of this section apply only with respect to
9 loans purchased or made by the authority for projects under AS 44.88.-
10 155 - 44.88.159.

11 * Sec. 28. AS 44.88.157(a) is amended to read:

12 (a) The loan insurance account is established in the revolving
13 fund. The purpose of the loan insurance account is to provide insur-
14 ance of mortgage loans and other loans made or purchased by the au-
15 thority under AS 44.88.155, or made by others and approved for insur-
16 ance by the authority, for a project. The authority may enter into
17 agreements as to the use of money in the loan insurance account and
18 may pledge, assign, or grant interests in the loan insurance account
19 as provided in this section. The authority may adopt regulations and
20 enter into agreements with respect to the exercise of any power or
21 approval relating to the loan insurance account under this section,
22 including, without limitation, agreements as to the use of money in
23 the loan insurance account, agreements with respect to the terms and
24 conditions upon which payments from the loan insurance account will be
25 made with respect to a loan insured under this section, agreements as
26 to separate subaccounts in the loan insurance account for different
27 categories of loans or as to loans made by the authority or any other
28 person, and agreements regarding the payment of and security for bonds
29 issued by the authority. An agreement, the rights of the authority

1 under an agreement, or payments received or to be received under an
2 agreement may be pledged or assigned by the authority for the benefit
3 of the holders of bonds issued by the authority.

4 * Sec. 29. AS 44.88.157(b) is amended to read:

5 (b) The authority may, upon application of a borrower or pro-
6 posed borrower, insure and make advance commitments to insure loan
7 repayments required under the terms of a loan made by it or by another
8 lender with respect to a project, upon the terms and conditions the
9 authority prescribes. To be eligible for insurance under this section
10 [AS 44.88.010 - 44.88.220], a loan for a project

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

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

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

19 (4) shall contain complete amortization provisions satis-
20 factory to the authority requiring periodic payments by the borrower;
21 and

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

27 * Sec. 30. AS 44.88.157(k) is amended to read:

28 (k) A loan may not be insured under this section [FROM A LOAN
29 INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOPMENT FUND] if the loan

1 is for a project the cost of which exceeds \$10,000,000.

2 * Sec. 31. AS 44.88.157(1) is amended to read:

3 (1) A loan in excess of \$1,000,000 may not be insured under this
4 section [FROM A LOAN INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOP-
5 MENT FUND] unless at least 20 percent of the principal amount of the
6 loan is retained by a federal or state chartered financial institution
7 or the Alaska Commercial Fishing and Agriculture Bank.

8 * Sec. 32. AS 44.88.158(a) is amended to read:

9 Sec. 44.88.158. SMALL BUSINESS ENTERPRISE LOAN ACCOUNT. (a) A
10 small business enterprise loan account is established in the revolving
11 [ENTERPRISE DEVELOPMENT] fund. The account may be composed of money
12 or assets appropriated or transferred to the authority, interest on
13 investments and loans of the small business enterprise loan account,
14 the unpledged income of the revolving [ENTERPRISE DEVELOPMENT] fund,
15 and other money or assets deposited in it by the authority.

16 * Sec. 33. AS 44.88.158(b) is amended to read:

17 (b) The authority may use money in the small business enterprise
18 loan account to purchase or participate in the purchase of loans to
19 small business enterprises and to purchase the guaranteed portion of a
20 loan made by a private financial institution after June 30, 1981, to a
21 small business enterprise to pay the cost of a project or exporting
22 transaction [, AS DEFINED IN AS 44.88.220], if the loan is guaranteed
23 by the United States or an agency or instrumentality of the United
24 States, including, but not limited to, the Small Business Adminis-
25 tration, the National Marine Fisheries Service, and the Farmers Home
26 Administration.

27 * Sec. 34. AS 44.88.159 is amended by adding a new subsection to read:

28 (d) The provisions of this section apply only to loans financed
29 under AS 44.88.155 - 44.88.159.

1 * Sec. 35. AS 44.88.172 is amended to read:

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

11 (b) If a development project is financed or developed through
12 use of the assets of the economic development account [FUND], the
13 authority may not pledge or use [OTHER] assets of the enterprise de-
14 velopment account established in AS 44.88.155 [AUTHORITY] to assist in
15 the financing, development, or operation of the development project.
16 However, whether or not the authority uses the economic development
17 account [FUND], it may issue bonds to finance a development project
18 and may secure the bonds with a mortgage, pledge, or assignment of the
19 development project or of revenues, money, or agreements attributable
20 to the development project or the bonds. Financing assistance pro-
21 vided with respect to a development project under this section shall,
22 to the maximum extent reasonable under the circumstances, be made in
23 the form of a loan to the project [AS PROVIDED IN SEC. 10 OF THIS
24 ACT].

25 * Sec. 36. AS 44.88.190 is amended by adding a new subsection to read:

26 (c) A loan purchased or financed by the authority in whole or in
27 part is exempt from the provisions of AS 45.45.010. A guarantee
28 extended under AS 44.88.300 or insurance provided under AS 44.88.390
29 does not constitute insurance for the purposes of AS 21.03.010.

1 * Sec. 37. AS 44.88.220(1) is amended to read:

2 (1) "authority" means the Alaska Industrial Development and
3 Export Authority created by AS 44.88.010 - 44.88.220;

4 * Sec. 38. AS 44.88.220 is amended by adding new paragraphs to read:

5 (13) "development project" means a plant or facility used or
6 intended for use in connection with making, processing, preparing, or
7 producing goods, products, or substances, or in connection with de-
8 veloping or utilizing a natural resource, or extracting, smelting,
9 transporting, converting, assembling, or producing minerals, raw
10 materials, chemicals, compounds, alloys, fibers, commodities and
11 materials, products, or substances;

12 (14) "revolving fund" means the Alaska Industrial Develop-
13 ment and Export Authority revolving fund created in AS 44.88.060.

14 * Sec. 39. AS 44.88 is amended by adding new sections to read:

15 ARTICLE 5. EXPORT ASSISTANCE.

16 Sec. 44.88.300. GUARANTEED FUNDING FOR EXPORT TRANSACTIONS. The
17 authority may provide guaranteed funding, through a participating
18 banking organization, for an export transaction that the authority
19 determines is eligible under AS 44.88.310.

20 Sec. 44.88.310. ELIGIBILITY OF EXPORT TRANSACTIONS. An export-
21 ing contract is a transaction eligible for guaranteed funding under
22 AS 44.88.300 - 44.88.390 if, in the judgment of the authority, it will
23 create or maintain employment in the state and it

24 (1) promotes the sale abroad of raw materials extracted in
25 the state, or goods whose final stage of production occurs in the
26 state, that constitutes 25 percent or more of the contract price;

27 (2) provides for the rendering of services abroad by a
28 business located in the state if 25 percent or more of the contract
29 price consists of wages or other payments made to persons normally

1 residing in the state;

2 (3) promotes the sale abroad of raw materials or goods
3 distributed by a business located in the state if

4 (A) 25 percent or more of the contract price consists
5 of wages or other payments made to persons or businesses normally
6 residing or located in the state; or

7 (B) the business has a significant relationship with
8 the state based upon

9 (i) the amount of capital investments it has that
10 are located in the state;

11 (ii) the number of state residents employed by the
12 business;

13 (iii) the amount of business transacted in the
14 state; or

15 (iv) a combination of (i) - (iii); or

16 (4) provides both for the sale abroad of raw materials
17 extracted in the state or goods whose final stage of production occurs
18 in the state, and for the rendering of services abroad by state resi-
19 dents, the aggregate value of which is 25 percent or more of the
20 contract price.

21 Sec. 44.88.320. LIMITATIONS ON GUARANTEES. (a) The authority
22 may not guarantee more than 90 percent of a loan under AS 44.88.300.

23 (b) The authority may not guarantee a loan under AS 44.88.300
24 unless the authority finds that the guarantee is reasonably necessary
25 to stimulate or facilitate the making of a loan for an eligible ex-
26 porting transaction.

27 Sec. 44.88.330. CREDIT OF EXPORTER. Before the authority may
28 guarantee a loan under AS 44.88.300, the participating financial
29 institution shall investigate the credit or sources of credit

1 available to the exporter to determine the economic benefits to be
2 derived from the guarantee, the prospects of repayment, and other
3 factors necessary to determine that the guaranteed funding is consis-
4 tent with the purposes of AS 44.88.300 - 44.88.390.

5 Sec. 44.88.340. CONFIDENTIALITY OF INFORMATION. Information
6 submitted to or compiled by the authority regarding the identity,
7 background, finances, marketing plans, trade secrets, or other commer-
8 cially sensitive affairs of the exporter is confidential, unless the
9 exporter consents to its disclosure.

10 Sec. 44.88.350. FEES CHARGED. The authority shall, by regula-
11 tion, establish fees to be charged to a participating financial insti-
12 tution for providing a guarantee under AS 44.88.300. The fees must be
13 sufficient to cover the costs of administering the guarantee program
14 under AS 44.88.300 - 44.88.390 and any premium the authority pays for
15 insuring its risks.

16 Sec. 44.88.360. EFFECT OF GUARANTEE. (a) A guarantee under
17 AS 44.88.300 shall guarantee against political or commercial loss, in
18 whole or in part, of principal and interest on an eligible export
19 transaction. The guarantee may include, without limitation, insurance
20 against loss up to a stated amount. A guarantee under AS 44.88.300
21 may not be terminated, canceled, or revoked, except under its terms.
22 A guarantee held by a participating financial institution is presumed
23 to be valid.

24 (b) In this section, "political loss" means a loss incurred as a
25 result of a political risk insured under an export credit insurance
26 umbrella policy, or a comparable policy or agreement, issued by the
27 Export-Import Bank of the United States.

28 Sec. 44.88.370. GUARANTEE NOT A GENERAL OBLIGATION OF THE STATE.
29 A guarantee under AS 44.88.300 is not a general obligation of the

1 state.

2 Sec. 44.88.380. PERSONAL LIABILITY. An officer, employee, or
3 agent of the authority may not be held personally liable in a civil
4 action for damages for an act done or omitted in good faith while
5 performing the functions of office, employment, or agency under this
6 chapter.

7 Sec. 44.88.390. EXPORT INSURANCE ACCOUNT. (a) The export
8 insurance account is established in the revolving fund. The account
9 consists of money appropriated to it by the legislature and other
10 money and assets, including bond proceeds, deposited in it by the
11 authority. The account shall be held as security for the holders of
12 bonds issued by the authority for the purposes of AS 44.88.300 -
13 44.88.390. The authority may enter into trust agreements with respect
14 to the use of money in the account, including the use of that money to
15 discharge a guarantee obligation of the authority. The trust agree-
16 ments may contain provisions and limitations concerning the investment
17 and disbursement of money in the account, the payment of expenses of
18 the account, the appointment, resignation and discharge of trustees,
19 the delegation of enforcement and collection powers under the insur-
20 ance agreements to the trustee, the duties of the trustees, amendments
21 of the trust agreements, and other lawful provisions and limitations
22 the authority considers appropriate. The trust agreements may pledge
23 premiums and other money that may be deposited in the account. The
24 pledge shall be valid and binding from the time the pledge is made.
25 The premiums and other money pledged and thereafter received by the
26 account, or by the trustees in its behalf, shall immediately be sub-
27 ject to the lien of the pledge. The pledge shall be valid and binding
28 against parties having claims against the account, irrespective of
29 whether the parties have notice of the pledge.

1 (b) The authority may use proceeds of bonds issued for the
2 purposes of AS 44.88.300 - 44.88.390 to purchase insurance, which may
3 be pledged for the security of the holders of the bonds. If insurance
4 is pledged as security, whether obtained through the export insurance
5 account or purchased with bond proceeds, a description of the insur-
6 ance shall expressly indicate the limitation of the liability of the
7 authority and that neither the credit nor the taxing power of the
8 state or a political subdivision of the state is available to satisfy
9 obligations with respect to the insurance.

10 * Sec. 40. To be consistent with the change made by this Act, wherever
11 in the Alaska Statutes and in regulations adopted under those statutes
12 "Alaska Industrial Development Authority" is used, it shall be read as
13 referring to the Alaska Industrial Development and Export Authority. Under
14 AS 01.05.031 the revisor of statutes shall implement this section in the
15 statutes, and, under AS 44.62.125(b)(6), the regulations attorney shall
16 implement this section in the administrative regulations.

17 * Sec. 41. AS 44.88.156, 44.88.158(c), ^{Sec. 10} and sec. 11, ch. 162, SLA 1984,
18 are repealed.

19 * Sec. 42. This Act takes effect immediately under AS 01.10.070(c).

1 IN THE SENATE

BY KELLY, KERTTULA
FAIKS AND STURGULEWSKI

2

SENATE BILL NO. 64

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to export enterprises under the

7

Alaska Industrial Development Authority."

8

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

9

* Section 1. AS 44.88.010 is amended to read:

10

Sec. 44.88.010. LEGISLATIVE FINDING AND POLICY. (a) The legis-

11

lature finds, determines and declares that

12

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

13

nonseasonal unemployment exist;

14

(2) this unemployment is a serious menace to the health,

15

safety and general welfare, not only to the people in those areas, but

16

also to the people of the entire state;

17

(3) the state lacks the basic manufacturing, industrial,

18

export, and business enterprises and the other facilities referred to

19

in (5) of this subsection necessary to permit adequate development of

20

its natural resources and the balanced growth of its economy;

21

(4) the establishment and expansion of industrial, manu-

22

facturing, export, and business enterprises in Alaska and the other

23

facilities referred to in (5) of this subsection are essential to the

24

development of the natural resources and the long-term economic growth

25

of the state, and will directly and indirectly alleviate unemployment

26

in the state;

27

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

28

establishment and continuing operation and development of industrial,

29

manufacturing, export, and business enterprises in the state,

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

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

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

27 (b) It is declared to be the policy of the state, in the inter-
28 ests of promoting the health, security and general welfare of all the
29 people of the state, and a public purpose, to increase job

1 opportunities and otherwise to encourage the economic growth of the
2 state, including the development of its natural resources, through the
3 establishment and expansion of manufacturing, industrial, export, and
4 business enterprises and the other facilities referred to in (a)(5) of
5 this section by creating the public corporation with power, duties and
6 functions as provided in AS 44.88.010 - 44.88.220.

7 * Sec. 2. AS 44.88.070 is amended to read:

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

16 * Sec. 3. AS 44.88.080(7) is amended to read:

17 (7) to issue bonds, debentures, notes, or other evidence of
18 indebtedness, in accordance with AS 44.88.090 or as otherwise provided
19 in this chapter, to pay the cost of a project and to secure payment of
20 the bonds as provided in this chapter, and to borrow money and other-
21 wise incur indebtedness for the purposes of the authority;

22 * Sec. 4. AS 44.88.080(12) is amended to read:

23 (12) to purchase or insure loans to finance the costs of
24 manufacturing, industrial, export, and business enterprises, and to
25 procure insurance for export enterprises to

26 (A) guarantee, insure, coinsure, and reinsure against
27 political and credit risk of loss;

28 (B) secure the payment of principal and interest on
29 bonds, notes, or other obligations of the authority [ENTERPRISE

1 PROJECTS];

2 * Sec. 5. AS 44.88.080 is amended by adding new paragraphs to read:

3 (20) with regard to export enterprises, purchase, discount,
4 sell, negotiate with or without guaranty, notes or other evidence of
5 indebtedness, and with regard to export enterprises, to sell and
6 guarantee securities;

7 (21) provide financial counseling services to businesses in
8 the state that are interested in developing or expanding export enter-
9 prises.

10 * Sec. 6. AS 44.88 is amended by adding a new section to read:

11 Sec. 44.88.153. GUARANTEED FUNDING FOR ALASKA EXPORTS. (a) The
12 authority may provide guaranteed funding for an eligible export trans-
13 action through a participating banking organization. An eligible
14 export transaction consists of a loan to a participating banking
15 organization located in the state to finance an international preex-
16 port or export from the state. To be eligible for guaranteed funding
17 under this section, the export or preexport must, in the judgment of
18 the authority, create or maintain employment in the state and derive
19 some of its value from manufacturing, processing, or extraction in the
20 state. Guaranteed funding may include a pool of individual export
21 transactions, each of which in the judgment of the authority meets
22 these conditions.

23 (b) Guaranteed funding consists of a guarantee against political
24 or commercial loss, in whole or in part, of principal and interest on
25 an eligible export transaction. A guarantee may include, without
26 limitation, insurance against loss up to a stated amount. The maximum
27 amount payable under a guarantee shall be specifically set out in a
28 writing executed by the chair and vice-chair of the authority at the
29 time the guarantee is entered into by the authority. A guarantee does

1 not constitute a general obligation of the state, and may not be
2 terminated, cancelled, or otherwise revoked except in accordance with
3 its terms. A guarantee made by the authority is valid and incontest-
4 able in the hands of a holder in due course of a guaranteed eligible
5 export transaction.

6 (c) A participating banking organization is a banking institu-
7 tion operating under AS 06, an agency or branch of a foreign banking
8 corporation licensed by the state, a national bank, federal savings
9 and loan association, or federal credit union located in the state,
10 that has been approved by the members of the authority to participate
11 in guaranteed funding for an eligible export transaction.

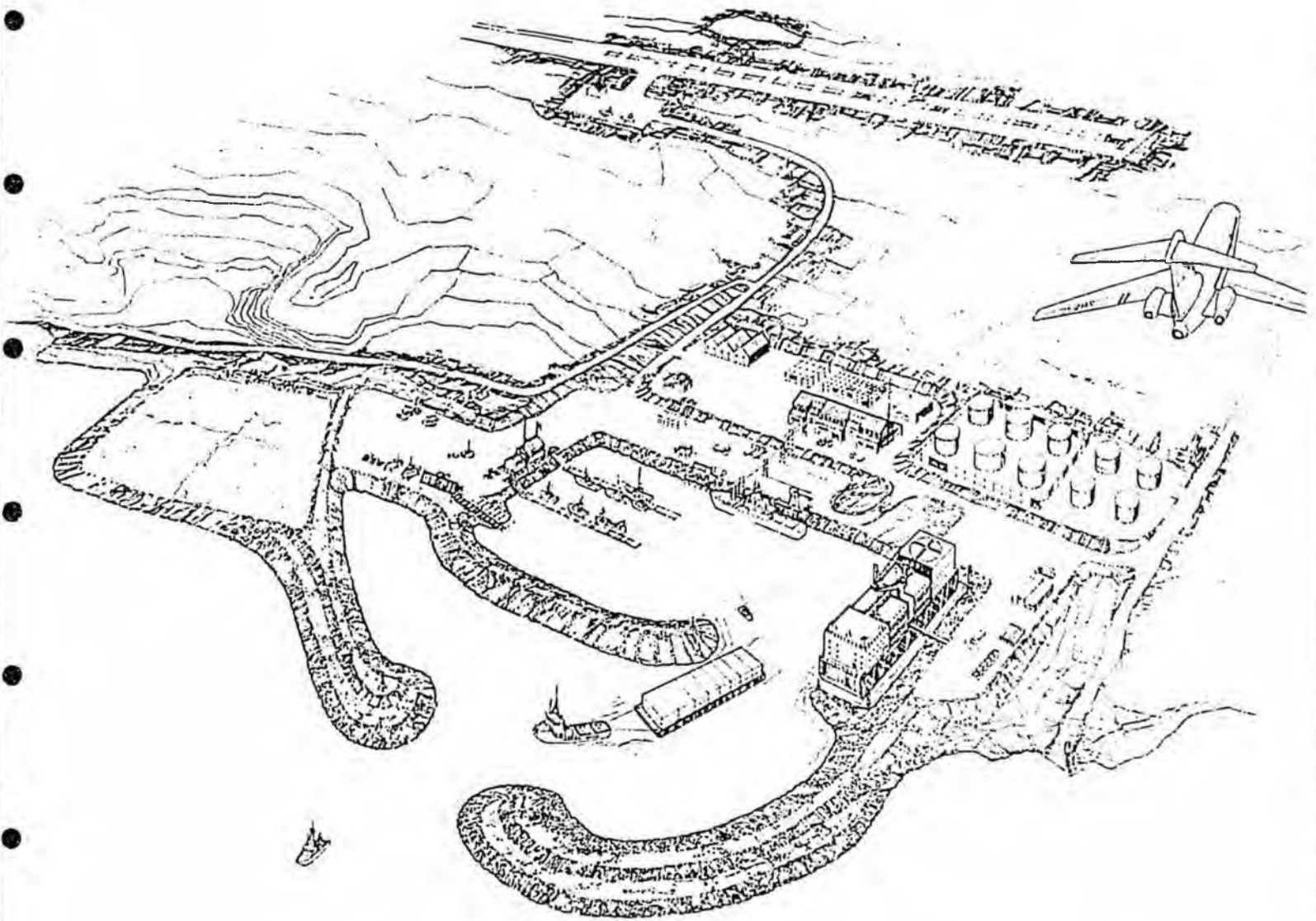
12 (d) The authority may charge reasonable fees for providing
13 guaranteed funding under this section to a participating banking
14 organization.

15 (e) Before providing guaranteed funding under this section, a
16 participating banking organization shall investigate a line of credit
17 to the exporter in order to determine the economic benefits to be
18 derived, the prospects for repayment, and other facts needed to deter-
19 mine that the guaranteed funding is consistent with the purposes of
20 this chapter. The authority shall provide guaranteed funding only if,
21 and to the extent that, (1) the funding is reasonably necessary to
22 stimulate or facilitate the making of the eligible export transaction
23 on terms that will enable the transaction to be reasonably competitive
24 with transactions in other states or in foreign countries; or (2) the
25 funding is reasonably necessary to stimulate or facilitate the resale
26 of the eligible export transaction to a holder in due course who would
27 not otherwise purchase the eligible export transaction. The authority
28 may condition guaranteed funding on other terms and conditions desir-
29 able to carry out the purposes of this chapter.

1 * Sec. 7. AS 44.88.220 is amended by adding a new paragraph to read:

2 (13) "export enterprise" means an enterprise involving the
3 export of processed goods, natural resources, or services from the
4 state to foreign purchasers, or the assembly, warehousing, or dis-
5 tribution of export goods.

PORT OF SAINT GEORGE



PRELIMINARY ENGINEERING REPORT

PREPARED FOR: CITY OF SAINT GEORGE
PREPARED BY: PERATROVICH, NOTTINGHAM
& DRAGE, INC.



Peratrovich, Nottingham & Drage, Inc.

Engineering Consultants

Telex 090 26436
Telefax (907) 563-4220

1506 West 36th Avenue • Suite 101 • Anchorage, Alaska 99503 • 907-561-1011

March 2, 1987

PN&D 86020rw

Mr. Richard G. Wilson
City of St. George
1689 "C" Street
Anchorage, Alaska 99501

Re: Port of St. George Preliminary Engineering Report

Dear Mr. Wilson:

Attached is our preliminary engineering report for the remaining earthwork and proposed uplands development. Project descriptions, cost estimates and design sketches are provided based on known information. Changes to the proposed development are likely and will require modifications to our report.

Sincerely,

PERATROVICH, NOTTINGHAM & DRAGE, INC.

Alan Christopherson, P.E.
Senior Engineer

ABC/jk/L9

Enclosures

TABLE 1
PORT OF ST. GEORGE
PART I ENGINEERING COST ESTIMATE FOR REMAINING
HARBOR CONSTRUCTION
FOR COMPLETION JANUARY, 1988

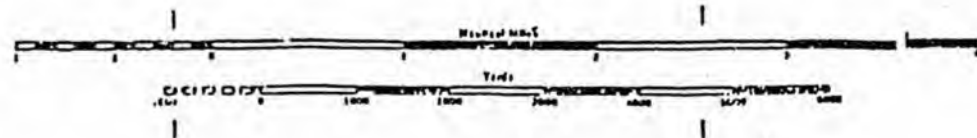
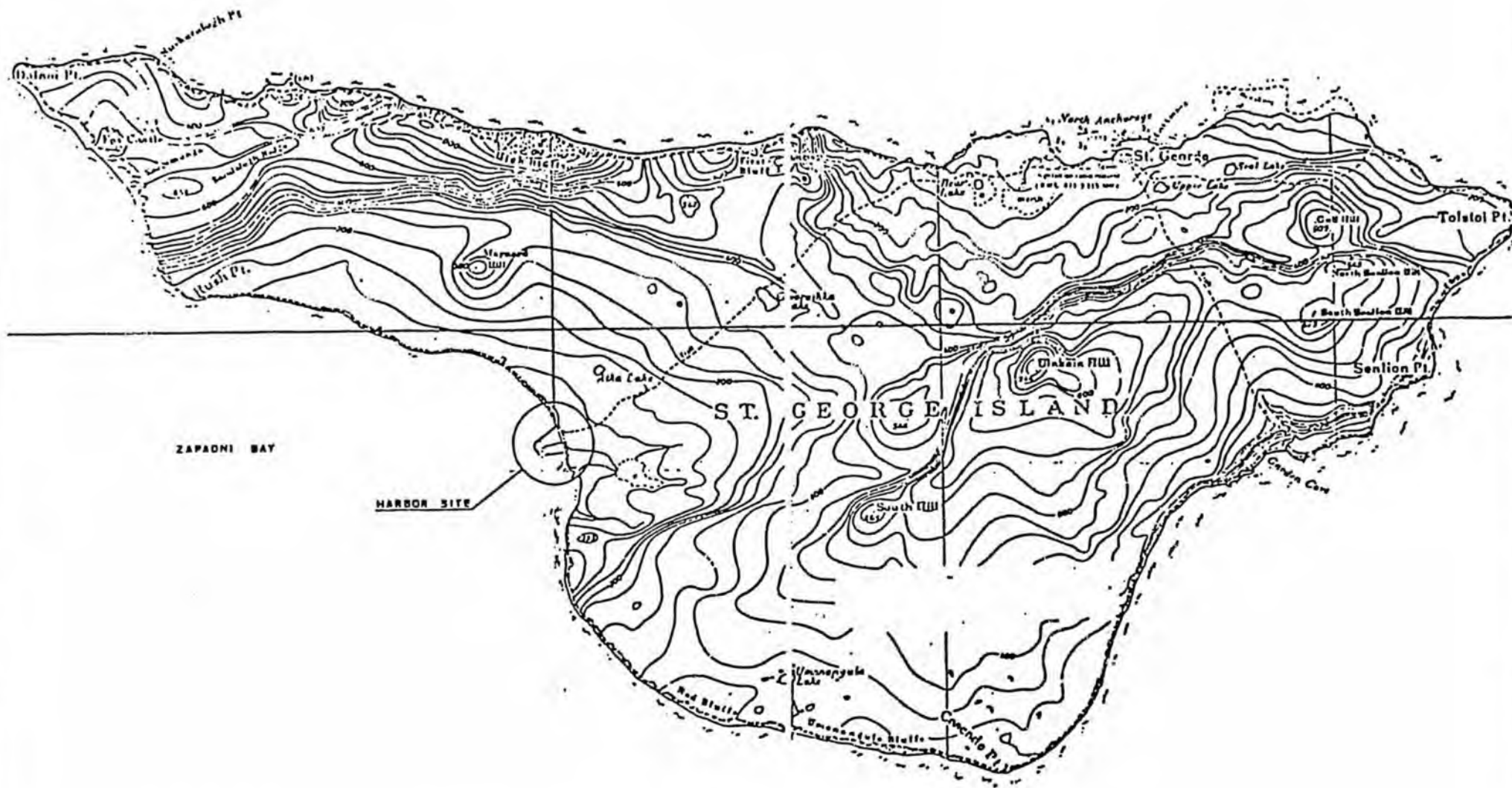
PART I: Remaining Harbor Construction

A.	Breakwater Arms	\$4,500,000
-	North Breakwater	
-	South Breakwater	
-	Inner Breakwater	
B.	Upland Site Preparation	No Cost
-	6 Acres Usable	
-	Expansion to be Determined	
C.	Basin Dredging	1,400,000
-	2 Acres at -8 ft. (MLLW)	
-	2 Acres at -12 ft. (MLLW)	
-	4 Acres at -20 ft. (MLLW)	
D.	Entrance Channel Dredging (-20 ft. MLLW)	1,600,000
	SUBTOTAL PART I	\$7,500,000

TABLE 2
 PORT OF ST. GEORGE
 PART II ENGINEERING COST ESTIMATE
 FOR COMPLETION JANUARY, 1988

PART II: Port Development	<u>GRANT</u>	<u>BACKED BY MUNICIPALITY/STATE</u>	<u>BACKED BY PRIVATE SECTOR</u>
1. Industrial docks	\$ 900,000		
2. Small craft haulout		75,000	
3. Fish processor berth			1,300,000
4. Fish dock			400,000
5. Bulk fuel storage and distribution			1,750,000
6. Fresh water supply and distribution		650,000	
7. Sanitary/fish waste collection and outfall	225,000	125,000	
8. Electrical power generation and distribution		100,000*	
9. Small craft floats and transient berthing		255,000	
10. Harbor master building		150,000	
11. Waste disposal (solid, petroleum and hazard)		75,000	
12. Salt water supply			70,000
13. Area lighting		100,000	
SUBTOTAL	<u>\$1,125,000</u>	<u>\$1,530,000</u>	<u>\$3,520,000</u>
		SUBTOTAL PART II	\$6,175,000
		TOTAL TO BE FINANCED	= \$5,050,000

* Possible private backing



ST GEORGE ISLAND
Harbor Location

Preliminary Engineering Report for Port of St. George
by: Peratrovich, Nottingham & Drage, Inc.

PROJECT DESCRIPTION

The Port of St. George is currently under construction to become a world class fishing port within the Central Bering Sea. The 8-acre inner harbor will be supported with a -20 ft. (MLLW) entrance channel and initially by 6 acres of prepared upland sites with virtually unlimited growth potential nearby. Also currently under construction are an industrial dock and fuel dock as a start in developing the port infrastructure.

This engineering report describes the general progress to date and projects forthcoming activities that will establish the Port of St. George as a fully supported and functional Bering Sea marine facility.

For clarity in description of the components comprising harbor and port development, the entire project is divided into two parts:

Part I: Harbor Construction

This part consists of constructing the required earthwork components as defined on Figure 1. A summary of costs for each component will follow in table 1.

Part II: Port Development

This part generally consists of constructing the required infrastructure for cargo handling, fish processing, boat moorage and support services as defined on Figure 2.

Each major component will be described with respect to its functional purpose, general configuration, construction status and estimated time of completion. A summary of costs for each component will follow in Table 2.

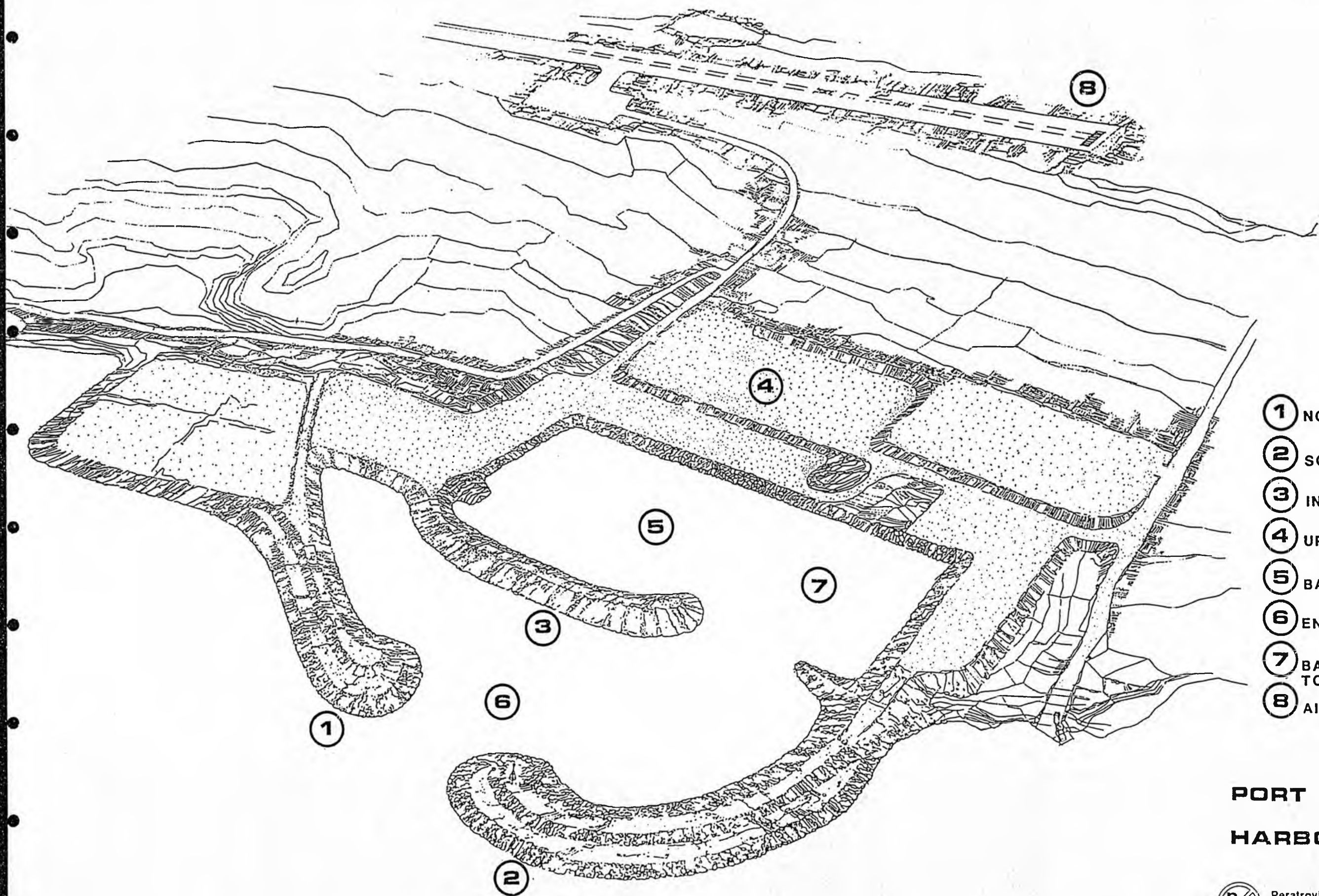
PART I: Harbor Construction

- A. The North, South and Inner Breakwater Arms provide protection from the Bering Sea wave environment for the entrance channel and the Inner Harbor. In addition, the configuration of the breakwater arms will control sediment transport to minimize the need for maintenance dredging.

Each of these primary structures are presently under construction. The North and Inner Breakwater arms will be substantially completed and then followed by substantial completion of the South Breakwater arm. These structures are constructed of core material obtained from the upland site area and are protected with armor rock obtained from quarries located on St. George Island. The breakwater arms are configured with a 55 foot wide armor berm constructed on the seaward face. The berm has an armor rock gradation that provides a relatively high porosity in the berm that allows waves to propagate into the armor stones and dissipate their energy over a large area. This design precludes the need for much larger armor rock which would be prohibitively expensive on St. George Island.

Substantial completion of the breakwater arms is expected by the Fall of 1987.

- B. The uplands surrounding the Inner Harbor are substantially complete as shown on Figure 1. A 100 foot wide band of uplands surrounds the north and east sides of the basin at an elevation of +12 feet, which provides immediate harbor frontage for transportation of cargo, goods



- ① NORTH BREAKWATER ARM
- ② SOUTH BREAKWATER ARM
- ③ INNER BREAKWATER ARM
- ④ UPLAND SITE PREPARATION
- ⑤ BASIN EXCAVATION
- ⑥ ENTRANCE CHANNEL DREDGING
- ⑦ BASIN & BERTH EXCAVATION TO -20 FT (MLLW)
- ⑧ AIRPORT CONSTRUCTION

**PORT OF SAINT GEORGE
PART I:
HARBOR CONSTRUCTION**

and people on and off shore. Upland terraces of approximately 6 acres are substantially complete and will provide pads for development of fish processing facilities, support services and storage. The uplands can be expanded as demand requires to as many as several hundred acres.

C. The Inner Harbor is being constructed by excavating materials to create these zones:

1. 2 acres of small boat moorage area at a depth of -8 ft. (MLLW).
2. 2 acres for transient moorage and berthing at a depth of -12 ft. (MLLW).
3. 4 acres for large vessel maneuvering and berthing to a depth of -20 ft. (MLLW).

The north zone in the harbor is substantially complete to the -8 ft. depth. The middle zone (-12 ft.) is over 50% complete. Construction on the south end of the harbor is under way.

There is considerable flexibility in scheduling the excavation of the inner harbor because there are few weather constraints. Completion of this component will be concurrent with or follow substantial completion of the breakwater arms. It is expected that the inner harbor will be usable to shallow depths by the Fall of 1987 and completed to -20 (MLLW) during the winter of 1987-88.

D. A 280 foot wide entrance channel will be dredged from the breakwater arms to the inner harbor. Existing water depth at the breakwater entrance is -20 ft. and then the seabed tapers to sea level at the inner harbor. Dredging of sands and weathered bedrock will be required. A channel for small craft is expected to be completed by Summer of 1987 and substantial completion by the Winter of 1988.

PART II: Port Development

1. Industrial Docks (EDA/State of Alaska Funding)

Industrial docks are planned to allow local and commercial fishing boats and private carriers to transfer cargo and fish. Construction is scheduled to begin in April, 1987 with completion by October, 1987. Funding is provided by a \$600,000 EDA grant matched by \$300,000 in State and local funds.

Two docks are planned rather than one to allow berthing of several boats, thus providing better flexibility to port users. The planned docks are 40'w x 40'l and 40'w x 60'l. Mooring dolphins will allow berthing for the wide range of expected Bering Sea fishing boats and fish processors. Fuel, water, electrical, sanitary and fish waste service is planned at each dock.

2. Small Craft Haulout

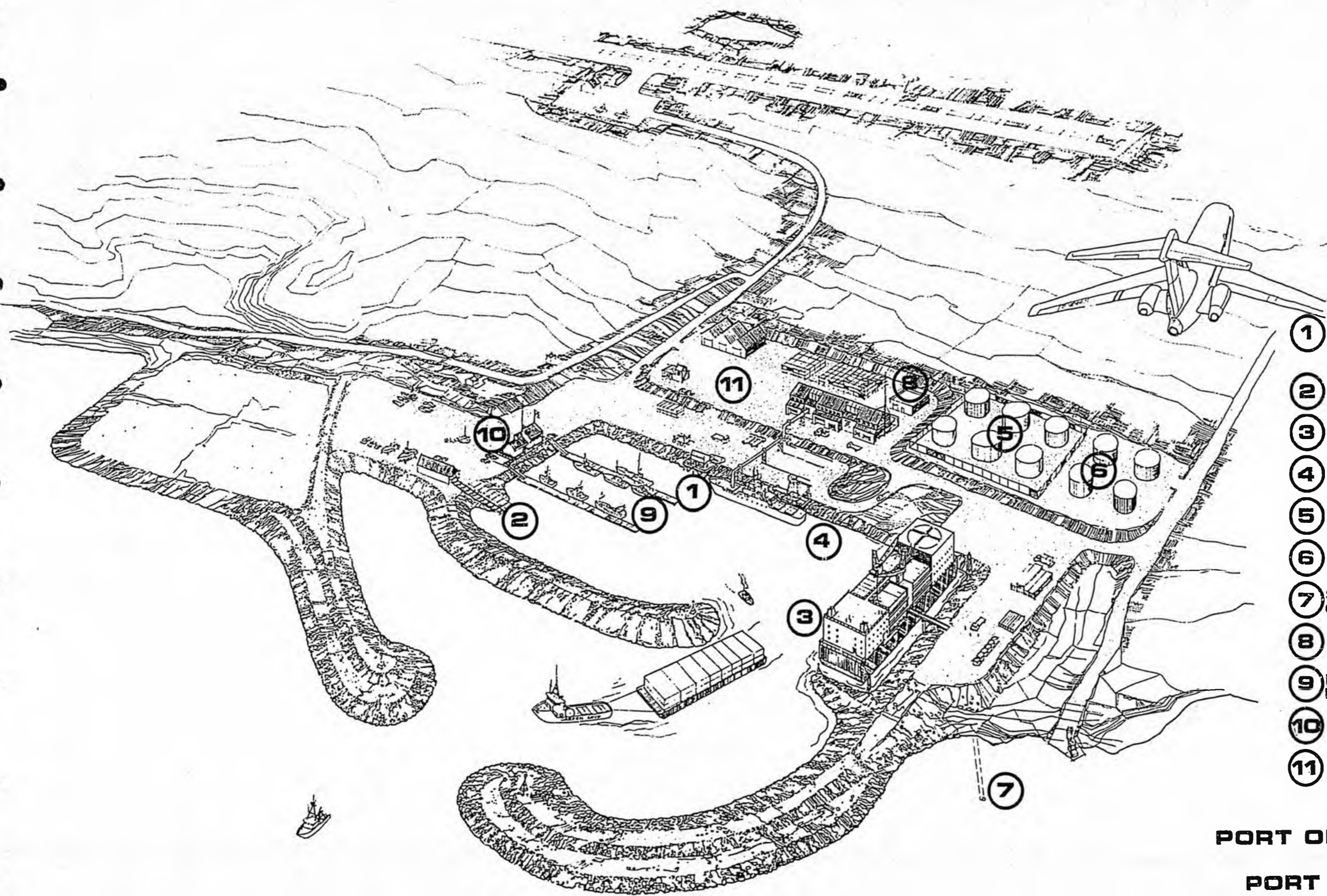
The concrete ramp haulout is complete. It was funded by EDA and was designed for boats on trailers. However, removal of larger boats will require a trolley and winch system to be installed on the ramp.

The estimated cost for a trolley and winch for boats to 120 ft. is \$75,000.

3. Fish Processor Berth (Private Funding)

Additional port expansion is planned to accommodate a 100 ft. x 400 ft. fish processing barge with mooring dolphins and access ramps to support operation of a barge berthed for 6-8 months.

The estimated cost to expand the deep water basin is \$1,000,000. Support facilities such as water and sewer hookup, mooring dolphins, etc., are estimated to cost \$300,000. The total is \$1,300,000.



- ① DOCKS (EDA)
INDUSTRIAL
FUEL
- ② SMALL CRAFT HAULOUT
(EDA)
- ③ FISH PROCESSOR BERTH
- ④ FISH DOCK
- ⑤ BULK FUEL STORAGE
- ⑥ FRESH WATER SUPPLY &
DISTRIBUTION
- ⑦ SANITARY/FISH WASTE
COLLECTION & OUTFALL
- ⑧ ELECTRICAL POWER &
DISTRIBUTION
- ⑨ FLOATS & TRANSIENT
BERTHING
- ⑩ HARBOR MASTER BUILDING
- ⑪ PRIVATE UPLAND
DEVELOPMENT

**PORT OF SAINT GEORGE
PART II:
PORT DEVELOPMENT**


 Peratovich, Nottingham & Drage, Inc.
Engineering Consultants

FIGURE 2

4. Fish Dock (Private Funding)

Construction of a 40'w x 40'l fish dock is scheduled for use by Bering Sea processor and catcher vessels. Planned utility services to the dock include fuel, solid waste, water, sanitary and fish waste service, and electrical hook-up.

The estimated construction cost is \$400,000.

5. Bulk Fuel Storage and Distribution

Availability of fuel close to fishing grounds is a major concern of the Bering Sea fishing industry. As much of the resource is caught very close to St. George there is a demand for service. Economists for the City have conducted studies which indicate the feasibility of a tank farm at the Port of St. George to support Bering Sea and local fleets. Revenues generated from fuel sales are needed for operation, maintenance and future expansion of the port.

The proposed development during Part II includes 1,000,000 gallon storage, approximately 2000 lf of fuel distribution lines between the docks and tanks, with associated pumps, valves and meters. Storage is planned behind the port. Additional storage may be added as demand warrants.

Site preparation will include construction of containment berms for ten 100,000 gallon tanks or a similiar combination of tanks. Foundations will be constructed with surplus harbor excavation material. Fuel distribution will be controlled from a central location with pumps and valves.

The facility will be permitted in accordance with State and federal requirements. Spill prevention, containment plans, and training of local personnel will be included.

The estimated construction cost is \$1,750,000. Construction is estimated to take 4-6 months.

6. Fresh Water Supply and Distribution

Two fresh water wells installed near the port in 1982 and 1985 produced excellent quality water. One well has supplied fresh water to the port construction camp for over two years.

Fresh water requirements for the port include fish processing, fire protection and domestic consumption. Planned development includes the drilling of five additional wells to supply projected flow volumes, a well house for valves, pumps, electrical switch gear, meters and water treatment equipment, a 4,000 lf insulated and heat-trace main to the port, 1,500 lf of distribution piping to commercial properties and 200,000 gallon storage tank.

The estimated construction cost is \$650,000. Construction is estimated to take six months and completion is planned to coincide with the port.

7. Sanitary and Fish Waste Collection and Outfall

Sanitary and fish waste disposal is critical to preserve water quality in the port and to dispose of the fish waste from floating processors. A proposed outfall corridor near the south breakwater has been surveyed under water and in discussions with the agency is believed to meet their requirements. An application to discharge has been made.

The planned outfall is a 8" dia. heavy-wall steel pipe and would be anchored to bedrock. Collector lines around the port would be constructed with polyethylene pipe.

The estimated construction cost, including one main collector line to the docks is \$350,000.

8. Electrical Power and Distribution

Initial onshore power needs upon completion of the port are expected to be low during initial development and a small generator is presently serving port consumers. Primary electric power will be purchased from one or more floating fish processors and distributed through powerlines installed for initial consumers near the port. Expansion of the initial distribution will occur later as needed.

Portable generators can be used in addition to the distribution network where cost effective. Onshore generation is planned when demand warrants.

The estimated construction cost to hookup to the processors and provide power along the harbor basin is \$100,000.

9. Small Craft Floats and Transient Berthing

Floating concrete floats are proposed for local and transient boat moorage. The proposed plan includes 400' of floats at the north end of the dredge basin. Floats would be anchored with steel pile installed in the harbor basin.

The construction estimate to fabricate and ship 400' of floats to St. George is \$165,000. Pile anchors and installation is estimated to cost \$90,000. The total cost is estimated at \$255,000. Construction is estimated to take 2-3 months with installation planned for the summer of 1987.

10. Harbor Master Building

Administration and enforcement of regulations will be centered in the harbormaster's building. The proposed building would include shower and toilet facilities for fishermen and other users and dry storage for gear and

oil spill equipment. Its planned location is along the north side of the inner basin.

The estimated cost for this facility is \$150,000 and it is scheduled for construction in 1988.

11. Waste Disposal (Solid, Petroleum & Hazardous)

Waste disposal is an important community issue. Proper disposal practices and sites are sought for solid, petroleum and hazardous by-products of the harbor.

Disposal of solid waste is planned at the City solid waste facility near the center of the island. Solid waste containers will be installed at the Port for collection. Transportation of solid waste to the disposal site will be provided for fee.

Waste petroleum products will be stored in tanks for later disposal by approved controlled burning. Surplus tankage is available on the island. Storage of waste products will be maintained in accordance with all regulatory requirements.

Hazardous waste will be disposed of at a site to be determined, probably off-Island.

All waste plans will be submitted to the appropriate agencies for approval. Proper procedures for handling waste will be developed and training will be provided to operations personnel.

The estimated cost to establish waste control sites is \$75,000. User fees will be assessed to provide funds for proper waste control.

12. Salt Water Supply

Salt water is useful for some types of fish processing and has the advantage of reducing the demand for fresh water. Since pumping from the harbor is not feasible, two wells near the harbor are planned. Distribution piping will be provided by users.

The estimated cost for drilling and casing a well and installing pumps and electrical service is \$70,000 using drilling equipment planned for dock construction.

13. Area Lighting

Installation of several area lights is planned near the docks to allow safe operation at night along the docks. Power will be provided by processors or temporary generators.

Area lighting excluding electric generation for both docks is estimated to cost \$100,000.



Alaska State Legislature

SENATE

Special Committee on International Trade

P.O. Box V
State Capitol
Juneau, Alaska 99811

Hearing on CSSB64 (I.T.)

Senate Finance Committee

9:00 a.m. Thursday, March 26, 1987

Contents of Packet

1. Copy of CSSB⁶⁴6 (I.T.)
2. Sectional Analysis- includes brief summary of the changes to the Labor and Commerce version by the International Trade Committee
3. Bill History
4. Fiscal Note
5. 2 Reports on Export Financing and International Trade
6. Copy of affected statutes
7. Copy of Ch. 162, SLA 1984
8. Copy of CSSB64 (L&C)

Original sponsors: Kelly, Kerttula,
Faiks, et al.

1 IN THE SENATE

BY THE SENATE SPECIAL COMMITTEE
ON INTERNATIONAL TRADE

2

CS FOR SENATE BILL NO. 64 (I.T)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

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

7

and Export Authority; and providing for an effective

8

date."

9

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

10

* Section 1. AS 44.88.010 is amended to read:

11

Sec. 44.88.010. LEGISLATIVE FINDING AND POLICY. (a) The legis-

12

lature finds, determines, and declares that

13

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

14

nonseasonal unemployment exist;

15

(2) this unemployment is a serious menace to the health,

16

safety, and general welfare, not only to the people in those areas,

17

but also to the people of the entire state;

18

(3) the state lacks the basic manufacturing, industrial,

19

export, small business, and business enterprises and the other facili-

20

ties referred to in [(5) OF] this subsection necessary to permit

21

adequate development of its natural resources and the balanced growth

22

of its economy;

23

(4) the establishment and expansion of industrial, manu-

24

facturing, export, small business, and business enterprises in Alaska

25

and the other facilities referred to in [(5) OF] this subsection are

26

essential to the development of the natural resources and the long-

27

term economic growth of the state, and will directly and indirectly

28

alleviate unemployment in the state;

29

(5) the expansion of export trade is vital to the health

1 and growth of the state's economy;

2 (6) many Alaska businesses could benefit from additional
3 financial and technical assistance with respect to the exportation of
4 their products and services;

5 (7) the United States Export-Import Bank has been mandated
6 by the Export-Import Bank Act Amendments of 1983 to provide technical
7 assistance and export financing support to small businesses in coop-
8 eration with state export finance agencies;

9 (8) Alaska-based exporters can be effectively assisted
10 through the establishment, as part of the Alaska Industrial Develop-
11 ment Authority, of an export financing program designed to work with
12 the U.S. Export-Import Bank and other federal, state, and private
13 institutions;

14 (9) the achievement of the goal of full employment, and of
15 establishment and continuing operation and development of industrial,
16 manufacturing, export, small business, and business enterprises in the
17 state, including, without limitation, facilities for transportation,
18 facilities for pollution control and waste disposal, facilities for
19 the local furnishing of gas, facilities for water, facilities for
20 industrial parks, mass commuting vehicles, facilities for local dis-
21 trict heating or cooling, parking facilities, or a storage or training
22 facility relating to a plant or facility, will be accelerated and
23 facilitated by the creation of an instrumentality of the state with
24 powers to incur debt, to own and operate facilities, to make and
25 insure loans to finance, and to assist private lenders to make loans
26 to finance, the establishment, operation, and development of indus-
27 trial, manufacturing, export, small business, and business enter-
28 prises, including, without limitation, facilities for transportation,
29 facilities for pollution control and waste disposal, facilities for

1 the local furnishing of gas, facilities for water, facilities for
2 industrial parks, mass commuting vehicles, facilities for local dis-
3 trict heating or cooling, parking facilities, or a storage or training
4 facility relating to a plant or facility;

5 (10) [(6)] it is in the public interest to promote the
6 prosperity and general welfare of all citizens of the state by

7 (A) stimulating commercial and industrial growth and
8 expansion by encouraging an increase of private investment by
9 banks, investment houses, insurance companies, and other finan-
10 cial institutions, including pension and retirement funds, to
11 help satisfy the need for economic expansion;

12 (B) encouraging the production of raw materials and
13 goods for export, the expansion of exports of raw materials and
14 goods, and the rendering of services abroad by residents of the
15 state through the establishment of a program that provides finan-
16 cial assistance in cooperation with federal, state, and private
17 institutions for these purposes in the form provided in this
18 chapter;

19 (C) creating the Alaska Industrial Development and
20 Export Authority with the powers necessary to accomplish the
21 objectives stated in this paragraph, including the power to issue
22 taxable and tax-exempt bonds and to acquire ownership interests
23 in projects as provided in this chapter;

24 (11) [(7)] it is in the state's interest to import private
25 capital to create new economic activity which would not otherwise take
26 place in the state.

27 (b) It is declared to be the policy of the state, in the inter-
28 ests of promoting the health, security, and general welfare of all the
29 people of the state, and a public purpose, to increase job

1 opportunities and otherwise to encourage the economic growth of the
2 state, including the development of its natural resources, through the
3 establishment and expansion of manufacturing, industrial, export,
4 small business, and business enterprises and the other facilities
5 referred to in (a) [(a)(5)] of this section by creating the Alaska
6 Industrial Development and Export Authority [PUBLIC CORPORATION] with
7 the powers [POWER], duties, and functions [AS] provided in this chap-
8 ter [AS 44.88.010 - 44.88.220].

9 * Sec. 2. AS 44.88.010 is amended by adding a new subsection to read:

10 (c) It is further declared to be the policy of the state, in the
11 interests of promoting the health, security, and general welfare of
12 all the people of the state, and a public purpose of the state, to
13 accomplish the objectives set out in (b) of this section through the
14 provision of financial support in cooperation with federal, state, and
15 private institutions for the purpose of increasing the export of
16 Alaska goods, talent, raw materials, and services.

17 * Sec. 3. AS 44.88 is amended by adding a new section to article 1 to
18 read:

19 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AU-
20 THORITY REVOLVING FUND. The Alaska Industrial Development and Export
21 Authority revolving fund is established in the authority. The re-
22 volving fund consists of appropriations made to the revolving fund by
23 the legislature, money or other assets transferred to the revolving
24 fund by the authority, and unrestricted payments on loans made or
25 purchased by the authority. Amounts deposited in the revolving fund
26 may be pledged to the payment of bonds of the authority or expended
27 for the purposes of the authority under this chapter.

28 * Sec. 4. AS 44.88.070 is amended to read:

29 Sec. 44.88.070. PURPOSE OF THE AUTHORITY. The purpose of the

1 authority is to promote, develop, and advance the general prosperity
2 and economic welfare of the people of Alaska, to relieve problems of
3 unemployment, and to create additional employment by

4 (1) providing various means of financing and means of
5 facilitating the financing, in cooperation with federal, state, and
6 private institutions, of industrial, manufacturing, export, small
7 business, and business enterprises and the other facilities referred
8 to in AS 44.88.010(a) in [AS 44.88.010(a)(5) WITHIN] the state;

9 (2) [. AND BY] owning and operating the enterprises and
10 other facilities described in AS 44.88.172;

11 (3) fostering the expansion of exports of Alaska goods,
12 services, and raw materials;

13 (4) cooperating and acting in conjunction with other orga-
14 nizations, public and private, the objects of which are the promotion
15 and advancement of export trade activities in the state;

16 (5) establishing a source of funding credit guarantees and
17 insurance, not otherwise available, to support export development;

18 (6) providing and cooperating or participating with feder-
19 al, state, and private institutions to provide actual and potential
20 Alaska exporters, particularly small- and medium-sized exporters, with
21 financial assistance in support of export transactions.

22 * Sec. 5. AS 44.88.080(7) is amended to read:

23 (7) to issue bonds and otherwise to incur indebtedness, in
24 accordance with AS 44.88.090, in order to pay the cost of a project or
25 development projects or in order to provide money for the authority's
26 purposes under this chapter; the authority may also [AND TO] secure
27 payment of the bonds or other indebtedness as provided in this chap-
28 ter;

29 * Sec. 6. AS 44.88.080 is amended by adding new paragraphs to read:

1 (20) to participate with government or private industry in
2 programs for technical assistance, loans, technology, transfer, or
3 other programs related to the exportation of Alaska goods, services,
4 or raw materials with respect to its financing activities;

5 (21) to provide export finance training for office staff and
6 other individuals involved in export finance assistance, including the
7 training sessions that may be provided by the United States Export-
8 Import Bank or other organizations;

9 (22) to coordinate to the maximum extent possible its
10 efforts to promote the export of Alaska goods, services, and raw
11 materials with programs and goals of the United States Export-Import
12 Bank, the International Trade Administration of the United States
13 Department of Commerce, the Foreign Credit Insurance Association, and
14 other private and public programs designed to provide export assis-
15 tance and export-related financing;

16 (23) to guarantee loans related to qualified export trans-
17 actions under regulations adopted by the authority;

18 (24) to provide financing assistance, in cooperation with
19 federal, state, and private institutions, as provided in this chapter
20 for small business enterprises.

21 * Sec. 7. AS 44.88.085(a) is amended to read:

22 (a) Except for AS 44.62.310 and 44.62.312 regarding public
23 meetings, and except for AS 44.62.320(a) regarding legislative review
24 of regulations, the provisions of the Administrative Procedure Act
25 regarding the adoption of regulations (AS 44.62.040 - 44.62.320) do
26 not apply to the authority. The authority shall make available to
27 members of the public copies of the regulations adopted under [(b) -
28 (e) OF] this section. Within 45 days after adoption of a regulation
29 under [(b) - (e) OF] this section, the chairman of the authority shall

1 submit the regulation adopted to the chairman of the Administrative
2 Regulation Review Committee under AS 24.20.400 - 24.20.460.

3 * Sec. 8. AS 44.88.085(c) is repealed and reenacted to read:

4 (c) The authority may adopt regulations to carry out the pur-
5 poses of this chapter and shall adopt regulations as provided in (g)
6 and (h) of this section.

7 * Sec. 9. AS 44.88.085(d) is amended to read:

8 (d) Except as provided in (e) of this section, at least 15 days
9 before the adoption, amendment, or repeal of a regulation [ON A SUB-
10 JECT SPECIFIED IN (c) OF THIS SECTION], the authority shall give
11 public notice of the proposed action by publishing the notice in at
12 least three newspapers of general circulation in the state and by
13 mailing a copy of the notice to every person who has filed a request
14 for notice of proposed regulations with the authority. The public
15 notice must include a statement of the time, place, and nature of the
16 proceedings for the adoption, amendment, or repeal of the regulation
17 and must include an informative summary of the subject of the proposed
18 action. On the date and at the time and place designated in the
19 notice, the authority shall give each interested person or an autho-
20 rized representative of the person, or both, the opportunity to pre-
21 sent statements, arguments, or contentions orally or in writing and
22 shall give members of the public an opportunity to present oral state-
23 ments, arguments, or contentions for a total period of at least one
24 hour. The authority shall consider all relevant matter presented to
25 it before taking the proposed action on the regulation. At a hearing
26 under this subsection, the authority may continue or postpone the
27 hearing to a time and place determined by the authority and announced
28 at the hearing before taking the action to continue or postpone the
29 hearing. A regulation adopted, amended, or repealed by the authority

1 may vary from the informative summary specified in this subsection if
2 the subject matter of the action taken on the regulation remains the
3 same and if the original notice of the proposed action was written so
4 as to assure that members of the public are reasonably notified of the
5 subject matter of the proposed action in order for them to determine
6 whether their interests could be affected by the authority's proposed
7 action on that subject.

8 * Sec. 10. AS 44.88.085(e) is amended to read:

9 (e) The adoption, amendment, or repeal of a regulation [ON A
10 SUBJECT SPECIFIED IN (c) OF THIS SECTION] may be made as an emergency
11 regulation if, in the order of adoption, the authority states the
12 facts constituting the emergency and makes a finding that the adoption
13 of the regulation is necessary for the immediate preservation of the
14 orderly operation of the authority's [LOAN AND BONDING] programs. The
15 requirements of (d) of this section do not apply to the initial adop-
16 tion of an emergency regulation [COVERING A SUBJECT SPECIFIED IN (c)
17 OF THIS SECTION]; however, upon adoption of an emergency regulation
18 under this subsection, the authority shall, within 10 days after that
19 adoption, publish notice of the adoption in accordance with the notice
20 procedures specified in (d) of this section. An emergency regulation
21 adopted under this subsection may not remain in effect for more than
22 120 days unless, before the expiration of that period, the authority
23 adopts that regulation as a permanent regulation in accordance with
24 the procedures specified in (d) of this section.

25 * Sec. 11. AS 44.88.085(f) is amended to read:

26 (f) A regulation adopted under [(b) - (e) OF] this section takes
27 effect immediately upon its adoption by the authority or at another
28 [SUCH OTHER] time [AS] specified by the authority in its order of
29 adoption.

1 * Sec. 12. AS 44.88.085 is amended by adding new subsections to read:

2 (g) The authority shall adopt regulations necessary for the
3 following purposes in connection with its programs for the financing
4 of projects under AS 44.88.155 - 44.88.159:

5 (1) determination of borrower eligibility;

6 (2) loan guidelines and terms including, but not limited
7 to, maximum loan amounts and required loan-to-value ratios, but ex-
8 cluding loan interest rates;

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

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

14 (h) The authority shall adopt regulations necessary for the
15 following purposes in connection with its program for encouraging the
16 exportation of Alaska goods, services, and raw materials under AS 44.-
17 88.300 - 44.88.390:

18 (1) establishing criteria for the eligibility of exporters
19 and export transactions for the loan guarantees provided in AS 44.88.-
20 300;

21 (2) setting out the minimum equity interest a borrower must
22 have in the borrower's business to qualify for a loan guarantee under
23 AS 44.88.300 - 44.88.390;

24 (3) adoption of collateral or security requirements to
25 ensure the full repayment of loan guarantees and solvency of an insur-
26 ance program established under AS 44.88.300 - 44.88.390;

27 (4) providing guidelines for extension of a loan guarantee
28 under AS 44.88.300 - 44.88.390;

29 (5) setting out the maximum aggregate amount of guaranteed

1 financing available to an exporter and the maximum amount of guaran-
2 teed financing available for a transaction eligible for guaranteed
3 financing;

4 (6) establishing the limits on the interest that may be
5 charged for guaranteed financings, the maximum fees that a participat-
6 ing financial institution may charge for making a loan that will be
7 guaranteed under AS 44.88.300 - 44.88.390, and the terms of and proced-
8 ures for repayment of a guaranteed financing; and

9 (7) establishing procedures for making a claim on the
10 guarantee or insurance in the event of a default.

11 * Sec. 13. AS 44.88.090(a) is amended to read:

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

15 (1) exclusively from the income and receipts or other money
16 derived from the project or development project financed with the
17 proceeds of the bonds or derived from the exporter or exporting trans-
18 action financed, guaranteed, or insured with the proceeds of the
19 bonds; [,]

20 (2) exclusively from the income and receipts or other money
21 derived from designated projects or development projects or other
22 sources whether or not they are financed, insured, or guaranteed in
23 whole or in part with the proceeds of the bonds; [,] or

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

26 * Sec. 14. AS 44.88.090(e) is repealed and reenacted to read:

27 (e) Before issuing bonds, the authority shall provide for con-
28 sideration at least sufficient, in the judgment of the authority, to
29 pay the principal of and interest on the bonds as they become due and

1 to create and maintain the reserves for the payments that the authori-
2 ty considers necessary or desirable, and to meet all obligations in
3 connection with the lease or agreement and all costs necessary to
4 service the bonds, unless the lease or agreement provides that the
5 obligations are to be met or costs are to be paid by a party other
6 than the authority. If the bonds are being issued to finance a pro-
7 ject or projects under AS 44.88.155 - 44.88.159, then the considera-
8 tion shall be provided by lease or other agreement regarding the
9 project or projects. If the bonds are being issued to finance a
10 development project or development projects under AS 44.88.172 -
11 44.88.177, then the consideration shall be provided by lease or other
12 agreement regarding the development project or development projects.
13 If the bonds are being issued to provide money to finance, guarantee,
14 or insure an exporting transaction under AS 44.88.300 - 44.88.390,
15 then the consideration shall be provided by agreement with the ex-
16 porter.

17 * Sec. 15. AS 44.88.090(g) is amended to read:

18 (g) The authority may not

19 (1) issue bonds, other than refunding bonds, in any 12-
20 month period beginning after June 30, 1982, in an amount that exceeds
21 the amount of bonds authorized to be issued during the preceding
22 12-month period, unless a different amount is authorized by the legis-
23 lature; or

24 (2) issue revenue bonds other than refunding bonds for a
25 project under AS 44.88.155 - 44.88.159, for a development project
26 under AS 44.88.172 - 44.88.177, or to provide money to finance,
27 guarantee, or insure an exporting transaction under AS 44.88.300 -
28 44.88.390, [THIS CHAPTER] in an amount greater than \$50,000,000 during
29 any 12-month period beginning after June 30, 1981, unless the issuance

1 is included separately in the estimates required in the report of the
2 authority under AS 44.88.210(b) and unless the legislature, by law,
3 approves the issuance.

4 * Sec. 16. AS 44.88.090(h) is amended to read:

5 (h) The authority may combine, for the purposes of a single
6 offering, bonds financing more than one project or development project
7 under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, and bonds
8 issued to provide money to finance, guarantee, or insure an exporting
9 transaction under AS 44.88.300 - 44.88.390 [AS 44.88.010 - 44.88.220].

10 * Sec. 17. AS 44.88.100 is amended to read:

11 Sec. 44.88.100. TRUST INDENTURES AND TRUST AGREEMENTS. In the
12 discretion of the authority, an issue of bonds may be secured by a
13 trust indenture or trust agreement between the authority and a corpo-
14 rate trustee (which may be a trust company, bank, or national banking
15 association, with corporate trust powers, located inside or outside
16 the state) or by a secured loan agreement or other instrument or under
17 a resolution giving powers to a corporate trustee (hereinafter in this
18 section referred to as "trust agreement") by means of which the auth-
19 ority may:

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

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

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

1 consideration for, and the other terms to be incorporated in, a
2 lease or contract of sale of a project or development project
3 financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177,
4 or of a facility that is part of an exporting transaction fi-
5 nanced, guaranteed, or insured under AS 44.88.300 - 44.88.390;

6 (C) the assignment by the authority of its rights in
7 the lease or contract of sale of a project or development project
8 financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177,
9 or of a facility that is part of an exporting transaction fi-
10 nanced, guaranteed, or insured under AS 44.88.300 - 44.88.390 or
11 in a mortgage or other security interest created with respect to
12 a project or development project financed under AS 44.88.155 -
13 44.88.159 or 44.88.172 - 44.88.177, or with respect to a facility
14 that is part of an exporting transaction financed, guaranteed, or
15 insured under AS 44.88.300 - 44.88.390 to a trustee for the
16 benefit of the bondholders;

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

19 (E) the vesting in a trustee of rights, powers,
20 duties, funds or property in trust for the benefit of bond-
21 holders, including, without limitation, the right to enforce
22 payment, performance and all other rights of the authority or of
23 the bondholders [,] under a lease, contract of sale, mortgage,
24 security agreement, or trust agreement with respect to a project
25 or development project financed under AS 44.88.155 - 44.88.159 or
26 44.88.172 - 44.88.177, or with respect to a facility that is part
27 of an exporting transaction financed, guaranteed, or insured
28 under AS 44.88.300 - 44.88.390 by mandamus or other proceeding or
29 by taking possession of by agent or otherwise and operating a

1 project or facility and collecting rents or other consideration
2 and applying the same in accordance with the trust agreement;

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

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

9 * Sec. 18. AS 44.88.105(f) is amended to read:

10 (f) The authority may not establish a capital reserve fund to
11 secure an issue of bonds in an amount in excess of \$1,000,000 unless
12 at least 20 percent of the principal amount of the loan for the proj-
13 ect or development project being financed under AS 44.88.155 -
14 44.88.159 or 44.88.172 - 44.88.177, or of the loan to finance, guaran-
15 tee, or insure an exporting transaction under AS 44.88.300 - 44.88.390
16 is retained by a federal or state chartered financial institution or
17 the Alaska Commercial Fishing and Agriculture Bank.

18 * Sec. 19. AS 44.88.130 is amended to read:

19 Sec. 44.88.130. PLEDGE OF THE STATE. The state pledges to and
20 agrees with the holders of bonds issued under this chapter and with
21 the federal agency that lends [WHICH LOANS] or contributes funds in
22 respect to a project or development project financed under AS 44.88.-
23 155 - 44.88.159 or 44.88.172 - 44.88.177, or in respect to an export-
24 ing transaction financed, guaranteed, or insured under AS 44.88.300 -
25 44.88.390 [,] that the state will not limit or alter the rights and
26 powers vested in the authority by this chapter to fulfill the terms of
27 a contract made by the authority with the holders or federal agency
28 and that the state will not [, OR] in any way impair the rights and
29 remedies of the holders until the bonds, together with the interest on

1 them with interest on unpaid installments of interest, and all costs
2 and expenses in connection with an action or proceeding by or on
3 behalf of the holders [,] are fully met and discharged. The authority
4 is authorized to include this pledge and agreement of the state,
5 insofar as it refers to holders of bonds of the authority, in a con-
6 tract with the holders [,] and, insofar as it relates to a federal
7 agency, in a contract with the federal agency.

8 * Sec. 20. AS 44.88.140 is amended to read:

9 Sec. 44.88.140. EXEMPTION FROM TAXATION. (a) The real and
10 personal property of the authority and its assets, income, and re-
11 ceipts are declared to be the property of a political subdivision of
12 the state and, together with any project or development project fi-
13 nanced under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, [THIS
14 CHAPTER] and a leasehold interest created in a project or development
15 project financed [APPLICANT OR OTHER PERSON] under AS 44.88.155 -
16 44.88.159 or 44.88.172 - 44.88.177 [THIS CHAPTER], devoted to an
17 essential public and governmental function and purpose, and the
18 property, assets, income, receipts, project, development project, and
19 leasehold interests shall be exempt from all taxes and special assess-
20 ments of the state or a political subdivision of the state, including,
21 without limitation, all boroughs, cities, municipalities, school
22 districts, public utility districts and other taxing units. All bonds
23 of the authority are declared to be issued by a political subdivision
24 of the state and for an essential public and governmental purpose and
25 to be a public instrumentality, and the bonds, and the interest on
26 them, the income from them and the transfer of the bonds, and all
27 assets, income and receipts pledged to pay or secure the payments
28 [PAYMENT] of the bonds, or interest on them, shall at all times be
29 exempt from taxation by or under the authority of the state, except

1 for inheritance and estate taxes and taxes on transfers by or in
2 contemplation of death. Nothing in this section affects or limits an
3 exemption from license fees, property taxes, or excise, income or any
4 other taxes, provided under any other law, nor does it create a tax
5 exemption with respect to the interest of any business enterprise or
6 other person, other than the authority, in any property, assets,
7 income, receipts, project, development project, or lease whether or
8 not financed under this chapter.

9 (b) The authority may enter into agreements with an applicant or
10 [A] proposed [PROJECT] applicant under this chapter [OR PROJECT APPLI-
11 CANT] providing for payments, computed on a formula basis or otherwise
12 [,] in lieu of taxes, which the authority may consider appropriate.
13 The agreement may provide that the payments be made to the political
14 subdivision of the state in which a project or development project is
15 or is to be located or to any other taxing unit of the state includ-
16 ing, without limitation, a borough, city, municipality, school dis-
17 trict or public utility district, the area of which is coterminous in
18 whole or in part with that of the political subdivision.

19 * Sec. 21. AS 44.88.155(a) is amended to read:

20 Sec. 44.88.155. ENTERPRISE DEVELOPMENT ACCOUNT [FUND]. (a) The
21 enterprise development account [FUND] is established in the revolving
22 fund [AUTHORITY]. The enterprise development account [FUND] is a
23 trust fund for the uses and purposes of this chapter [AS 44.88.010 -
24 44.88.220]. The enterprise development account [FUND] consists of
25 money or assets appropriated or transferred to the authority and other
26 money or assets deposited in it by the authority.

27 * Sec. 22. AS 44.88.155(b) is amended to read:

28 (b) The authority may establish in the enterprise development
29 account [FUND] a small enterprise loan account, a loan insurance

1 account, and other accounts it considers appropriate.

2 * Sec. 23. AS 44.88.155(c) is amended to read:

3 (c) Money and other assets of the enterprise development account
4 [FUND] may be used to secure bonds of the authority issued to finance
5 the purchase of loans for projects [.] and shall be held and invested
6 by the authority in the types of investments described in AS 37.10.-
7 070(a) and AS 39.35.110(a)(9) and (14) or shall be used to purchase
8 loans for projects [AS DEFINED IN AS 44.88.220].

9 * Sec. 24. AS 44.88.155(d) is amended to read:

10 (d) A loan purchased in whole or in part by the authority with
11 assets of the enterprise development account or with proceeds of bonds
12 secured by assets of the enterprise development account, other than a
13 loan which is financed with the proceeds of bonds of the authority and
14 secured only by a project applicant or a project,

15 (1) may not exceed

16 (A) \$10,000,000; or

17 (B) \$500,000 if the loan is purchased under AS 44.88.-

18 158;

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

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

26 (4) shall contain complete amortization provisions satis-
27 factory to the authority requiring periodic payments by the borrower;

28 (5) shall be in the form and contain the terms and pro-
29 visions with respect to insurance, repairs, alterations, payment of

1 taxes and assessments, default reserves, delinquency charges, default
2 remedies, acceleration of maturity, secondary liens, and other matters
3 the authority prescribes;

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

8 (7) may not be made unless

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

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

14 (8) must be

15 (A) at least partially guaranteed by the United States
16 or an agency or instrumentality of the United States, subject to
17 the provisions of AS 44.88.158; [OR]

18 (B) financed from the proceeds of bonds; or

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

21 * Sec. 25. AS 44.88.155(e) is amended to read:

22 (e) The authority may adopt regulations for the administration
23 of the enterprise development account including [FUND WHICH MAY IN-
24 CLUDE], without limitation, provisions for fees and agreements re-
25 lating to application, loan commitment, servicing, and origination of
26 loans by other lenders.

27 * Sec. 26. AS 44.88.155(f) is amended to read:

28 (f) The authority may enter into agreements as to the use of the
29 money in the enterprise development account [FUND], including without

1 limitation, trust or custody arrangements with banks or trust com-
2 panies. It may also pledge, assign, or grant the agreement, interests
3 under an agreement, or interests in the enterprise development account
4 [FUND] as may be necessary or appropriate to provide for payment and
5 security for bonds of the authority issued to finance the purchase by
6 the authority of loans for projects.

7 * Sec. 27. AS 44.88.155 is amended by adding a new subsection to read:

8 (h) The provisions of this section apply only with respect to
9 loans purchased or made by the authority for projects under AS 44.88.-
10 155 - 44.88.159.

11 * Sec. 28. AS 44.88.157(a) is amended to read:

12 (a) The loan insurance account is established in the revolving
13 fund. The purpose of the loan insurance account is to provide insur-
14 ance of mortgage loans and other loans made or purchased by the au-
15 thority under AS 44.88.155, or made by others and approved for insur-
16 ance by the authority, for a project. The authority may enter into
17 agreements as to the use of money in the loan insurance account and
18 may pledge, assign, or grant interests in the loan insurance account
19 as provided in this section. The authority may adopt regulations and
20 enter into agreements with respect to the exercise of any power or
21 approval relating to the loan insurance account under this section,
22 including, without limitation, agreements as to the use of money in
23 the loan insurance account, agreements with respect to the terms and
24 conditions upon which payments from the loan insurance account will be
25 made with respect to a loan insured under this section, agreements as
26 to separate subaccounts in the loan insurance account for different
27 categories of loans or as to loans made by the authority or any other
28 person, and agreements regarding the payment of and security for bonds
29 issued by the authority. An agreement, the rights of the authority

1 under an agreement, or payments received or to be received under an
2 agreement may be pledged or assigned by the authority for the benefit
3 of the holders of bonds issued by the authority.

4 * Sec. 29. AS 44.88.157(b) is amended to read:

5 (b) The authority may, upon application of a borrower or pro-
6 posed borrower, insure and make advance commitments to insure loan
7 repayments required under the terms of a loan made by it or by another
8 lender with respect to a project, upon the terms and conditions the
9 authority prescribes. To be eligible for insurance under this section
10 [AS 44.88.010 - 44.88.220], a loan for a project

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

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

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

19 (4) shall contain complete amortization provisions satis-
20 factory to the authority requiring periodic payments by the borrower;
21 and

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

27 * Sec. 30. AS 44.88.157(k) is amended to read:

28 (k) A loan may not be insured under this section [FROM A LOAN
29 INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOPMENT FUND] if the loan

1 is for a project the cost of which exceeds \$10,000,000.

2 * Sec. 31. AS 44.88.157(1) is amended to read:

3 (1) A loan in excess of \$1,000,000 may not be insured under this
4 section [FROM A LOAN INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOP-
5 MENT FUND] unless at least 20 percent of the principal amount of the
6 loan is retained by a federal or state chartered financial institution
7 or the Alaska Commercial Fishing and Agriculture Bank.

8 * Sec. 32. AS 44.88.158(a) is amended to read:

9 Sec. 44.88.158. SMALL BUSINESS ENTERPRISE LOAN ACCOUNT. (a) A
10 small business enterprise loan account is established in the revolving
11 [ENTERPRISE DEVELOPMENT] fund. The account may be composed of money
12 or assets appropriated or transferred to the authority, interest on
13 investments and loans of the small business enterprise loan account,
14 the unpledged income of the revolving [ENTERPRISE DEVELOPMENT] fund,
15 and other money or assets deposited in it by the authority.

16 * Sec. 33. AS 44.88.158(b) is amended to read:

17 (b) The authority may use money in the small business enterprise
18 loan account to purchase or participate in the purchase of loans to
19 small business enterprises and to purchase the guaranteed portion of a
20 loan made by a private financial institution after June 30, 1981, to a
21 small business enterprise to pay the cost of a project or exporting
22 transaction [. AS DEFINED IN AS 44.88.220], if the loan is guaranteed
23 by the United States or an agency or instrumentality of the United
24 States, including, but not limited to, the Small Business Adminis-
25 tration, the National Marine Fisheries Service, and the Farmers Home
26 Administration.

27 * Sec. 34. AS 44.88.159 is amended by adding a new subsection to read:

28 (d) The provisions of this section apply only to loans financed
29 under AS 44.88.155 - 44.88.159.

1 * Sec. 35. AS 44.88.172 is amended to read:

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

11 (b) If a development project is financed or developed through
12 use of the assets of the economic development account [FUND], the
13 authority may not pledge or use [OTHER] assets of the enterprise de-
14 velopment account established in AS 44.88.155 [AUTHORITY] to assist in
15 the financing, development, or operation of the development project.
16 However, whether or not the authority uses the economic development
17 account [FUND], it may issue bonds to finance a development project
18 and may secure the bonds with a mortgage, pledge, or assignment of the
19 development project or of revenues, money, or agreements attributable
20 to the development project or the bonds. Financing assistance pro-
21 vided with respect to a development project under this section shall,
22 to the maximum extent reasonable under the circumstances, be made in
23 the form of a loan to the project [AS PROVIDED IN SEC. 10 OF THIS
24 ACT].

25 * Sec. 36. AS 44.88.190 is amended by adding a new subsection to read:

26 (c) A loan purchased or financed by the authority in whole or in
27 part is exempt from the provisions of AS 45.45.010. A guarantee
28 extended under AS 44.88.300 or insurance provided under AS 44.88.390
29 does not constitute insurance for the purposes of AS 21.03.010.

1 * Sec. 37. AS 44.88.220(1) is amended to read:

2 (1) "authority" means the Alaska Industrial Development and
3 Export Authority created by AS 44.88.010 - 44.88.220;

4 * Sec. 38. AS 44.88.220 is amended by adding new paragraphs to read:

5 (13) "development project" means a plant or facility used or
6 intended for use in connection with making, processing, preparing, or
7 producing goods, products, or substances, or in connection with de-
8 veloping or utilizing a natural resource, or extracting, smelting,
9 transporting, converting, assembling, or producing minerals, raw
10 materials, chemicals, compounds, alloys, fibers, commodities and
11 materials, products, or substances;

12 (14) "revolving fund" means the Alaska Industrial Develop-
13 ment and Export Authority revolving fund created in AS 44.88.060.

14 * Sec. 39. AS 44.88 is amended by adding new sections to read:

15 ARTICLE 5. EXPORT ASSISTANCE.

16 Sec. 44.88.300. GUARANTEED FUNDING FOR EXPORT TRANSACTIONS. The
17 authority may provide guaranteed funding, through a participating
18 banking organization, for an export transaction that the authority
19 determines is eligible under AS 44.88.310.

20 Sec. 44.88.310. ELIGIBILITY OF EXPORT TRANSACTIONS. An export-
21 ing contract is a transaction eligible for guaranteed funding under
22 AS 44.88.300 - 44.88.390 if, in the judgment of the authority, it will
23 create or maintain employment in the state and it

24 (1) promotes the sale abroad of raw materials extracted in
25 the state, or goods whose final stage of production occurs in the
26 state, that constitutes 25 percent or more of the contract price;

27 (2) provides for the rendering of services abroad by a
28 business located in the state if 25 percent or more of the contract
29 price consists of wages or other payments made to persons normally

1 residing in the state;

2 (3) promotes the sale abroad of raw materials or goods
3 distributed by a business located in the state if

4 (A) 25 percent or more of the contract price consists
5 of wages or other payments made to persons or businesses normally
6 residing or located in the state; or

7 (B) the business has a significant relationship with
8 the state based upon

9 (i) the amount of capital investments it has that
10 are located in the state;

11 (ii) the number of state residents employed by the
12 business;

13 (iii) the amount of business transacted in the
14 state; or

15 (iv) a combination of (i) - (iii); or

16 (4) provides both for the sale abroad of raw materials
17 extracted in the state or goods whose final stage of production occurs
18 in the state, and for the rendering of services abroad by state resi-
19 dents, the aggregate value of which is 25 percent or more of the
20 contract price.

21 Sec. 44.88.320. LIMITATIONS ON GUARANTEES. (a) The authority
22 may not guarantee more than 90 percent of a loan under AS 44.88.300.

23 (b) The authority may not guarantee a loan under AS 44.88.300
24 unless the authority finds that the guarantee is reasonably necessary
25 to stimulate or facilitate the making of a loan for an eligible ex-
26 porting transaction.

27 Sec. 44.88.330. CREDIT OF EXPORTER. Before the authority may
28 guarantee a loan under AS 44.88.300, the participating financial
29 institution shall investigate the credit or sources of credit

1 available to the exporter to determine the economic benefits to be
2 derived from the guarantee, the prospects of repayment, and other
3 factors necessary to determine that the guaranteed funding is consis-
4 tent with the purposes of AS 44.88.300 - 44.88.390.

5 Sec. 44.88.340. CONFIDENTIALITY OF INFORMATION. Information
6 submitted to or compiled by the authority regarding the identity,
7 background, finances, marketing plans, trade secrets, or other commer-
8 cially sensitive affairs of the exporter is confidential, unless the
9 exporter consents to its disclosure.

10 Sec. 44.88.350. FEES CHARGED. The authority shall, by regula-
11 tion, establish fees to be charged to a participating financial insti-
12 tution for providing a guarantee under AS 44.88.300. The fees must be
13 sufficient to cover the costs of administering the guarantee program
14 under AS 44.88.300 - 44.88.390 and any premium the authority pays for
15 insuring its risks.

16 Sec. 44.88.360. EFFECT OF GUARANTEE. (a) A guarantee under
17 AS 44.88.300 shall guarantee against political or commercial loss, in
18 whole or in part, of principal and interest on an eligible export
19 transaction. The guarantee may include, without limitation, insurance
20 against loss up to a stated amount. A guarantee under AS 44.88.300
21 may not be terminated, canceled, or revoked, except under its terms.
22 A guarantee held by a participating financial institution is presumed
23 to be valid.

24 (b) In this section, "political loss" means a loss incurred as a
25 result of a political risk insured under an export credit insurance
26 umbrella policy, or a comparable policy or agreement, issued by the
27 Export-Import Bank of the United States.

28 Sec. 44.88.370. GUARANTEE NOT A GENERAL OBLIGATION OF THE STATE.
29 A guarantee under AS 44.88.300 is not a general obligation of the

1 state.

2 Sec. 44.88.380. PERSONAL LIABILITY. An officer, employee, or
3 agent of the authority may not be held personally liable in a civil
4 action for damages for an act done or omitted in good faith while
5 performing the functions of office, employment, or agency under this
6 chapter.

7 Sec. 44.88.390. EXPORT INSURANCE ACCOUNT. (a) The export
8 insurance account is established in the revolving fund. The account
9 consists of money appropriated to it by the legislature and other
10 money and assets, including bond proceeds, deposited in it by the
11 authority. The account shall be held as security for the holders of
12 bonds issued by the authority for the purposes of AS 44.88.300 -
13 44.88.390. The authority may enter into trust agreements with respect
14 to the use of money in the account, including the use of that money to
15 discharge a guarantee obligation of the authority. The trust agree-
16 ments may contain provisions and limitations concerning the investment
17 and disbursement of money in the account, the payment of expenses of
18 the account, the appointment, resignation and discharge of trustees,
19 the delegation of enforcement and collection powers under the insur-
20 ance agreements to the trustee, the duties of the trustees, amendments
21 of the trust agreements, and other lawful provisions and limitations
22 the authority considers appropriate. The trust agreements may pledge
23 premiums and other money that may be deposited in the account. The
24 pledge shall be valid and binding from the time the pledge is made.
25 The premiums and other money pledged and thereafter received by the
26 account, or by the trustees in its behalf, shall immediately be sub-
27 ject to the lien of the pledge. The pledge shall be valid and binding
28 against parties having claims against the account, irrespective of
29 whether the parties have notice of the pledge.

1 (b) The authority may use proceeds of bonds issued for the
2 purposes of AS 44.88.300 - 44.88.390 to purchase insurance, which may
3 be pledged for the security of the holders of the bonds. If insurance
4 is pledged as security, whether obtained through the export insurance
5 account or purchased with bond proceeds, a description of the insur-
6 ance shall expressly indicate the limitation of the liability of the
7 authority and that neither the credit nor the taxing power of the
8 state or a political subdivision of the state is available to satisfy
9 obligations with respect to the insurance.

10 * Sec. 40. To be consistent with the change made by this Act, wherever
11 in the Alaska Statutes and in regulations adopted under those statutes
12 "Alaska Industrial Development Authority" is used, it shall be read as
13 referring to the Alaska Industrial Development and Export Authority. Under
14 AS 01.05.031 the revisor of statutes shall implement this section in the
15 statutes, and, under AS 44.62.125(b)(6), the regulations attorney shall
16 implement this section in the administrative regulations.

17 * Sec. 41. AS 44.88.156, 44.88.158(c), and sec. 11, ch. 162, SLA 1984,
18 are repealed.

19 * Sec. 42. This Act takes effect immediately under AS 01.10.070(c).



Alaska State Legislature

SENATE

Special Committee on International Trade

P.O. Box V
State Capitol
Juneau, Alaska 99811

Brief Summary of Changes Made to CSSB64(L&C)

1. The name of the Alaska Industrial Development Authority has been changed to the Alaska Industrial Development and Export Authority.

Done where appropriate in the bill. A new section # 40 (p.27, lines 10-16) directs the revisor of statutes to make the appropriate changes elsewhere in the statutes.

2. Entrepreneurial and its definition has been eliminated from the bill.
3. Legislative approval is still required for projects in which the Authority takes any ownership interest. This was done by removing section 10 from the repealer section of the bill on page 27 in bill section 41.
4. The personal liability section (p. 26, lines 2-6) was reworded to closely mirror the liability section currently in the Alaska Banking Code (AS 06.05.085).

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SECTIONAL ANALYSIS
for
CS FOR SENATE BILL NO. 64 (L&C)
(Work Draft dated 2/6/87)

This memorandum analyzes on a section-by-section basis the proposed Senate Labor & Commerce Committee Substitute for Senate Bill No. 64, entitled "An Act relating to the Alaska Industrial Development Authority; and providing for an effective date." As a general overview, the legislation would accomplish three objectives: (1) creating an export financing program in the Alaska Industrial Development Authority (hereafter "AIDA"); (2) emphasizing entrepreneurial and small business enterprises in the AIDA statutes; and (3) modifying AIDA's ability to participate in certain types of projects on an equity basis.

SECTION 1 amends the statutory section (AS 44.88.010) setting forth legislative findings and policy with respect to AIDA. It inserts references to "export, entrepreneurial, small business" enterprises throughout the section to give emphasis to these types of enterprises as the target of AIDA's financing assistance. It also inserts four new paragraphs of findings (on pages 1 and 2 of the bill) relating to the importance to the State's economy of expanding and facilitating financing for export businesses in Alaska.

On page 3 of the legislation (still a part of Section 1), new language provides a finding that it is in the public interest to encourage export activities by providing financial assistance for such activities in cooperation with federal, state and private institutions. This new language also provides a finding that it is in the public interest to give AIDA the power to acquire ownership interests in certain types of projects and to issue taxable, as well as tax-exempt, bonds to accomplish its statutory purposes.

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SECTION 2 adds a new subsection to the findings and policies section (AS 44.88.010). The new subsection finds it to be a policy of the state and a public purpose to provide financial support, in cooperation with federal, state and private institutions, to increase the export of Alaska goods, entrepreneurial talent, raw materials, and services.

SECTION 3 creates a new statutory section (AS 44.88.060). This new statutory section creates the AIDA revolving fund. The intent is to create a single fund into which all of AIDA's assets will be deposited. Within the revolving fund, there will be the economic development account, the enterprise development account, and a number of other accounts. There are provisions later in the legislation defining AIDA's ability to use assets of these various accounts. The revolving fund is created as a revolving fund so that payments on loans purchased or held by AIDA in the fund can remain there and be used for AIDA's purposes without necessitating an annual legislative appropriation.

SECTION 4 relates to the statement of AIDA's purposes and contains provisions substantially similar to those described with respect to SECTION 1; that is, it adds references to export, entrepreneurial, and small business enterprises in connection with AIDA's purposes, and it adds new paragraphs which contain statements of AIDA's purposes with respect to exporting transactions (such as to foster the expansion of Alaskan exports, to cooperate with other organizations for that purpose, to provide a source of guarantees, and so on). This amendment also (in paragraph (2) on page 5 of the legislation) provides a reference to the statute which specifies the types of projects in which AIDA may take an ownership interest.

SECTION 5 amends AIDA's general powers (AS 44.88.080) by inserting language to clarify that AIDA's power to issue bonds includes the power to incur debt generally.

SECTION 6 also amends the general powers section; it adds new powers relating to financing and assisting export transactions, including the power to participate with other programs pertaining to the exportation of Alaskan goods, services or raw materials, the power to provide export finance training to its staff, the power to coordinate with various

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federal programs, and the power to guarantee loans to qualified exporters. This section also adds, as a general statement of AIDA's powers, the power to provide financing assistance for entrepreneurial and small business enterprises.

SECTION 7 amends AIDA's administrative procedure statutory section (AS 44.88.085). This amendment is a technical, clean-up matter reflecting the addition of new powers and purposes for AIDA and, therefore, the need to adopt regulations in addition to those currently referenced in (b) - (e) of AS 44.88.085.

SECTION 8 repeals and reenacts AS 44.88.085(c). Generally speaking, this part of AIDA's statutes is intended simply to establish a procedure for the adoption by AIDA of its regulations. The current provisions of AS 44.88.085(c) include both a general power to adopt regulations and an express duty to adopt regulations with respect to certain matters. In SECTION 12 of the legislation (to be discussed below), additional matters are set forth with respect to which AIDA will have an express duty to adopt regulations. The repeal and reenactment of AS 44.88.085(c) in this section of the legislation is necessary to preserve the general power to adopt regulations while also moving the statement of matters as to which AIDA must adopt regulations to the same part of the statute as those matters described in SECTION 12.

SECTION 9 makes the same changes to AS 44.88.085(d) as those made to AS 44.88.085(a) under SECTION 7 (described above).

SECTION 10 makes the same changes to AS 44.88.085(e) as described in SECTION 9.

SECTION 11 makes the same changes to AS 44.88.085(f) as described in SECTION 9 and also makes a minor drafting style correction.

SECTION 12 (beginning on page 9 of the legislation) creates a new subsection (g) to AS 44.88.085. This new subsection contains those matters (referred to in connection with SECTION 8 above) as to which AIDA must adopt regulations under the current provisions of AS 44.88.085(c). SECTION 12 also creates a new subsection (h). Subsection (h) directs

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AIDA to adopt certain regulations in connection with its program for encouraging the export of Alaska goods, services, and raw materials. These regulations must establish criteria for eligibility of exporters under the program, set forth equity and collateral requirements, and include other similar matters.

SECTION 13 amends AIDA's statutory section pertaining to the issuance of bonds (AS 44.88.090). The changes made to AS 44.88.090(a) by this section are intended to set forth clearly that AIDA's bond issuance powers also extend to the issuance of bonds for AIDA's export financing program and to the issuance of bonds for AIDA's development project financing. The term "development project" is defined later in the legislation and contemplates those projects as to which AIDA may take an ownership interest.

SECTION 14 repeals and reenacts AS 44.88.090(e). The reason for the repeal and reenactment is to reorganize the subsection into a clearer form. Otherwise, the changes made in that subsection are only for the purpose of making it clear that AIDA's bond issuing powers extend to its export financing program and development project program, as stated above with respect to SECTION 13.

SECTION 15 makes the same amendment to AS 44.88.090(g) as described with respect to SECTION 14.

SECTION 16 makes the same amendment to AS 44.88.090(h) as described with respect to SECTION 14.

SECTION 17 amends the statutory section authorizing AIDA to enter into agreements with trustees (AS 44.88.100). Again, the changes are intended to make it clear that AIDA's power to enter into agreements with trustees applies to its programs for export and development project financings.

SECTION 18 amends AIDA's capital reserve fund statute (AS 44.88.105). The capital reserve fund created in AS 44.88.105 can be used by AIDA to secure its bonds, but there are some limitations on that use. One of the limitations is the requirement in AS 44.88.105(f) that at least 20 percent of the principal amount of a loan be retained by the originating institution. The amendment makes it clear that this

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limitation applies to bonds issued under the export program or under the development project program.

SECTION 19 amends the statute that contains the State's pledge not to limit or alter AIDA's power to fulfill contracts it enters into with bondholders and federal agencies. The amendment makes it clear that this pledge applies also with respect to export and development project financings. The amendment also contains some minor drafting style corrections.

SECTION 20 amends the statute that exempts AIDA's property from local taxation (AS 44.88.140). The amendment again is for clarification purposes only, the intent being to make it clear that the provisions of this statute apply also to development projects financed by AIDA. The amendment contains a few minor drafting style corrections.

SECTION 21 amends the statutory section which created the enterprise development fund (AS 44.88.155). The amendment turns the "fund" into an "account" within the revolving fund created in SECTION 3 (as discussed earlier in this memorandum).

SECTION 22 amends AS 44.88.155(b) to reflect the change described in SECTION 21.

SECTION 23 amends AS 44.88.155(c) to reflect the change described in SECTION 21. In addition, the amendment made in this section contains a minor drafting style correction.

SECTION 24 amends AS 44.88.155(d) to provide that the various loan limitations set forth in this subsection apply only to loans financed with assets of the enterprise development account.

SECTION 25 amends AS 44.88.155(e) to reflect the change described in SECTION 21 and to make a minor drafting style correction.

SECTION 26 amends AS 44.88.155(f) to reflect the change described in SECTION 21. This amendment also adds language at the end of that subsection to make it clear that AIDA may pledge assets of the enterprise development account

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only to secure bonds issued for the financing of "projects", a term which is defined in AS 44.88.220. Accordingly, bonds issued for the financing of development projects and exporting transactions cannot be secured by pledges of the assets of the enterprise development account.

SECTION 27 amends AS 44.88.155 by adding a new subsection (h) to make it clear that the provisions of that section (and, thus, the provisions relating to the enterprise development account) apply only with respect to loans purchased for "projects" under AS 44.88.155 - 44.88.159.

SECTION 28 amends the statute that creates AIDA's loan insurance account (AS 44.88.157). The amendment takes the loan insurance account out of the enterprise development fund and puts it in the revolving fund. The amendment also limits the application of the loan insurance account to the financing of projects under AS 44.88.155.

SECTION 29 amends AS 44.88.157(b) to conform to the amendment described in SECTION 28 which limits the application of the loan insurance account to the financing of projects under AS 44.88.155.

SECTION 30 amends AS 44.88.157(k) to reflect the changes described in SECTION 29.

SECTION 31 amends AS 44.88.157(l) to reflect the changes described in SECTION 29.

SECTION 32 amends the small enterprise loan account statute (AS 44.88.158). The amendment inserts the phrase "entrepreneurial and small business enterprise" in place of small enterprise, and it takes the account out of the enterprise development fund and puts it into the revolving fund.

SECTION 33 amends AS 44.88.158(b) to reflect the changes made in SECTION 32. The amendment in this section also expands AIDA's powers under this statutory section to permit AIDA to purchase or participate in the purchase of loans to entrepreneurial and small business enterprises without being limited to purchasing only the portion guaranteed by the federal government. However, with respect

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SECTION 37 amends the definition section of the AIDA statutes (AS 44.88.220). It adds new definitions for "development project" and "revolving fund". The development project definition includes those facilities described in paragraph (A)(i) of the definition of "project" under AIDA's current statutes. The intent is to define development projects (that is, those projects with respect to which AIDA may acquire an ownership interest) to include the basic resource development and infrastructure types of projects. The definition of revolving fund refers to the revolving fund created under SECTION 3.

SECTION 38 adds new provisions to AIDA's statutes. The new provisions will become AS 44.88.300 - 44.88.390 and will relate to export assistance.

Under AS 44.88.300, AIDA would work with financial institutions to determine which exporting transactions qualify for AIDA assistance. The AIDA assistance would be provided in the form of a guaranty of a loan for the exporting transactions.

Under AS 44.88.310, the transaction would qualify only if it has some significant contact with or benefit to the State of Alaska. That contact or benefit, generally speaking, would have to be in the form of a minimum percentage (25%) of the transaction resulting in the sale of Alaska materials abroad, the rendering of services abroad by an Alaska business, or providing similar benefits.

Under AS 44.88.320, AIDA could guarantee up to 90 percent of a loan made to finance a transaction that qualifies under AS 44.88.310, but AIDA would first have to find that the guaranty is reasonably necessary to stimulate or facilitate the making of the loan.

Under AS 44.88.330, the financing institution involved in the transaction would be required to make the first credit investigation with respect to the transaction.

Under AS 44.88.340, AIDA would be required to keep sensitive information about the transaction or the exporter involved in the transaction confidential.

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to language in AS 44.88.158(b) relating to the purchase of those guaranteed portions, the amendment in this section adds a permission for AIDA to purchase the guaranteed portion of a loan made to pay the cost of an exporting transaction for an entrepreneurial or small business enterprise. The amendment in this section also contains a minor drafting style correction.

SECTION 34 amends the statutory section which sets a formula for how AIDA must determine interest rates on loans it purchases (AS 44.88.159). The amendment makes it clear that this applies only to projects purchased under AS 44.88.155 - 44.88.159 (that is, projects purchased with assets of the enterprise development account).

SECTION 35 makes the same change with respect to the economic development fund (AS 44.88.172) as SECTION 32 makes with respect to the enterprise development fund; that is, it turns it into an account of the revolving fund. The amendment made in this section also makes it clear that the economic development account may be used only for the financing of "development projects", a term which is defined in SECTION 37 (discussed below). The economic development account is the source of financing for the projects that AIDA expects to own or operate. The amendment includes language which (1) prohibits the pledge of assets in the enterprise development account (AS 44.88.155 - SECTIONS 21 through 27) in connection with the financing of a development project, and (2) directs AIDA to make the financing assistance offered under the economic development account in the form of a loan to the maximum extent possible. The latter provision is in AIDA's current law, but it is codified with the temporary and special acts. This amendment places it in the permanent statutes. Finally, the amendment in this section also includes a minor drafting style correction.

SECTION 36 amends the statute which provides certain exemptions for AIDA from the operation of other statutes (AS 44.88.159). The amendment in this section would exempt loans purchased or financed in whole or in part by AIDA from the operation of the State's usury law. It would also make it clear that a guaranty issued by AIDA in connection with its export financing program is not insurance for purposes of the State's insurance code.

CHAMBER = S
DATE = 870119
SOURCE = SJRNL
YEAR = 87
DOC ID SJRNL870119SB0064
SB 64

SENATE BILL NO. 64 by Senators Kelly, Kerttula, Faiks and Sturgulewski, entitled:

"An Act relating to export enterprises under the Alaska Industrial Development Authority."

was read the first time and referred to the Labor and Commerce Committee and the Finance Committee.

END OF DOCUMENT

BILL = SB0064
CHAMBER = S
DATE = 870121
SOURCE = SJRNL
YEAR = 87
DOC ID SJRNL870121SB0064
SB 64

Senator Uehling moved and asked unanimous consent that he be added as a co-sponsor on SENATE BILL NO. 64 (An Act relating to export enterprises under the Alaska Industrial Development Authority). Without objection, it was so ordered.

END OF DOCUMENT

BILL = SB0064
CHAMBER = S
DATE = 870121
SOURCE = SJRNL
YEAR = 87
DOC ID SJRNL870121SB0064
SB 64

Senator Kelly, Chairman, moved and asked unanimous consent that the five-day notice and publication requirements be waived for the Labor and Commerce Committee meeting on January 26 to consider SENATE BILL NO. 64 (An Act relating to export enterprises under the Alaska Industrial Development Authority). Without objection, it was so ordered.

BILL = SB0064
CHAMBER = S
DATE = 870127
SOURCE = SJRNL
YEAR = 87
DOC ID SJRNL870127SB0064
SB 64

Senator Szymanski moved and asked unanimous consent that he be shown as a co-sponsor on:

SENATE BILL NO. 64
"An Act relating to export enterprises under the Alaska Industrial Development Authority."

Without objection, it was so ordered.

END OF DOCUMENT

BILL = SB0064
CHAMBER = S
DATE = 870205
SOURCE = SJRNL
YEAR = 87
DOC ID SJRNL870205SB0064
SB 64

Senator Uehling, Chairman, moved and asked unanimous consent that SENATE BILL NO. 64 (An Act relating to export enterprises under the Alaska Industrial Development Authority) have an added referral to the Senate Special Committee on International Trade. Without objection, it was so ordered.

SENATE BILL NO. 64 was referred to the Labor and Commerce Committee, the Senate Special Committee on International Trade and the Finance Committee.

END OF DOCUMENT

BILL = SB0064
CHAMBER = S
DATE = 870212
SOURCE = SJRNL
YEAR = 87
DOC ID SJRNL870212SB0064
SB 64

The Labor and Commerce Committee considered SENATE BILL NO. 64 (export enterprises under the Alaska Industrial Development Authority) and a majority of the committee recommended it be replaced with

CS FOR SENATE BILL NO. 64 (L&C), entitled:

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

and do pass. The report was signed by Senator Kelly, Chairman, and concurred in by Senators Fahrenkamp and Szymanski. Senator Eliason signed "no recommendation".

SENATE BILL NO. 64 was referred to the Senate Special Committee on International Trade.

END OF DOCUMENT

SB0064 DOCUMENT= 7 OF 8 PAGE = 1 OF 2
BILL = SB0064
CHAMBER = S
DATE = 870306
SOURCE = SJRNL
YEAR = 87
DOC ID SJRNL870306SB0064
SB 64

The Senate Special Committee on International Trade considered SENATE BILL NO. 64 (An Act relating to export enterprises under the Alaska Industrial Development Authority) and recommended it be replaced with

CS FOR SENATE BILL NO. 64 (I.T.), entitled:
"An Act relating to the Alaska Industrial Development and Export Authority; and providing for an effective date."

and do pass. The report was signed by Senator Uehling, Chairman and concurred in by Senators Zharoff, Abood and Hensley.

Fiscal note received and published today from Department of Commerce and Economic Development for the Labor and Commerce Committee Substitute offered on page 277.

SENATE BILL NO. 64 was referred to the Finance Committee.

END OF DOCUMENT

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: CSSB 64 (L&C)

Publish Date: _____

Revision Date: February 11, 1987

Agency Affected: Commerce & Econ. Dev.

Title: An Act relating to the Alaska
Industrial Development Authority

BRU: Alaska Industrial Dev. Auth.

Sponsor: Kelly, Kerttula, Faiks, et al.

Components: _____

Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		65.0	65.0	65.0	65.0	65.0
TRAVEL		10.0	10.0	10.0	10.0	10.0
CONTRACTUAL		25.0	15.0	15.0	15.0	15.0
SUPPLIES		5.0	5.0	5.0	5.0	5.0
EQUIPMENT		5.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		110.0	95.0	95.0	95.0	95.0

CAPITAL		15.0	30.0	35.0	35.0	35.0
----------------	--	------	------	------	------	------

REVENUE		125.0	125.0	130.0	130.0	130.0
----------------	--	-------	-------	-------	-------	-------

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		125.0	125.0	130.0	130.0	130.0
TOTAL						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See Attached.

Prepared by: Bert Wagon, Executive Director
Division: Alaska Industrial Development Authority

Phone: 274-1651

Date: 2/13/87

Approved by Commissioner: Anthony Smith
Agency: Commerce and Economic Development

Date: 2/13/87

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary
5381W21387a

FISCAL NOTE CSSB 64 (L&C)

ANALYSIS

Should this bill become law, the costs to be incurred in operating the expended program are subject to the demand. The figures in the note are estimates of what may occur under this legislation. It is intended that the operating costs would be absorbed into the existing budget of the Authority so that no increase above the current requested budget would be required. This is possible due to the fact that the Authority currently holds a position vacant that could be utilized to handle many of the functions required by this bill.

All funds, both operating and capital, would be Authority program receipts with no general fund appropriation required.

E X P O R T F I N A N C I N G S T U D Y

OFFICE OF INTERNATIONAL TRADE

Dan Dixon, Director

State of Alaska
Department of Commerce
and Economic Development

3601 C Street, Suite 722
Anchorage, Alaska 99503
562-2728

Winter 1986

EXPORT FINANCING MATRIX: STATE OF ALASKA

The goals and objectives of an export financing plan for our state should include attracting investment in our economy, increasing labor participation in our industries, creating new industries by stimulating our natural entrepreneurial climate, and improving access to international markets. The fundamental goal of the State of Alaska, and the Office of International Trade in particular, is to devise an export financing program that meets the greatest number of needs of potential exporters in the most cost effective manner possible. After researching model export financing programs around the United States, including a detailed analysis of the Illinois model (see above discussion), we have determined that the state's best interests are served by creatively utilizing existing agencies and personnel to accomplish our goals.

It is our position that the State of Alaska should utilize existing agencies and personnel for an export financing program through the development of a matrix of services which address the unique problems of Alaskan firms wishing to enter into international trade. This matrix of services should include general financing for export development including preshipment and postshipment funding and working capital. Additionally, the State should develop a relationship with a private firm such as the Federal Credit Insurance Company (FCIA) based in New York to provide umbrella insurance coverage for transactions. The State should also work to secure an Export Financing Delivery System of the Federal Exim Bank program as a component of the matrix. Finally, the State should develop export financing expertise and counseling services which would provide assistance to the public in the areas of existing state agency financing programs, federal export financing programs, and the general nature and mechanics of export financing.

GENERAL FINANCING FOR EXPORT FINANCING:

In order to accomplish our goal of meeting the greatest number of needs of Alaskan businesses in the most cost effective manner we have focused our attention on developing the structure for export financing within the existing financing framework of the Alaska Industrial Development Authority (AIDA). AIDA is a public corporation of the State of Alaska within the Department of Commerce and Economic Development, but with separate and independent legal existence. The basic premise for the formation and operation of AIDA encompasses the rationale behind our efforts to form export financing services. AIDA was established to promote, develop and advance the general prosperity and economic welfare of the people of the state of Alaska. Given the present importance of international trade to Alaska's economy and the integral role it will play in the expansion of our economy, export financing fits neatly within AIDA's goal.

AIDA has three principal methods to provide financing for businesses. The first two financing methods involve the use of tax exempt bonds. The third method involves purchase by AIDA of federally guaranteed loans. The authority is authorized to issue tax exempt bonds for eligible projects in accordance with section 103 of the Internal Revenue Code. Since these bonds are not subject to federal or state income taxes, both the bonds and the loans financed by the bonds will carry lower interest rates than their taxable counterparts. It is our understanding that this tax exempt status is of a finite nature and that AIDA is developing a transitional plan to carry on its bonding activities. Therefore, a future export financing component of AIDA should be reflected in this plan.

By centralizing international business financing in AIDA the state will have achieved a ready source of financing from an organization that has an outstanding success rate in its operations. Its staff is respected nationwide for its initiative and ingenuity and the expertise it brings to financing proposals. Moreover, the State will incur modest costs in aligning its export financing with AIDA. The organization is up and running in excellent condition. The expertise is largely in place. It has bonding authority with an excellent governing Board of Directors. The staff of AIDA may have to be increased by a few individuals, including one individual who has significant expertise in international finance and international markets. However, these costs would be minuscule compared with starting a new and distinct export development authority. Estimates for the start up of such an authority range from \$600,000 to \$1,000,000.

Three steps can be taken to assure that AIDA is both recognized and utilized as an international business financing organization for Alaska's businesses. First, the State of Alaska through the Governor and the legislature should expand the mandate of AIDA to specifically include language regarding the expansion of international trade and development as part of the organization's efforts to promote and advance the economic well-being of the state. Secondly, consideration should be given to expanding AIDA's Board of Directors to include one individual from the private sector who has business experience in international trade, international financing and international markets. Finally, a carefully structured marketing plan should be implemented to educate the public about the various programs of AIDA, including its newest component of international business financing.

THE FOREIGN CREDIT INSURANCE ASSOCIATION AND ALASKA'S EXPORT FINANCING PROGRAM

In order to provide the security necessary for the development of international transactions in Alaska, the State should consider a relationship with the Foreign Credit Insurance

Association (FCIA). Established in 1961, this organization consists of many of the United State's top insurance companies. FCIA insures repayment of export credit against nonpayment due to political or commercial causes such as deteriorating economic conditions, bad management, devaluations, fires, floods, or confiscation of assets. In FY '83, FCIA supported procurement of \$7.5 billion of U.S. goods.

FCIA Umbrella Insurance Policy

Purpose: This policy protects exporters that had an average annual export credit sales of less than \$2 million in the past two years against a foreign buyer's failure to pay for goods or services for political or commercial reasons.

Eligibility: Any entity capable of administering a policy (for example: banks, export companies, insurance brokers, and trade organizations) on behalf of multiple exporters is eligible. Only exports of consumables, raw materials, spare parts, agricultural commodities, and consumer durables are eligible.

Amount: 100% of political risk; 90% of commercial risk; interest up to U.S. Treasury rate plus 1%.

Cash Payment: none

Premium: From .25% to 1.00% of the sales value or a minimum of \$500.

To obtain uniformity in the insurance transactions and to lighten the administrative burden, the State of Illinois has negotiated an agreement with the FCIA which insures all of the Illinois Authority's transactions through FCIA. Under this agreement, FCIA insures the Illinois exporter, not the Authority, and it is the FCIA which establishes the credit worthiness of the foreign buyer. This usually only takes five days. With State government support, AIDA could also negotiate an insurance agreement with FCIA on behalf of Alaskan companies. This approach is highly recommended for Alaska's financing system.

EXIMBANK DELIVERY SYSTEM

The Eximbank has entered into master loan guarantee agreements with hundreds of U.S. banks. When a bank has completed a number of satisfactory export transactions, Eximbank will consider extending delegated authority, subject to prescribed conditions, enabling the bank to commit Eximbank to guarantee specific transactions without prior Eximbank approval. This avenue would speed up the processing time of the Eximbank system. A consistent criticism of the Eximbank system is the extremely long processing time involved in securing that type of financing. This so-called delivery system would also have banks providing other types of assistance to potential exporters in the area of fulfilling the requirements to obtain

Eximbank's financial services.

EXPORT FINANCE COUNSELING SERVICES

One of the most critical components of this matrix is the education component. The public needs to be informed about the potential for international business development and the programs, financial and otherwise, which are available to assist the furthering of this important section of our economy. Most specifically to our efforts to expand export financing services, we need to establish a system for export finance counseling services to raise awareness of the importance of proper financing to export success, to explain the mechanics of export credit, and to provide information which will help exporters arrange satisfactory credit with their banks and other financial institutions.

The State could accomplish this goal by providing such services through AIDA as part of its funding operations, or through the Office of International Trade. The drawback to utilizing AIDA in this fashion is that the organization could spend more time advising potential clients than putting together business transactions. The drawback to putting these services under the auspices of the Office of International Trade is that there is insufficient staffing to adequately supply such on-going expertise. This circumstance could of course change if funding permitted the addition of a staff person to run the program. A more viable option may be the utilization of the University of Alaska as the counseling center. In particular, the School of International Business at the University of Alaska Anchorage has sufficient expertise to launch this program. Moreover, throughout the university system there is expertise that may allow for regional counseling centers in addition to a main center at the University of Alaska Anchorage.

It is our understanding that Title 6 of the United States Code provides federal monies to universities to carry out public training in economic development sectors, including international trade. This program should be investigated and scrutinized closely to see if its provisions are applicable to our efforts in expanding export finance services.

CONCLUSION

The key to providing a successful matrix system is the amount of consistent coordination that we can bring to the finance program. The role of AIDA, the Office of International Trade and the university system, if utilized, will have to be set out very specifically. Moreover, one entity should be charged with the general oversight of the system to ensure coordination and

execution of the State's goals.

If this coordination is established, AIDA is given a clear mandate to develop international business in Alaska and if the other above described programs are implemented, we believe that we will have met the State's goals of providing the most services to Alaskan businesses in the most cost effective manner.

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Pat Le Donne Report on Export Financing

Compiled for:

State of Alaska
Office of International Trade

Winter 1986

According to the discussion paper, "State Involvement in Export Financing" (prepared by Robert Schiller of the Alaska Department of Commerce and Economic Development):

- Exports constitute roughly 1/3 of the employment in Alaska's manufacturing sector.
- Fishing, timber and mining are heavily dependent on exports to provide employment.
- Export activity is important to Alaska's economy because of its own limited internal market and its distance from major domestic U.S. markets.
- 50% of the value of Alaskan exports can be attributed to five major companies with another 25% attributed to numerous sea-food processors.

These facts emphasize the importance of international trade to the growth of Alaska's economy, as well as point out the desirability of encouraging more firms to enter the world market.

There is general agreement that, with the declining oil revenues, it is imperative that the State of Alaska begin laying a solid foundation in order to expand its commercial and cultural ties with other nations and to assist Alaska businesses in the complexities of doing business in a multicultural environment. Alaska is currently in a position where it must significantly upgrade its international trade development efforts or risk losing business to better organized states. In order for Alaska to expand internationally and effectively seek foreign investments, efforts must be carefully coordinated.

The following report is the result of a series of interviews conducted with individuals in both the public and private sectors regarding the role of the Alaska Office of International Trade in fostering a more active trade mentality in the State of Alaska.

The consensus of the interviewees was that there are four major focuses that need to be undertaken by the Office of International Trade during the current year to effectively implement an international trade development effort. These are:

1. Develop an international trade base.
2. Establish a state export financing program.
3. Identify foreign markets for Alaskan goods and services.
4. Promote, through education, an export mentality.

I. DEVELOPMENT OF AN INTERNATIONAL TRADE DATABASE.

To aggressively respond to trade possibilities, all participants in Alaskan international trade need to have access to accurate, timely information. The development of a computerized international trade database is crucial. A single entity should be designated which would be responsible for providing information directly and/or acting as a clearinghouse for other agencies and organizations.

At present, there are perceived deficiencies in the way international trade information is handled. Problems exist because there is a lack of understanding of available resources, a lack of knowledge about current and/or future markets for resources and a lack of coordination among the various state, federal, and private agencies involved in development of those resources. A computerized database would serve as a highly visible one-stop source for a variety of trade and investment related information, and provide convenient, accurate access to necessary information.

The Office of International Trade maintains contacts with businesses, organizations and agencies throughout Alaska, including numerous agencies within state government as part of its role as facilitator of Alaskan involvement in international trade. Among those valuable contacts are ports, distributors, shippers, custom houses, foreign consulates, trade associations, chambers of commerce, universities, and federal and state agencies. However, there is no systematic correlation of this information in a manner that provides thorough and timely access to the private sector.

The creation of computer database for this purpose would dramatically increase access to trade prospects for Alaska firms. The private sector would be able to respond in a more timely manner to trade leads and increased information would allow Alaskan firms to more accurately determine those seminars planning sessions and trade shows that are relevant to their needs. It is expected that better access to information would stimulate greater participation by the private sector in those activities which would increase their exposure to trade opportunities.

The Alaska Department of Commerce and Economic Development, the University of Alaska, and the United States Department of Commerce have already instituted the initial steps in the establishment of this database by agreeing to form a partnership. In order to develop and implement the international trade database so that it is of use to a private sector, the database partners need to implement the following steps:

1. Collect input from the private sector (consumers).
 - A. Determine information the private sector needs.
 - B. Based on those express needs, determine source of information.

- C. Analyze the quality of information available from the various available sources.
 - D. Design a paradigm for an operational system.
 - E. Solicit technical expertise.
2. Design an "in-house partnership" approach which creates a database that includes and is not limited to the following parameters.
- A. Determine information sources.
 - B. Determine frequency and responsibility for information update.
 - C. Develop stipulations regarding specificity of information.
 - D. Validate the timeliness of trade opportunities.
 - E. Determine that the data included in the base is what the state or consumers really need, rather than just data that is easy to access.
 - F. Prepare a directory of Alaskan firms.
 - G. Prepare a catalog of Alaskan resources.
 - H. Compile information about federal and state regulations controlling the development of those resources.
 - I. Develop a state "fact file" containing specific information for foreign investors.
 - J. Develop a ten-year profile of markets for import/export activity.
 - K. Compile a list of current markets for Alaskan products/resources, their current growth or decline, companies which are major buyers for those resources/products, and the contacts within those companies.
 - L. Identify other private/public sector organizations that collect information, such as ports, banks, etc.
 - M. Determine the cost of set and a source of financing for database.
 - N. Arrange buy-ins from other database sources, such as PIERS, port import/export reporting services, or LOCKHEEDS DIALOG system.
 - O. Arrange tie-ins with other state agencies, i.e., the Department of Natural Resources.
 - P. Create a user manual.

- Q. Provide training sessions in various locations.
- R. Establish an electronic computer-to-computer hook-up with overseas offices to provide a faster and more secure way of transmitting information.

Chart 1 shows a proposed model for Alaska international trade database, based on discussions with Mr. Larry Gagnon, Information Services Manager, Department of Trade and Economic Development, State of Washington. Mr. Gagnon developed the State of Washington's database for Department of Trade and Economic Development.

AN ALASKAN INTERNATIONAL TRADE DATABASE

<u>Description</u>	<u>File Name</u>	<u>Explanation</u>
<u>Confidential Overseas Telex File</u>	TOKYO, SEOUL, TAIPEI	Initial contact reports and case histories of firms pursuing trade/investment leads, re: Alaska through the agency's overseas offices.
<u>State Trade Directory</u>	TRADIR	Directory of Alaska firms/organizations involved in international trade (for trade development contacts)
<u>Alaska Resource</u>	TOP TEN PROFILE	Statistics on Alaska's top 10 trading partners by commodity and value of shipments
<u>State Resource</u>	RES DIRECTORY	Directory of State's Energy, Mineral Resource base by quantity, location, including marketing and transportation costs

RECOMMENDATIONS:

In order to effectively implement an international database, the following recommendations need to be implemented.

- a. Each database partner should determine what information it would like to have contained within the database.
- b. Partners should convene a series of ongoing meetings in Anchorage with representatives of the Department of Natural Resources and other agencies, when appropriate, to discuss main menu content and database implementation.
- c. Partners should work with a computer specialist from the University of Alaska to develop a final model utilizing examples of existing systems, such as the International Trade Administration System and the Washington State Trade Development Network Data Entry Summary.

II. ESTABLISHMENT OF A STATE EXPORT FINANCING PROGRAM

Given Alaska's unique situation as a resource-based economy, any discussion of export financing must include not only financing for small to medium size businesses, but also providing money for infrastructure development, especially in the areas of transportation, fisheries, timber and mineral development.

What role, if any, the State of Alaska should play in financing exports is a controversial topic among interviewees. There was a persistent concern that a replication of historically, unsuccessful subsidy programs, such as the Alaska Renewable Resources Corporation may occur. Comments ranged from the state should supplement short-term interim financing because the risk of resource development is so much higher in Alaska to the state should not get into the loan business because it would "politicize" the trade process and compete with the banks.

However, in Alaska, as throughout the U.S., small to medium size, new to export businesses are having difficulty securing financing or insurance for exporting. They are traditionally considered poor risks by regional and local banks. Because there are delays in receiving payment from abroad for exported products, businesses often require working capital loans to overcome their cash-flow shortage.

Currently, about half of the 50 states are considering export financing program initiatives - six have already passed legislation authorizing export finance program, ten are currently pursuing various legislative initiatives. These include Ohio's Export Bank, Louisiana's State Trust for direct export finance, Minnesota's State Foreign Trade Association, Illinois State Export Development Authority, Iowa's Export Development Corporation, Tennessee's Competitive Report Corporation and California's Export Finance Board.

A 1983 study prepared by First Washington Associates for the International Trade Administration, U. S. Department of Commerce, cited five national models which could assist states in increasing their export activities.

1. Export finance counseling services to raise awareness of the importance of proper financing to export success, explain the mechanics of export credit; and provide information which will help exporters arrange satisfactory credit with their banks and other financial institutions.
2. Preshipment and postshipment guarantee programs to bolster the credit worthiness of small to medium firms which are unable to arrange satisfactory loans with the commercial banks in the absence of such support.

3. Medium-term fixed rate funding programs for postshipment finance, provided by the state to help capital goods exporters which need such funding and cannot arrange it on competitive terms without such support.
4. Postshipment export credit insurance programs, in which the state would take out a policy with FCIA or other private insurers and offer coverage to small exporters, helping them to fulfill policy requirements.
5. An Eximbank delivery system program, under which the state would issue and help service modest-sized Eximbank loans and guarantees under discretionary authority granted by Eximbank, or would otherwise help exporters fulfill Eximbank's requirements to obtain its financial services.

RECOMMENDATIONS:

- a. Given the higher "risk" factor of doing business in Alaska, the State Office of International Trade should fashion its export financing program on a model which provides not only pre and post shipment financing but also political and commercial risk insurance.
- b. Legislation needs to be prepared based on this model. Included in this section is Alaska model legislation based on the Illinois Export Development Authority.
- c. A meeting needs to be convened the original participants in the Export Financing Panel, which was originally scheduled for September, to discuss the model legislation.
- d. If the model is selected, prepare final legislative package.

III. IDENTIFY FOREIGN MARKETS FOR ALASKAN GOODS AND SERVICES

According to a study prepared by Yankelovich, Skelly and White for the Missouri Department of Commerce, the majority of small to medium size exporters and 90% of nonexporters need assistance in market research and overseas promotion of their products. This, coupled with the strength of the U.S. dollar and the excessive amount of foreign and U.S. government regulations, presents a rather formidable obstacle to any small to medium size business which is interested in exporting.

Despite a rather limited staff and budget, there are a number of services the Office of International Trade can provide in order to assist Alaska businesses in the international marketplace.

RECOMMENDATIONS:

- a. Survey existing manufacturing and service-based industries in Alaska.
- b. Develop a direct mail brochure which details the international trade programs the Office of International Trade provides.
- c. Maintain formal contact with the participants in the current series of programs being developed through the Office of Pacific Rim Relations to promote trade between Asia and Alaska.
- d. Work with the Governor's office to establish a Governor's Council on International Business consisting of members from the business, labor and academic communities.
- e. Work in conjunction with the Cook Inlet Region Market Study to identify state resources for the international trade database.
- f. Use as a model for developing overseas market analysis the Pacific Economic Cooperation Conference which represents tri-participation between government, business and universities (or research institutions).
- g. Create an Alaskan Roundtable to provide an information method of visiting specialists could discuss international topics, such as foreign policy, trade, tourism, and politics.
- h. Assist Alaska business in participating in overseas trade fairs which provide a direct link between buyer and seller.
- i. Develop a catalogue of Alaskan products which can be displayed at trade fairs. Special emphasis should be placed on presenting products of smaller companies with limited travel budgets.

- j. Undertake reverse trade missions and identify potential two and three-way joint venture opportunities in Alaska. Western Europe contacts need to be strengthened.
- k. Identify trade leads through foreign business leaders visiting the state rather than depending on traditional, less timely leads such as those provided by the U. S. Department of Commerce's Trade Opportunities Program.
- l. Provide business people with letters of introduction when they are transacting business overseas.
- m. Initiate an "Honorary Attache" program which utilizes prominent business people who are currently involved in doing business overseas to help promote Alaska.

IV. DEVELOPMENT OF AN EXPORT MENTALITY THROUGH EDUCATION

The Office of International Trade needs to undertake promotion of an export mentality and advocacy within Alaska. The office should identify and work with public officials, business leaders, organized labor leaders, educators and students, community organizations and the media, in order to promote the importance of international trade.

RECOMMENDATIONS:

- a. Use students from the International School of Business, UAA, as interns to provide technical expertise, conduct marketing research, etc., for small businesses who are interested in exporting. Students could receive college credits for their internship.
- b. Conduct a series of seminars for the public and private sector on world economic trends, marketing techniques, export controls, documentation, transportation and export financing.
- c. Develop selected country, product and issue specific seminars conducted by people who are currently engaged in export. Seminars should also include: tax and financial considerations, cultural, political, legal and economic factors.
- d. Embark on a program to educate the private sector in the development of a marketable product, especially in the fishing and timber industry, on the importance of quality control.
- e. Promote publication of articles on international trade in Alaska.
- f. Work with educators to foster international awareness among students in both the primary and secondary level.
- g. Publish a monthly newsletter containing information on upcoming seminars, trade missions, visiting foreign business persons and general information on existing export programs.
- h. Work with the Governor's office to have one week designated as World Trade Week during which a number of activities could be held focusing on export activities in the state.

INTERVIEWEES

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U.S. Foreign and Commercial Service

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INTERVIEWEES (cont.)

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Alaska Airlines

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EXPORT DEVELOPMENT AUTHORITY: AN ASSESSMENT FOR ALASKA

Based on the research conducted by the Office of International Trade, the Office of Enterprise and the U. S. Department of Commerce, model legislation for an export financing authority was developed, based on the Illinois Export Development Authority. This model was presented to financial and economic development experts in Alaska for analysis (the previous section contains a synopsis of the meeting). From all the data collected and the experts' analyses, the export financing authority legislation was found to be inappropriate for Alaska for the following three reasons:

1. Cost: The cost of implementing the model legislation is very high - \$650,000 for establishing the program and marketing the first series of obligations (Illinois estimates), in addition to \$1.4 million needed for reserves.
2. Constituency: The post export financing proposed in the model legislation is ideal for a manufacturing company with payback periods of three years or longer. Alaska has very few, if any, companies involved in these types of transactions.

In addition, in order to obtain pre or postexport financing from the proposed authority, the Alaskan company must have a direct contract with a foreign buyer. Most Alaskan producers do not sell directly to a foreign buyer - instead, there are two or more transactions between the producer and the foreign end user. This requirement, therefore, will reduce the number of Alaskan companies benefiting from the authority.

3. Established Institutions: Alaska already has an established bonding institution, AIDA, which could be modified to satisfy the working capital/infrastructure financing needs of the exporting community in Alaska. The Alaskan banks are already geared to provide letters of credit to exporters. By utilizing these established institutions instead of duplicating them with the Export Development Authority, the State of Alaska could focus its resources on services that are not as easily available such as attracting venture capital to the state.

APPLICABILITY OF ILLINOIS MODEL TO ALASKA*

Dan Dixon, Director, Office of International Trade, convened a meeting in Anchorage to discuss the Illinois model and its applicability to Alaska. The attendees were:

Greg Baker, Deputy Commissioner, Department of Commerce and Economic Development

Terry Elder, Deputy Commissioner, Department of Commerce and Economic Development

Pat LeDonne, Consultant

Steve Hasagawa, National Bank of Alaska

Dave Rose, Executive Director of the Alaska Permanent Fund

John Ringstad, Legislator

Dan Dixon, Director, Office of International Trade

Mary Fleming, Assistant to Director, Office of International Trade

The meeting's agenda focused on these issues:

1. Is there currently a market demand or constituency in Alaska for establishing an export financing authority?

The consensus was:

Alaskan interest in international trade is evident through extensive media coverage, an increasing number of business inquiries to the Department of Commerce and Economic Development's advocacy offices, and a 20% increase in exports over last year.

Since statistics on the number and size of exporters in Alaska have not yet been compiled (to be completed in June 1986), a nonnumerical approach to estimating the Alaskan demand for an Export Development Authority would have to be taken.

A determination needs to be made as to what type of financing Alaskan firms need and the best financial tools to satisfy these needs.

All present agreed that Alaskan firms need three types of financing -- postexport, working capital (preexport financing) and venture capital. These three options were detailed as follows:

Postexport financing - Since most Alaskan exports are non-durable goods, letters of credit with on-site terms are the most common form of export payment. Since the foreign bank guarantees payment, the risk of the foreign company defaulting (commercial risk) is minimal, making a letter of credit an efficient financing form. At least two Alaskan banks, maybe three, are issuing and accepting letters of credit.

Working capital - If the borrower has sufficient collateral, working capital is available through the banking system. The financial experts on the panel believe that many Alaskan firms do not have enough collateral to offset their financial needs. (Debt-to-equity ratios in Alaska are normally much higher than in the Lower '48.)

Venture capital - Often an Alaskan business needs not only preshipment financing, but preproduction financing as well. Before the firm receives even the first sale, it needs to obtain financing to lease equipment, pay salaries, fund marketing efforts, or build roads. In other words, Alaska needs venture capital - which is not easy to obtain since Alaskan banks do not normally perform this very risky function.

2. If Alaska established an export financing authority modeled after the Illinois Export Development Authority would it address the financial needs of its business community?

The consensus was:

The applicability of the Illinois export development authority to Alaska is influenced by the multiparty transactions often involved in Alaskan exports and the longer payback period involved in manufactured products as opposed to resources.

Many Alaskan producers do not sell directly to a foreign buyer, instead there are two or more transactions between the producer and the foreign-end user. In order to obtain financing from an export development authority, the Alaskan producer must have a direct contract with the foreign buyer. Due to this restriction, the Illinois Development Authority model would not be able to assist Alaskan companies whose international sales are by multiparty transactions.

As a manufacturing state, products from Illinois often have a very long payback period, three years or more, and a higher chance of default by the buyer. Export financing authorities are appropriate for these transactions because of the long payback period needed for postexport financing. The majority of Alaska's exports, however, are nondurable goods and are paid for upon receipt by letter of credit. As such, an export financing authority in Alaska would not have the volume of business for postexport financing that will characterize the Illinois authority.

3. What type of financing aid (direct loans, guarantees, subsidies, insurance, counseling services), if any, should be provided to stimulate international trade in Alaska?

The consensus was:

The state should develop a matrix of services which will address the unique problems Alaskan businesses face. This matrix should include working capital funding, administration of FDIC's Umbrella Country Risk policy, promoting venture capital opportunities, and counseling services.

In order to address the multiparty transaction and the high risk problems associated with inexperienced Alaskan businesses entering the international market, the Alaska Industrial Development Authority (AIDA) should be augmented to include a financing mechanism to provide guaranteed funding for working capital. AIDA is especially suited for this role since it already has bond ratings, performs this function domestically, and has the administrative mechanisms for this activity in place. Legislative direction is needed to focus the agency on export activity and to appoint new board members with international expertise.

Political default insurance is difficult to obtain for a small export order. The small to medium size exporters do not turn over enough volume individually to tap into the Foreign Credit Insurance Association's (FCIA) country risk insurance. The state can assist these small exporters by acting as an administrator for FCIA.

Alaskan industries need venture capital/equity funds. Two sources of funding could be foreign joint ventures and state/national pension funds. The state needs to tap Europe, as well as the Orient, for investment capital. The State should research these markets and provide contacts for Alaskan companies. Another innovative idea is to tap the state/national pension funds as sources of venture capital. A consultant with expertise in this area should be hired to analyze this possibility.

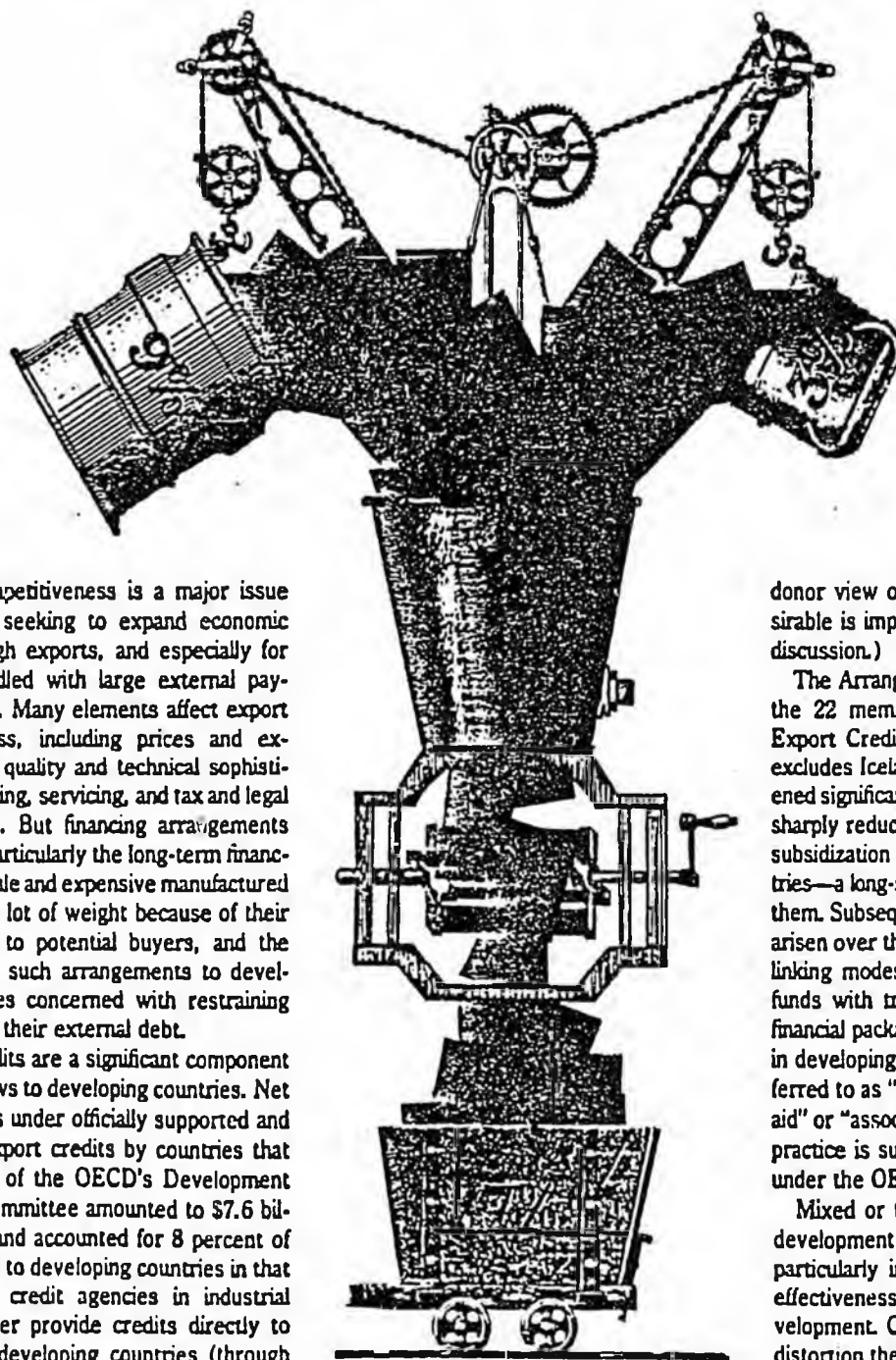
Financial counseling services are a necessity to stimulate international trade. The state could assist companies in preparing loan packages for banks, SBA's revolving line of credit (up to \$1 million) or Ex-Im Bank's working capital guarantee program (between \$1 million and \$5 million).

In conclusion, the panel found that stimulating international trade development of small to medium size firms in Alaska is a multifaceted task. Alaskan companies need assistance in obtaining working capital, venture capital, political risk insurance, and counseling services. A matrix system utilizing the Alaska Industrial Development Authority, the Department of Commerce and Economic Development, and various other federal programs was found to be more appropriate for Alaska than an Export Development Authority modeled after the Illinois program.

The OECD export credits agreement

Recent developments, and a review of efforts to curb mixed credits

David M. Cheney



Export competitiveness is a major issue for countries seeking to expand economic activity through exports, and especially for countries saddled with large external payments deficits. Many elements affect export competitiveness, including prices and exchange rates, quality and technical sophistication, marketing, servicing, and tax and legal considerations. But financing arrangements for exports, particularly the long-term financing of large-scale and expensive manufactured items, carry a lot of weight because of their high visibility to potential buyers, and the importance of such arrangements to developing countries concerned with restraining the growth of their external debt.

Export credits are a significant component of financial flows to developing countries. Net disbursements under officially supported and guaranteed export credits by countries that are members of the OECD's Development Assistance Committee amounted to \$7.6 billion in 1983, and accounted for 8 percent of the total flows to developing countries in that year. Export credit agencies in industrial countries either provide credits directly to importers in developing countries (through such mechanisms as direct credits, refinancings of commercial credits, and interest rate subsidies) or guarantee commercial bank or supplier credits. Agencies that provide direct financial support try to maximize the competitiveness of their longer-term export financing within the limits prescribed by prudent risk analysis and by several international accords. Foremost among these accords is the Arrangement on Guidelines for Officially Supported Export Credits, established in 1978

under the auspices of the Organization for Economic Cooperation and Development. The Arrangement sets minimum allowable interest rates, minimum required cash downpayments, and maximum repayment terms on officially supported credits of two years and over; these are designed to limit competitive subsidization of export financing by OECD governments, so that exports compete on the basis of nonfinancing elements. (The

donor view of subsidized financing as undesirable is implicitly accepted in the following discussion.)

The Arrangement, which is adhered to by the 22 members of the OECD Group on Export Credits and Credit Guarantees (and excludes Iceland and Turkey), was strengthened significantly in 1983. The new provisions sharply reduced the scope for export finance subsidization by the major industrial countries—a long-standing source of friction among them. Subsequently, however, contention has arisen over the growing practice of mixing or linking modest amounts of concessional aid funds with traditional export finance in the financial packages offered to potential buyers in developing countries—these packages referred to as "mixed" credits, a form of "tied-aid" or "associated financing" (see box). This practice is subject to only limited regulation under the OECD Arrangement.

Mixed or tied-aid credits have an explicit development aid component, and provoke particularly important questions about their effectiveness and efficiency in financing development. Critics of tied-aid credits cite the distortion they create in both trade flows and development assistance by diverting scarce foreign aid funds meant for poorer countries to support commercial export sales, typically in the more advanced developing countries. Advocates, however, contend that tied-aid credits reduce the cost to developing countries of projects with a high developmental content, and stretch the development impact of scarce foreign aid funds. Proponents also argue that such credits enable poor countries to attain access to needed imports, particu-

larly when commercial flows to them have been reduced.

The Arrangement circumscribes the level of export credit subsidy by limiting repayment terms and setting a floor for fixed interest rates on medium- and long-term government-supported export credits with a maturity of two years or longer. Its adherents have also been concerned with improving "transparency and discipline" in the extension of tied-aid credits. Proposals have been put forward for stricter notification procedures—whereby an OECD member offering a tied-aid credit must notify others in advance, to afford them a better chance to respond in kind, and—more generally—to discourage this practice. Other proposals have aimed to tighten discipline by raising the minimum permissible "grant element" of tied-aid credits so as to restrict their use in financing commercial export sales.

The April 1985 meeting of the OECD Ministerial Council achieved progress on both transparency and discipline. The session concluded with an agreement to reinforce advance notification and consultation procedures for countries offering tied-aid credits, and to increase to 25 percent (from 20 percent) the minimum allowable grant element for such transactions.

The Arrangement

The OECD Arrangement of 1978 succeeded a looser 1976 "consensus" that sought to harmonize official export credit practices and reduce the level of subsidy so that trade decisions would be based mainly on non-financing considerations.

As well as setting floors on interest rates and ceilings on the repayment terms of traditional export credits, the Arrangement stipulates the minimum cash downpayment required, and the allowable government support for local costs (costs incurred in the importer's

country that are associated with the export transaction), as provided for in the original consensus. Cash downpayments must be at least 15 percent of export contract values, with official support limited to insurance and guarantees against the usual pre-credit risks. Official support for local costs—direct financing or insurance—must not exceed the downpayment and may not carry terms more favorable than the export credit to which it is related; local-cost support for buyers in high-income countries is limited to insurance or guarantees.

Modifications, 1983

The Arrangement is not legally binding in the sense of an international treaty and has had a history of rather uneven cooperation. In its original form it had a number of weaknesses. The most important of these was the difficulty of adjusting the minimum allowable interest rates. The latter varied, together with the maximum repayment period, according to the income level of the importer's country, with the most concessional terms reserved for the poorest borrowers. The minimum allowable fixed rates could be increased only by unanimous agreement on a new set of rates—usually after difficult and protracted negotiations. The result was that in the late 1970s and early 1980s, the budgetary burden of subsidies for export credit swelled to enormous levels in several industrial countries, which had promoted exports by offering export credit rates at the Arrangement minimums, but needed to pay higher interest costs to obtain funds in the market to sustain these credits. For example, in 1982 government bond rates averaged 15.6 percent in France and 12.9 percent in the United Kingdom, while the minimum allowable rate specified in the Arrangement was at 10 percent for credits to most developing nations.

One estimate suggests that in the early 1980s export credit subsidies were costing taxpayers in industrial countries about \$5 billion a year, because of the large spread between the rates at which export credit agencies borrowed and relent funds. Beneficiaries were buyers in developing countries who were able to finance imports at much lower than commercial interest rates, and exporting firms, which enjoyed increased sales and profits.

A second weakness of the Arrangement was that its minimum allowable lending rates for government-backed credits (which entailed direct government financing rather than insurance) applied to lending in all currencies, even those of countries whose market interest rates were below the minimum Arrangement rates. This had the effect of penalizing lending countries whose policies resulted in lower market interest rates.

Largely because of the fiscal pressures exerted by the high budgetary cost of export finance subsidies, participants modified the Arrangement in 1983 to address both of these problems. A formula was adopted whereby minimum interest rates would be adjusted regularly and automatically in line with movements in market rates. The formula provides for the adjustment of minimum rates on January 15 and July 15 each year, if the weighted average of the long-term government bond yields for the five currencies constituting the SDR valuation basket has moved by at least 50 basis points (i.e., ½ of 1 percent) in either direction from the level of the previous adjustment. The latest adjustment, effective July 15, 1985, maintained the interest rate minimums set on January 15, 1985 (see table) as the decline in the weighted average SDR interest rate did not change by at least 50 basis points.

In addition, the participants in the Arrangement adopted individual formulas—subject to periodic review—for currencies where market interest rates were below the Arrangement minimums. In these instances, market-related "commercial interest reference rates" serve as the minimum allowable official lending rates. In most cases, the reference rates are calculated by adding a margin above the monthly average government borrowing costs of five-year, fixed-rate funds, plus a 0.2 percent mark-up, and are adjusted monthly. Reference rates are in effect for a number of currencies, including the Japanese yen, the deutsche mark, and the Swiss franc, which are heavily used for export finance.

Linking the Arrangement minimums to market rates has, in principle, served to eliminate direct subsidies on interest rates for official credits to industrial countries—whose minimum allowable rates more closely approximate market rates—and to reduce significantly the subsidies to developing coun-

Financing for export promotion

There are a number of ways in which financing can be provided—for the purpose of export promotion—on terms that are softer than for traditional export credits. These include:

Tied-aid credits are broadly defined as aid credits provided for development purposes with procurement limited to the donor country; aid is "untied" when procurement may be undertaken at least in all OECD countries and developing countries.

Associated financing transactions, a more narrowly defined concept, combine two or more of the following: 1) ODA with a grant element of at least 25 percent; 2) other official flows—except as in item 3—with a grant element of at least 20 percent; and 3) officially supported export credits, or other funds at or near market terms.

Mixed credits are a kind of tied-aid credit or associated financing that combine funds partly from public sources and partly from private sources.

The grant element of a credit is the measure of concessionality of an officially supported credit, expressed as a percentage, as defined by the OECD Development Assistance Committee. In essence, it is the difference between the interest rate of the credit and the market rate and the length of time the funds are available to the borrower.

tries. The minimum rates are not always observed, however, and the level of subsidization still grows when market rates rise between the semiannual adjustments of the minimum allowable interest rates. Moreover, the minimum rates may still be highly concessional when credits are extended in weaker currencies or where domestic market rates are well above Arrangement minimums.

The Arrangement continues to be limited in several other ways. It does not, for example, cover several important economic sectors—notably agriculture, civilian aircraft, and military hardware—although separate ne-

world trade and aid remains quite limited, and indeed the volume of actual tied-aid credit commitments has reportedly declined in recent years. The OECD puts the volume of associated financing commitments at \$2.0 billion in 1983 and in 1984—compared with \$4.6 billion in 1982. (The significance of these figures, however, may be understated owing to the large dollar appreciation in 1983–84 that reduces the dollar equivalent of these flows.) Associated financings are estimated to account for only about 6 percent of officially supported export credits to developing countries.

recourse to tied-aid credits as a competitive tool in extending official support to exports, especially for products facing weak demand.

France has long been the major user of tied-aid credits, although Italy, Germany, and some smaller European countries have occasionally extended them for special programs generally restricted to poorer developing countries. The United States, the most vocal opponent of tied-aid credits, has made several mixed credit offers to date—only one of which has been accepted. The outlook for additional US offers is not bright—notwithstanding a tied-aid credit program authorized in November 1983 to counter foreign offers and rising domestic pressures in favor of them—as it depends mainly on the lending authority granted by the US Congress for the Export-Import Bank (more immediately, for fiscal 1986), and also on the availability of limited aid funds that can be used for this purpose.

OECD member countries remain divided over the desirability of tied-aid or associated finance credits. At a December 1984 meeting of the OECD Export Credits Group, the United States proposed that tied-aid credits containing a grant element of less than 50 percent be considered purely commercial and thus be subject to the Arrangement minimums. The member countries of the European Community offered a counterproposal to improve transparency further by broadening the definition of tied-aid credits and strengthening the notification rules. The European Community subsequently indicated a readiness to raise the minimum grant element for tied-aid credits from 20 to 25 percent. This compromise was accepted at the April 1985 Ministerial session, at which participants also agreed to tighten notification and consultation procedures along the lines proposed by the EC. The tightening was achieved by requiring that offers of tied-aid credits with grant elements of between 25–50 percent be subject to 20-day prior notification, and by instituting a procedure of face-to-face consultations where there is heavy competition in tied-aid credit offers. A study by the OECD

OECD arrangement on officially supported export credits			
Importing country ¹	Maximum period for repayment		
	2-5 years	5-8½ years	8½-10 years
	(Annual interest rate, in percent)		
Relatively rich (GNP per capita of \$4,000 or more) ²	12.00	12.25	—
Intermediate (GNP per capita \$681-\$4,000) ²	10.70	11.20	—
Relatively poor (GNP per capita less than \$681) ^{2,3}	9.85	9.85	9.85

Source: Organization for Economic Cooperation and Development.
 — Not applicable for these countries.
¹ As defined in the text of the OECD Arrangement.
² Based on data in the World Bank Atlas, 1981.
³ Countries eligible for credits from the International Development Association and other low-income countries.

gotiations on these are under way. (Sectoral agreements on ships, nuclear power plants, and aircraft are in effect.) Nor does the Arrangement cover certain auxiliary forms of protection for exporters, including insurance against inflation (or "cost escalation") and fluctuations in exchange rates—forms of protection that tend to blur the distinction between insurance and direct financial assistance.

Tied-aid credits

Once the automatic adjustment of Arrangement rates was agreed upon in 1983, the focus of negotiations shifted to tied-aid credits. Under the recently amended Arrangement, aid funds may be mixed with export credit only when the overall grant element of such mixed financing packages is at least 25 percent (forcing a minimum aid component). The use of more concessional (e.g., with grant elements exceeding 25 percent) tied-aid credits has, however, become widespread. Particularly controversial is the use of tied-aid credits for major export contracts to the financially stronger developing countries (which require less concessional funds), where the concessional element enables the exporter to gain commercial advantage over competitors from other countries.

The proportion of tied-aid credits in total

Nonetheless, pressure for increased associated financing seems generally to be mounting, and there was a sharp rise in 1984 in the volume of tied-aid credit offers. Tied-aid credits are highly attractive as an export marketing device since the terms on the concessional part can be very generous—with grace periods that can reach 15 years, maturities as long as 30 years, and nominal interest rates as low as zero percent. Consequently, new associated finance credit schemes have been adopted—or budgetary allocations for their extension increased—in nearly all OECD countries and the number of offers has risen considerably. Furthermore, there is some concern that the incidence of the practice is understated, since many similar types of financial offers are not technically considered tied-aid credits.

Another reason behind the increase in tied-aid credit offers is that in recent years many developing countries have been unable to accept financing on purely commercial terms. The sharp cutback of new investment projects in many heavily indebted countries has intensified competition in financing offers for export contracts to developing countries in financially sound condition. Moreover, the tightened Arrangement rules on minimum allowable lending rates may have encouraged greater



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Secretariat, to be completed by September 30, 1985, will, according to a communiqué issued at the conclusion of the OECD Ministerial Council, permit prompt implementation of measures to enhance transparency and discipline.

The OECD Development Assistance Committee has also long been concerned with this issue. It adopted in June 1983 "Guideline Principles for the Use of Aid in Association with Export Credits and Other Market Funds." The aim of these guidelines, which are not legally binding, is to limit the risk of distorting trade and aid flows, by limiting the use of associated financings to transactions that promote priority development objectives in recipient countries. In addition, credit terms are to be tailored to the economic situation and developmental stage of the recipients, with strict restraint on the use of concessional aid funds for the financially stronger countries. Experience suggests that the guidelines may be too general to have major impact on associated finance practices. Nevertheless, a recent assessment by the DAC indicates that some members have stepped up efforts to ensure that associated financings are used more for projects having developmental priority; the review also reveals that the share of bilateral ODA used for associated financings in stronger developing countries has declined to less than 1 percent. Considerable progress has been achieved in improving the transparency of associated financings according to the DAC, with new reporting routines established, more clearly understood definitions, and more prompt and complete reporting of data.

Conclusion

It can be argued that any increased use of tied-aid credits diverts scarce, highly concessional foreign aid funds from the poorest developing countries to higher-income developing nations, and from projects to meet basic human needs toward more capital-intensive sectors, which account for a large part of tied-aid credits. For donors, tied-aid credits represent a very costly means of export promotion.

Whether the recent modifications will satisfy the United States' and several other industrial countries' desire for more significant curbs on tied-aid credits remains to be seen, and it is certain that negotiations will continue at their usual slow pace. The achievement of automatic adjustment of OECD Arrangement rates to market levels, however, certainly demonstrates that breakthroughs in OECD export credit negotiations are possible—especially when a particular practice has spread to the point where it is extremely costly and offers no single donor country a clear competitive edge. □

Nongovernmental

A review of the role of private agencies and voluntary organizations in the development process and the Bank's cooperation with NGOs

Vittorio Masoni

Nongovernmental organizations operate under different names and different guises in both developed and developing countries (see box on their nomenclature.) Their work is parallel and often quite complementary to that of official development agencies. They are traditionally known for their humanitarian, relief activities: they move quickly to the front lines when an emergency arises, be it famine, forced migration, or a natural or man-made disaster. Less appreciated, but no less important, is NGO work in socioeconomic development, from village-level production projects to involvement in country development policies as the "voice of the poor and of the under-represented." In addition, as a "coalition of consciences," "global think tanks," "do-gooders" or the "independent sector," as they are referred to in a variety of contexts, NGOs seek to mobilize the public in industrial countries to North-South interdependence, and urge more generous development assistance.

In spite of the heterogeneity of NGOs, two themes run throughout their development work: (1) *self-reliance*: people can do much to help themselves (or help others) without government intervention or support from aid agencies; (2) *people's participation*: people are the protagonists of development. People have to be associated with development planning and implementation, and must be given freedom to operate in areas that the government cannot effectively reach. Even the best development blueprint will not improve the lot of the poor, unless the intended beneficiaries understand it and support it.

The current worldwide search for ways to make optimal use of very scarce resources and stimulate broad-based development makes it very timely for economic development agencies to take stock of NGO development activities and thinking, and strengthen collaboration among public and private institutions engaged in promoting growth with social equity. Private philanthropy and self-help associations have a long history and, in fact, predate development agencies. The latter have long endeavored to set up collaborative relations with NGOs, particularly since the 1960s. These relations have been inspired by an ideological blueprint, such as helping a newly independent country to develop a pluralistic society (a view widespread in the United States) or advance social democracy (a motivation common in Europe, particularly among Scandinavian countries). Pragmatic considerations have prevailed with aid agencies that look at NGOs in a functional way, that is, as more efficient conduits for development inputs. Some relationships have been structured through specialized institutions and procedures; for instance, the European Community and most bilateral aid agencies have substantial programs for NGO projects. The World Bank carries out a policy dialogue and operational cooperation with NGOs (see discussion below.)

The wide variety of NGOs and of country situations has so far discouraged comprehensive research on NGOs. A small body of analytical material is becoming available from the OECD Development Assistance Committee, development agencies, and academia

A case for export credit subsidies

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The recent reconstruction of the export credit Consensus offers the hope of avoiding repeated conflicts between participants; but objective analysis of the case for some limited subsidy element would also be helpful

International agreement on official export credit practices that are fair and prudent can be important both in supporting free trade policies and in averting over-indebtedness. The recent rescue from the brink of collapse of the OECD Consensus on export credits in its new and improved form inspires hope of an end to the ideological confrontations on this front that had introduced damaging uncertainties into the conduct of international trade. But the two main improvements — aligning the interest rate matrix with movements in the special drawing right (SDR) borrowing rate and the identification of appropriate levels for official support in low interest rate currencies (LIRCs, those whose domestic commercial rates are at any time below the matrix level) — are largely untested in practice and will not be free from technical disputations in future. And there are still some who see these changes as but another step towards a total ban on official export credit subsidies, and others who either reject or hesitate about such a view.

The general arguments against such subsidies can be made as persuasively as against subsidising anything, and need no rehearsing. However, the risk of further confrontations between Consensus participants might be reduced if, in the lull after the recent storm, the case for some particular and limited measures of export credit interest rate subsidy were objectively analysed. The widely differing structures and practices amongst the participating official agencies — reflecting national diversities of industrial, financial, governmental and historical factors — have tended to cloud analysis in the past; and this article attempts to explore this case, with some related suggestions for further improvement in the Consen-

sus. If there can be firm and general acceptance of certain grounds for subsidising export credits, each government should be able more easily to identify whether it is in its own interests at any one time to avail itself of them, and to adopt a consistent attitude towards the practical effects when others do so.

Positive help

International trade is generally accepted as beneficial — division of labour, spur to efficiency, brotherhood of man, and so on. Recognising that it nevertheless faces many impediments not encountered in domestic business, most major trading countries have set up export credit agencies to help, in a positive rather than a simply neutral manner: in the case of the UK Export Credits Guarantee Department (ECGD) there is a clear statutory remit to 'encourage' exports. Such help traditionally consists of insuring exporters against risks of non-payment and of filling gaps in national financial systems with resources adequate to sustain export credit terms meeting the accepted customs of trade in particular classes of business and markets. Further, where the interest cost of financing credit terms becomes a significant factor in total contract prices, that is where medium or long-term credits are involved, the benefits to the smooth flow of international trade of having a fixed rate of interest throughout the life of the individual contract have become discernible, in that all parties can thereby feel more secure against developments outside the control of any of them.

For example, if the interest rate of the credit (which may not necessarily be in the national currency of the exporter or the importer) is left to float commercially, a substantial unforeseen rise during the life of a contract could cause crippling loss to, or curtailment of deliveries by, an exporter who has quoted a fixed price: or, if he has negotiated an escalation clause covering the eventuality, he might nonetheless have to agree to his hard-hit buyer reducing the scale of his

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order or prolonging the repayment period if default is to be avoided. The official credit agency would be in no happier state. It would have difficulty in reconciling its prudential preference for delimiting its maximum liability at the outset of the contract with its normal aim of maintaining an assured percentage of cover; and its system for assessing limits to the creditworthiness of the buyer and the market in which he resides and to the worthiness of the exporter for recourse in the case of non-payment — the agency's two basic functions — could be undermined if rising interest rates impinge on any large proportion of its current business. It might then face rising claims payments or at least a need to cut back its facilities for further contracts with the affected traders more sharply than was consistent with the orderly conduct of business.

Official agencies

It would be ideal if private banking systems were able to meet all their exporters' needs by offering fixed rates of interest upon a sufficient volume of credit financing and, perhaps assisted by developments in the financial futures markets, upon terms not bearing too heavily against foreign trade and currencies compared with domestic business. The question of subsidies would not then arise. But this is not even partly the case in every main industrial country nor, on present evidence, in any one of them as regards the volume of finance and lengths of credit required for the general range of capital goods exports. Official agencies have perforce entered the field, in ways determined primarily by their diverse national systems for funding medium and long-term export credit financing. There are however two basic modes, though an individual system may contain elements of both — first, where an official agency funds all such financing, or a major part of it with the remainder being funded by banks on commercial terms; secondly, where the banks fund all such financing, with an official agency intermediating between their commercial terms and the terms applicable to export contracts.

In the first mode, it is theoretically possible for the funding agency (an export bank, say) to ensure fixed-rate financing without resort to subsidisation. Through time, it can guarantee rates for individual contracts at levels reflecting its best judgment of trends: if the banks are doing part of the funding on commercial terms, it can vary its own terms so as to offset movements in theirs: and, on any law of averages and with the full resources of officialdom behind it, it may succeed for a period in avoiding loss by skilfully timed fund-raising operations from within government or the market at finest rates. Nevertheless, under this mode, a contingent risk of loss and therefore of subsidisation has in effect been accepted on individual runs of business at the time they were underwritten, however strong the resolve might be to recoup any such losses by corrective

action on future runs of business.

Under the second mode, with an official agency guaranteeing fixed interest rates for individual contracts and paying to, or receiving from, the funding banks the difference from time to time between that rate and the commercial rate required by the banks, the theoretical possibility of avoiding subsidisation similarly obtains. This was the basis on which in 1972 ECGD introduced interest rate support into its arrangements with the banks for funding sterling export credits, and which broadly it has since applied to foreign currency funding also. It is other factors that in recent years have led the ECGD and many other agencies into heavy adverse out turns in their systems. Yet this mode seems to have been more liable than the first to accusations of massive subsidisation: perhaps because, without the cushion of any funding on carefully chosen sovereign terms, the interest support payments to banks when commercial rates are rising loom larger and more visibly, and the contingent risk of subsidisation is overt rather than covert. But such differences in national methodologies should not be permitted to cloud responsible international judgment.

The Consensus in its present form has fortunately moved, albeit haltingly, to a point at which all modes of official support for fixed interest rates on individual medium and long-term export credits should be capable of general acceptance instead of partial suspicion. Setting the interest rate matrix on an SDR-linked basis and similarly requiring interest support on LIRCs to be linked to appropriate commercial rates should mean far less actual subsidisation of new contracts than in recent years, so dispersing massive clouds of resentment.

Contingent risks

Even so, with credits extending up to ten years or more, there still remain the contingent risks of loss under most national support systems: and the difficulties of proving, from a snapshot at any one point in time of all their current contracts at their various stages of life, that individual systems are or are not running as a partial subsidy. Comprehension of and tolerance towards different national systems, and a greater readiness to aid that comprehension by fuller disclosure than has always obtained in the past, will therefore be needed if this particular aspect of the 'subsidy' confrontations is to be finally defused.

Not only in the contingent sense affecting fixed-rate export financing, but by clear prescription, the matrix of minimum permissible interest rates for which official support may be given in any currency under the Consensus embodies an element of subsidisation. With the matrix now moving towards a level based on the medium-term commercial equivalent of the SDR government borrowing rate, itself a trade-weighted average of the five main international currencies, this element should as noted be much smaller than when the matrix was held well below commercial rates; but

CONSENSUS INTEREST RATES

Borrowing categories	Relatively rich	Intermediate	Relatively poor
Criterion (GNP a head)	\$4,000+ (1979)	In between	\$625- (1979)
2.5 year (%)	12.15	10.35	9.50
Over 5 years (%)	12.40	10.70	9.50
Maximum credit term (years)	5 (exceptionally 8½)	8½*	10

*10 years for those classified as 'relatively poor' before the July 1982 reclassifications

subsidisation is still permitted, down to the matrix level, of the medium and long-term export credit interest rate of any currency for which domestic commercial rates are at any time higher than that level. By definition, this applies at any one time to one or more of those five main currencies, amongst others.

The case has been urged that in the interests of fair competition this system should be succeeded by one in which official support for each currency is, at most, confined to fixed-rate financing for individual contracts at an interest level reflecting the commercial rate for that currency at the time of contract, however high that rate may be in comparison with other currencies; in other words, applying the LIRC system right across the board.

This case argues that, if the commercial rate for currency A is higher than that for currency B, this portends that the former currency will so depreciate and/or the latter will so appreciate that a buyer will readily divine that, in terms of his own currency, his repayment of capital and interest for a credit in currency A will cost him no more than the same sized credit in currency B. Therefore any subsidy for A's interest rate gives its exporters an unfair advantage over B's. The point is reinforced, it is contended, by the fact that the buyer desiring to cover his repayment obligations by buying forward on the foreign currency market can buy currency A on correspondingly more favourable terms than currency B.

Laboratory conditions

Under laboratory conditions, there is force in these arguments. In the real world, however, the parities between currencies during the pre-set phasings of the credit repayment can be affected by many factors other than differences in their commercial interest rates at the date of contract; and the world does not lack examples of a high interest rate currency being regarded as 'strong' internationally, or of a low interest rate currency remaining comparatively 'weak'. Also, the forward exchange market reflects more the differentials in current interest levels than the expected future movements in currency spot rates; and its ability to cater for the size or length of cover required for much medium and long-term

business is limited. Consequently, buyers are likely to see currency B's lower rate of contract interest as a bird in the hand worth more than all the uncertainties in the bush of currency A proving in the end to have offered as good a deal.

Another argument against matrix-linked subsidisation could be made now from the development of the LIRC arrangements, whereby the authorities in low interest rate countries should permit access to their currencies to exporters in other countries. Thus, an exporter in a high interest rate country theoretically enjoys the option of switching the financing of credits from his domestic currency to an LIRC which can be supported by his official agency at an even lower interest rate than the matrix.

Untested limits

Inescapably, however, there are untested limits to the extent to which the LIRC authorities are prepared to see their currency drawn on for the financing of others' credits, to which the banks there will offer to foreign borrowers terms that are quite as fine as those offered to their own industrial customers, and to which importers in third markets (and possibly their authorities) will accept a sudden switch in currency invoicing without some disturbance to traditional trading links. Also, any substantial switch requires a degree of sophistication on the part of exporters, their banks and their official agencies that may not widely exist; and, as noted, the likely absence of fully adequate cover for exporters in forward exchange markets may introduce elements of currency speculation into areas of business where it is inappropriate and unwelcome.

The UK's compulsory switch from sterling to US dollar and DM financing between 1977 and 1980 is a case in point, even though it was done not so much to take advantage of the lower interest rates for those currencies as to ease the balance of payments burden of sterling lending and the public sector borrowing burden of ECGD's sterling refinancing system at that time. Despite the acute economic crisis, it was judged that the switch could sensibly be applied only to credit contracts of over £5 million, in effect to no more than about 50 large exporting firms: whilst some 90% of such business was switched fairly quickly, exemptions had to be given where buyers would only consider bids in sterling: ECGD had to introduce cover against parity changes between tender and date of contract, a facility inherently difficult to run without loss: and, whilst US dollars and DMs were chosen because the forward market in them could cater for exporters' receivables fairly adequately, ECGD has had to introduce supplementary forward cover — again, difficult to run without loss — for other currencies subsequently qualifying as LIRCs. Thus, the LIRC option for a high interest rate country is by no means an easy or widely applicable one.

The question therefore needs to be faced whether

EXPORT CREDIT

the broader interests of international trade would be well served by totally banning all subsidy where a domestic commercial interest rate rises well above the international average. The latter will often derive from a serious deterioration in a country's balance of payments, or surging inflation, or very likely a combination of both. To moderate the tendency of exchange markets to overshoot its currency's depreciation, or to allow for the lag before budgetary measures can bite on internal money supply, the domestic interest rate may have to be pushed up very sharply for a considerable period; and past studies on sterling have shown that, for a convertible currency, it is not possible to sustain on any commercial basis a double interest structure differentiating between external and internal transactions.

Common weal

From such a rise in the domestic rate, industry will face increased production costs; and its ability to maintain exports will suffer further if it can, in the main, offer credit only at that high rate. This in turn can aggravate problems of improving the balance of payments and of restoring budgetary management; and such a country would give its trading partners scant satisfaction if it had to fall back on such correctives as import controls, excessive devaluation or debt rescheduling. There is growing acceptance that steady growth for all major industrial nations benefits from helping members who are passing through a difficult economic phase; and none of them knows when it may be his turn next. In the absence yet of purely inter-governmental financial mechanisms adequate for this purpose, the formula towards which the Consensus has groped its way whereby a high interest rate country can subsidise its export credit down to, but no further than, an average international level could be regarded for the time being more as a rough and ready contribution to the common weal than as an unacceptably unfair commercial device.

Since its inception in 1976, the Consensus matrix has set different minimum interest rates for exports to 'relatively rich', 'intermediate' and 'relatively poor' countries. Country categorisation has been based on *per capita* national income: for each category, the rate for over 5-year credits has usually been higher than for 2 to 5-year credits; and the rates for poorer markets have been lower than for the rich. On the 1976 over 5-year rate for rich markets of 8% per annum, there was a half percentage point discount in favour of the poorest markets (a 6¼% differential). When the rich country rate was raised in 1980 to 8¼%, the poorest markets discount was widened to one percentage point (nearly an 11½% differential); when it was further raised in 1982 to 12.4%, the discount was widened to 2.4 percentage points (nearly a 19½% differential); and most recently, with the rich market rate being unchanged but other rates lowered, the poorest markets discount increased to

2.9 percentage points (nearly a 23½% differential).

Though even the rich market rates were below commercial rates for many trading currencies for much of this period, the bulk of the subsidisation that occurred and was such a source of dissension was due to these matrix discounts for the intermediate and poorest markets, which are the main seekers of long credit terms for their imports of capital goods and related services. The Consensus participants' agreement to them, though never rationalised in any detail, has been predominantly motivated by financial 'aid' considerations: tinged perhaps with the aim of facilitating a greater volume of exports than many markets could otherwise have afforded.

But this has nothing to do with the proper conduct of official export credit operations as such. If anything, there is a case for higher, not lower, interest charges for exports to markets where there may be a greater risk of failure to pay at due date: the gain of a higher volume of exports to them is pyrrhic if it leads to their overspending and then having to cut purchases savagely because of debt problems; and an official insurer might have concern for the well-being of some classes of his policy-holders if foreign competition is stimulated against them by supplying industrial equipment on easier terms than they themselves can obtain, especially to countries where other costs of production are lower than theirs.

This form of Consensus-permitted subsidisation is now being tempered by the commercial equivalent of the SDR rate becoming the determining rate for the intermediate category of markets. This raises some questions about the other categories (see below), but clearly means less aid-motivated subsidisation than hitherto. Even so, the current surviving differential between the intermediate and poorest categories may not go unheeded by anti-subsidy campaigners; and it is important that this should be recognised as flowing from collective governmental decisions going wider than export credit operations alone and should not be allowed to create undue dissension in negotiations about those operations.

Scope for improvement

Covering so many facets of international trade and national currencies, the Consensus does not lack scope for improvement both in the light of practical experience and by further resolution of related policy issues. The following comments are however confined — in no particular order of importance — to those which may most directly bear on defusing residual subsidisation controversy or, more generally, on fortifying the belief of all participants in the fairness and prudence of its basic rules about interest rates and lengths of credit.

Intra-EEC trade. If the above arguments about contingent subsidisation in fixed-rate financing and enlightened self-interest in the permissible matrix are acceptable internationally, the European Commission might re-examine its ban, made earlier on grounds of

unfairly subsidised competition between one member state and another, on official interest rate support for intra-EEC sales in any currency. Such support might certainly have no place in a Community enjoying totally unimpeded internal trade in goods and services, a common currency and a financial infrastructure available uniformly to all traders. Until such time, the ban can only continue to give external competitors a distinct advantage over some, possibly all, Community producers in winning particular internal orders and to cast doubt upon the Community's advocacy in the Consensus, which it has so far judged beneficial to uphold against some contrary pressures, of official financing support for exports between rich markets generally. A re-examination of this ban could help to reconcile some member states and their exporters to the tighter disciplines of the Consensus in its new form.

The matrix: rich markets. With the matrix rate for the intermediate category of markets becoming the alignment point with the SDR rate, retention of its traditionally higher rate for rich markets merits re-examination also. At present, the 'mark-up' between the two is 1.8 percentage points for 2 to 5-year credits (a 17% differential) and 1.7 percentage points for longer credits (a 16% differential). This is, in effect, standing the earlier aid-motivated discount for intermediate markets on its head. If the new method for determining the intermediate rate results in a competitively-acceptable commercial average, these differentials serve to deter rather than encourage trade between rich markets by exporters supported on matrix terms, the more so since competitors supported on LIRC terms face no such deterrent. One may foresee the disadvantaged exporters, in the belief that most rich markets will not be subject to the political risks of default, reacting by avoiding the premium costs of official insurance and perhaps pushing out lengths of credit beyond customary and Consensus limits — to their heavy cost, if private buyer default occurs; and their official insurers, thereby losing some of their own desired spread of risk, may have to create further disadvantage by raising premiums on sales to other markets.

Imprecise art

Having swallowed the matrix and LIRC camels, rich Consensus participants should perhaps not strain too much to preserve this deterrent upon some imports into their own countries from other participants: agreement that the SDR-linked rate should apply to the rich as well as the intermediate market category would avoid a trading distortion owing more to historical accident than rational design. Further, the statistical basis for categorising countries, and periodically reviewing their categorisation, is an imprecise art; and in the past the process has not been wholly free from politically motivated manoeuvring. Elimination of the interest rate distinction between intermediate and rich

markets for matrix purposes would remove one potential source of future dissension amongst Consensus participants.

The matrix: poor markets. The matrix also preserves an interest rate differential between the intermediate and poorest market categories: at present, a discount of 0.85 percentage point for 2 to 5 year credits (an 8% differential) and of 1.2 percentage point for longer credits (an 11% differential). I have already advanced some general reservations about linking aid with trade in this particular manner: to these might be added other considerations. These discounts are, as noted, sufficient to perpetuate substantial subsidies at any one time by a number of participants; an irritant in itself to some, and also a potential cause of wider argument whenever the SDR rate changes significantly — should the discounts then be the same percentage points, or the same percentage differentials, or what? Also, the LIRC rules make no interest rate distinction between market categories, and none has yet been actively sought; but, if LIRC countries should come to view the matrix discounts as commercially unfair in any way or as putting themselves in an invidious position in the international aid context, and should then press for something similar for their own currencies, this could open up new differences between participants.

Financial aid

Yet indeed, if one accepts that a high interest rate currency in matrix terms tends to indicate a weaker rather than a stronger domestic economy whilst the reverse tends to be true of an LIRC country, there is an illogicality in the Consensus embodying an aid-giving provision for the former class of participant but not for the latter. As there are many ways of giving financial aid to poorer countries without interweaving it so closely with total exports of capital goods and related services to their public and private buyers alike (the latter group often containing associate companies of the exporters themselves), and as the Consensus already allows longer credit terms for these countries than for most others, the general case for keeping trade distinct from aid (including the avoidance of disruptive *credit-mixte* practices) would be served by phasing out these discounts.

A simpler matrix. Until recently the matrix, with three market categories each split between 2.5 and over 5-year credit bands, has provided for up to six different rates of interest. Latterly, for no deep reason, this was reduced to five by adopting the same rate in the two poorest market bands; but numerical complexity has grown as negotiated compromises have resulted in rates going to odd decimal places — an outcome likely to be perpetuated every six months or so by re-alignments with SDR changes, in the absence so far of willingness to round to simpler figures. Added to this will now be a variety of LIRC rates, each liable to change periodically. Risk of confusion to exporters and their bankers cannot be

lightly dismissed: nor of mistaken commitments being entered into by officials in the 22 participating agencies, who have long had difficulty enough in checking the facts among themselves if some credit offer is suspected of breaking the rules. To eliminate the different market categories as suggested above could have the additional benefit of a welcome simplification for all, and by aiding the desired 'transparency' of Consensus operations could strengthen participants' confidence in the system's fairness.

The process could be carried further, resulting in only one matrix interest rate at any one time, if the difference in rates between the two credit bands were also eliminated. This is at present the case, as noted, for the poorest market category and is likely to be so for most LIRCs, though some may appropriately entail a higher rate for longer credits than for shorter. Also, looking conjecturally ahead, this could help towards a version of the SDR itself becoming another and useful currency option for some sectors of international trade. On the other hand, this would remove a modest but long-standing Consensus deterrent against buyers trying to draw out credit lengths from the 2-5-year band into the higher-rated over 5-year band. Introduction of a single matrix rate, therefore, coupled with the growing presence of single-rated LIRCs should preferably be accompanied by wider areas of agreement amongst credit insurers, presumably in the Berne Union but with stronger commitment from their 'guardian authorities' than has sometimes been forthcoming, to keep credit lengths for various classes of goods and services within the bounds of commercial practice.

Lengths of credit. This last process is unlikely to be sufficiently comprehensive, however, to justify simplifying the Consensus even further by dropping all its credit band features, which have for some while set maximum credit lengths of 5 years, or exceptionally 8½ years, for sales to rich markets and of either 8½ or 10 years for other markets. Also, though the Consensus originated as a compromise between those countries favouring subsidised interest rates within shorter credit lengths and those favouring longer credit lengths at commercial interest rates, the prospective reduction now in the amount of permitted subsidisation will not necessarily be generally accepted as grounds for pushing out the permitted credit lengths.

Credit war

The financial systems of some participants cannot readily sustain credits much in excess of 10 years: exporters on the whole prefer to receive full payment sooner than later; official agencies similarly like to keep their horizons of risk as short as is consistent with traditional commercial practices; and any competitive pushing out of credit lengths could become a form of international credit war as disruptive and self-defeating as unrestricted interest rate subsidisation. Indeed, even if the matrix interest rate

should become the same for 2 to 5 and over 5-year credits as canvassed above, there is virtue in retaining some 5-year benchmark within the system as a reminder that this is an appropriate maximum credit both for sales to poorer markets of standard lines of capital goods, as distinct from more complex project business, and for the more general run of sales to rich markets; and the Consensus itself has a 'best endeavours' clause to avoid its maximum credit lengths becoming the norm for transactions which should be conducted on shorter terms.

However, it must be admitted that there is a mismatch between these rules and the various concepts of longer-term 'project financing' which are propounded as highly entrepreneurial ways of furthering major developments in, for example, the energy and other mineral fields and in land and air transport, mainly but not exclusively in non-rich markets. Suggestions have been made that, at least where it is not directly supporting the financing or the interest rate of credit sales forming part of such projects, an official agency should be permitted to insure repayment (in the jargon, to provide 'pure cover') over much longer credit periods than the Consensus at present allows.

Competitive financing

This would probably, however, still be opposed by participants whose institutions lack the means, such as a long-term bond market, of providing competitive financing on such terms: the official agencies of others might not always be comfortable with such longer risk horizons or with security based to any degree on the commercial success of the project, or alternatively might be impelled to consider whether in fairness to their policyholders generally or their taxpayers they should transform themselves to some extent into one of the equity beneficiaries in the venture: and controversy about unfairness could develop between agencies offering 100% insurance of credit financing and others operating on the principle that 'pure' insurance of such financing, like that of the receivables of exporters themselves, requires some proportion of risk to be borne by private parties.

Nevertheless, there could be scope here for constructive debate between participants. Some of them involved in certain sectors not directly covered by the Consensus as yet, such as nuclear power stations and widebodied aircraft, have been discussing credit lengths in excess of 10 years. If a single matrix interest rate evolves, it could be easier to construct a competitively equitable formula for allowing official financing support with the option of X years' credit at the matrix rate or X + Y years' credit at the matrix + Z rate of interest. And it is by no means clear that project managers, investors and equipment suppliers have collectively explored all possibly useful permutations of existing official facilities under the Consensus export rules and the longer cover against political risks for overseas investment. But this goes beyond the scope of the present article.



ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

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December 1, 1986

Office of International Trade
Dan Dixon, Director
3601 "C" Street, Suite 722
Anchorage Alaska 99503

Dear Dan:

Thank you for providing me a copy of the draft legislation dealing with export financing. A few general comments, then some detail on particular provisions.

The addition of the word "export" added throughout the statute while perhaps being useful from a public perception and political stand point, in reality is rather meaningless. The Authority currently finances all projects now regardless if consumption is to be in-state or shipped out. It is not necessary to prioritize what the Authority will finance from an availability of funds basis due to our ability to access external capital markets. The Authority's goal has been to provide long term, reasonable rate financing to all credit worthy projects located within Alaska. As stated, should the addition of the term "export" provide the appropriate people the perception that the Authority is now involved in export financing, fine but the factual matter is, we already are doing it.

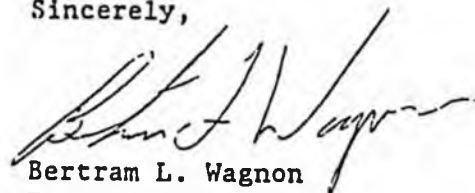
Beginning with Section 2, the bill restructures the Board of the Authority by adding an additional public member who must be "the Director of the Alaska Center for International Business at the University of Alaska-Anchorage". While my Board has not addressed this, staff feels this change is inappropriate. Section 6 puts the Authority in the international export finance business. Previous discussions illustrated that the local banking industry had sufficient expertise and financial capacity to handle export financing and the Authority would concentrate on pre-shipment finance. Section 8 contains the same problems as previously mentioned.

Dan Dixon, Director
November 28, 1986
Page Two

I'll continue to go through the bill in detail, however my indication at this time is that no capital shortage exists for post export shipment and that function would remain the domain of the private banking sector due to their more than adequate ability to meet that need. My understanding was that we would attempt to position AIDA to provide pre-shipment or in other words long term lending within Alaska to encourage the development of facilities to produce the export commodities.

Let me know your thoughts.

Sincerely,



Bertram L. Wagon
Executive Director

BLW/ss

DRAFT
DISCUSSION PAPER:

STATE INVOLVEMENT IN EXPORT FINANCING

(This review and policy analysis represents the views of the author which are neither endorsed nor rejected by the State of Alaska. They are presented as a discussion paper for the Timber Task Force.)

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June 1985

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I. INTRODUCTION

A. Problem Identification

Exports are an important component of Alaska's economy, accounting for about one-third of the employment in Alaska's manufacturing industries. Many fishermen, loggers, and miners are dependent on exports for employment. In 1984, Alaska exported products valued at over \$1 billion. This consisted of seafood products (\$283 million), natural gas (\$262 million), forest products (\$219 million), urea (\$100 million), ammonia (\$30 million), and other products (\$153 million). Because of Alaska's small internal market and difficulty in the continental U.S., the foreign market often represents the dominant point of sale for Alaskan goods.

Yet, only a small percentage of Alaskan firms export. Although no thorough study has been done, the evidence appears that five companies account for over 50% of the value of Alaskan exports: Phillips Petroleum (LNG); Union Oil (ammonia and natural gas); Alaska Pulp Corp. (forest products); Louisiana Pacific (forest products); and Sealaska (forest products). In addition to these five companies, there are numerous seafood processors that account for an additional 25% of Alaska's exports. Thus, only a handful of Alaskan firms account for the large majority of exports.

The benefits to Alaskans of increased exports would be many: increased employment, additional customers, greater annual sales, new market opportunities, extension of a product's market life, countercyclical markets, greater personal income, economic diversification, and higher tax revenue, to name a few. Nationwide, a job is created for every \$40,000 of exports. For these reasons, interest in ways to increase exports is high. This is evidenced not only by the increased political attention given to trade, but also by a 1983 survey by the International Trade Administration which uncovered the names of over 500 Alaskan companies that either export or that have an interest in exporting.

Interest, however, often does not translate into trade. Although the benefits of increased exports are many, so are the obstacles. The truth of this statement is demonstrated by Alaska's inability to show a steady increase in the value of its exports over the past few years. The value of Alaskan exports in 1981, 1982, and 1983 was greater than in 1984.

Lack of competitive products, lack of commitment to exports, insufficient knowledge on how to export, lack of information of export opportunities, insufficient marketing skills, complex regulations, different product standards, unwillingness to assume the extra risk, the strong dollar, lack of insurance, LDC debt problems, slower economic growth in countries to which Alaska exports, and inadequate financial resources are some of the factors that inhibit increased exports of Alaska products. Incentives, expertise, and competitive products are required to be successful in the foreign marketplace.

This study focuses on only one of the above-mentioned obstacles: export financing. Export financing is needed not only to produce the product, but also to sell it. For example, financing in the timber industry is needed to construct a mill, purchase logging equipment, build roads, finance insurance and bonds, pay personnel, carry inventory, and to find markets. It may also be necessary, following shipment, to finance an importer's purchase.

In 1982, it was estimated that 40% of U.S. export shipments were financed (i.e., 60% were paid for in cash or letter of credit by a foreign buyer within 30 days of the shipment). Ninety-three percent of the financing was from private sources and 7% from public money. Alaskan firms appear to obtain almost all of their financing from private sources. In contrast, firms in the State of Washington, receive approximately 67% of their financing from public sources. Despite the numerous existing financing mechanisms, recent studies have shown that some U.S. businesses are often unable to obtain competitive export financing or are unaware of its importance in finding markets.

Export financing is not that much different from any other kind of financing. Regardless of the destination, banks still need to determine whether the borrower is credit worthy, whether collateral is sufficient, or whether the borrower can make sufficient profit from the transaction to repay his commitments. There are, however, several major ways in which export financing might differ from domestic financing: first, there is an additional element of risk. If a foreign bank or company defaults, it may be more difficult to collect than from a domestic company; second, U.S. firms may be competing with foreign companies that are offering very attractive government backed credit terms; and third, some banks may not want to get involved with export related financing.

B. Purpose of This Study

This report concentrates on export financing policy considerations, options, and recommendations. Because of the length, much of the background material and more detailed discussion is put in an Appendix. The objectives of this report are to:

1. Provide a general policy assessment of the issue of State involvement in export financing;
2. Provide an assessment of viable export options for Alaska;
3. Recommend a course of action;
4. Provide a list of: existing financing mechanisms; programs used in other states; and criteria by which to compare programs.

II. MAJOR FINDINGS

- o Financing needs can be divided into two categories: pre-shipment and post-shipment. Pre-shipment refers to expenditures needed to produce a product: roads, equipment, capital investments, and payroll for example. Post-shipment refers primarily to credit terms offered to the importer. Alaska's pre-shipment financing needs are much greater than its post-shipment needs. Most of Alaska's goods are sold for cash or payment within 30 days.
- o The availability of pre-shipment financing is not greatly influenced by whether the final goods are exported. While foreign exchange fluctuations and economic stability of the importer play a role, the financial condition of the firm, the economic situation of the industry, the profit potential of the venture, risk of default, and the quality of the collateral are more important than the destination.
- o The private sector is meeting most of the export finance needs of Alaskan companies. Many companies, due to having headquarters outside the State or the relatively small size of banking establishment in Alaska, use out of State banks.
- o There are numerous State, federal, and international programs available to finance exports (see Appendix B), although Alaskan firms have minimal involvement. For example, only three Alaskan firms are currently using Eximbank financing programs.
- o Designing an export financing program is complex. Policy considerations include cost, benefits, source of funds, efficiency, terms, administrative complexity, selecting an administrator, constituency, and risk (see Appendix A):
- o Other states and studies (see Appendix D) have concluded that the following gaps are present in existing funding mechanisms:

Many smaller firms, due to inexperience or low credit-worthiness, appear to have difficulty arranging both pre-shipment and post-shipment financing.

Many firms that are small or new to exports are discouraged from exporting because of the complexity.

Due to depressed market conditions, nonstandard collateral and high risk, the timber industry currently finds it especially difficult to obtain financing.

There is a limited amount of fixed rate medium-term financing available at competitive interest rates.

Several possible shortcomings of the Eximbank (the dominant federal vehicle) were identified: lack of an efficient delivery system, excessive paper work, long turn around, high cost, restrictive eligibility requirements, low profits for banks for small transactions, and emphasis on large firms.

- o At least 19 states have passed legislation creating export finance assistance (see Appendix D). Programs range from direct loans, guarantees, insurance, counseling, to interest rate subsidization.
- o The State is not yet prepared to initiate an export financing program. It has yet to determined the demand, the constituency, the purpose, or the amount its willing to spend. A high level task force should be formed to propose (or not propose) a program.

III. OPTIONS

Based on an examination of programs and proposals of other states, Alaska has many program options to choose from. There is a matrix of financing arrangements that can be created from the following:

- o type of aid: direct loans, guarantees, subsidy, insurance or counseling.
- o whether the aid is pre- or post-shipment
- o length of aid: short, mid, or long-term
- o terms of the arrangement: interest rate, eligibility, amount, ease of use, degree of coverage, collateral required, etc.

The advantages and disadvantages of some of the major options are discussed below. Many of the details of these programs have been proposed by other states and legislation drafted. If applicable, Alaska could benefit from their efforts.

- o No state financing: It is a viable alternative for the State to do nothing.
Advantages: This alternative carries no risk, no out of pocket costs, and continues current policy.
Disadvantages: Some export opportunities may be foregone due to a lack of financing and/or counseling.
- o Export finance counseling services: Export counselors explain the mechanics of export credit to inexperienced firms, hold export finance seminars, provide an assessment of a firm's export potential, identify distribution channels, have intimate knowledge of finance programs offered by banks and State and federal agencies, perform market research; stimulate interest in exports, and help prepare business plans and loan applications.
Advantage: This program is both low risk and low cost. It might not require legislation, only additional personnel funding. Might be helpful to small firms or firms with little export experience. The counselors can be leveraged through participating organizations.
Disadvantage: The program will not be self-sustaining and funds will have to be appropriated each year. The extent to which such a program would be utilized in Alaska is unknown.
- o Guarantee programs: The State can offer guarantees to commercial banks for firms which are unable to arrange satisfactory loans due to their size or financial condition.
Advantages: The bank, since it would hold part of the credit risk, would screen out totally unworthy borrowers. Would be especially helpful to the timber industry. This would support not replace private financing.
Disadvantages: The State can be left holding the bag. The program requires a high level of support personnel and risk.

- o Direct Loans: The State can offer direct loans to Alaskan exporters. As a variation, the State could purchase loans made by commercial banks that are backed by letters of credit.
 - Advantage: Borrowers would be able to obtain financing not available elsewhere. It might be possible to share the risk with participating commercial banks and to insure against political and commercial risks.
 - Disadvantages: The State must become a banker. It must determine creditworthiness and assume credit risk. This is complex and costly. There is a high risk of default and political pressure. Legislation may be required.

- o Subsidy: The State can offer interest rate subsidies. For example, in a linked deposit program, Alaska would purchase a CD in a bank making an export loan. The bank would pay the State below market rates of interest. In return, the bank would charge the exporter a lower interest rate. Or, the State could simply lower the effective rate of interest as it does with housing loans.
 - Advantages: The program can be designed so the bank assumes all the credit risk. Administratively simple.
 - Disadvantages: There is an opportunity cost to the State in lost interest revenue. May be legal problems in providing a subsidy. Legislation might be required.

- o Insurance programs: The State can offer, through FCIA or private insurers, credit risk insurance. The extra assurance of repayment makes exporters more willing to extend credit and might make their goods more attractive to overseas buyers.
 - Advantages: The program is moderate risk and low cost.
 - Disadvantages: For most of the countries and transactions Alaska deals with, insurance may be unnecessary.

- o An Eximbank delivery system program: The State might be able to issue modest sized loans and guarantees under authority granted by Eximbank. In addition, the State can join forces with the the Eximbank to provide training, technical assistance, promotional efforts, joint delivery systems, and information sharing.
 - Advantages: This program is low cost and low risk.
 - Disadvantages: The Eximbank is very restrictive in terms of delegating its money and authority. Many Eximbank programs may have no applicability to Alaskan exports.

- o State infrastructure development: The State can strategically invest in infrastructure that will support export development. This is an indirect way of State export financing. The State has taken this route several times: port facilities to support coal export or development money to support the Red Dog mine.

Advantages: The State gets something for its money, i.e., a road, a port, an airport, etc. The infrastructure development can serve as a stimulus to multiple investments.

Disadvantages: This route can be costly, running into the tens of millions. Industry can become dependent and come to expect State handout before proceeding with any large investment.

In addition to these options, there are numerous proposals and ideas floating around. An abbreviated list (in no particular order) of other actions the State can take follows:

- o Encourage foreign investment in Alaska (according to the U.S. Department of Commerce, in 1981 Alaska ranked third in the nation in the value of foreign owned property. This investment resulted in 8,578 jobs);
- o Use port authorities to issue bonds, promote market research, advertise, provide legal assistance, transportation, trade documentation, freight forwarding, communication services, and to operate as an export trading company;
- o Match student interns who have marketing expertise to firms wanting cheap market research;
- o Initiate seminars on world economic trends, marketing techniques, export controls, documentation, transportation, specific countries, potentials of specific products, export financing;
- o Set up a State export trading company;
- o Create a State agency to guarantee performance and payment bonds for more than one year and more than \$1 million;
- o Organize cooperatives for the purpose of financing and guaranteeing the exports of members;
- o Participate as equity partner in new export ventures;
- o Issue international trade bonds;
- o Issue monthly publications. These can contain updates on conferences, planned trade missions, visiting foreign business persons, trade opportunities;
- o Compile a list of prospective Alaskan exporters and best prospects for their products;

- o Have catalogue shows and trade fairs to get face to face meetings between buyers and exporters. These provide a forum for discussion of pricing, quality, performance, and competitiveness;
- o Get experienced exporters to meet with those new to exporting as a type of mentor program.

IV. POLICY CONSIDERATIONS

A. General Discussion

The first consideration facing Alaska decision makers interested in expanding exports through export financing is that the lack of financing is only one of a host of variables that may inhibit increased exports from Alaska. It may, in fact, not be the key problem. Lack of competitively priced products, inadequate management skill, an economic downturn, lack of additional products to sell, insufficient marketing effort, lack of supporting infrastructure, and the strong dollar may be more important. Financing will do little to overcome these problems.

The second consideration is that if the State initiated a financing program, it would, in all likelihood, end up assisting companies that no one else was interested in helping in ways that no one else wanted to get involved with. The unwillingness of the private sector to finance a business venture or transaction does not, in itself, justify government intervention.

There are several justifiable reasons that private institutions may not meet the needs of some exporters: the risk is too great, fluctuating interest rates, funding limitations, the profit potential is too small, competitor nations subsidize their exports, regional banks don't have the experience or interest in export financing, and a temporary downturn in a sector of the economy. Federal programs have attempted to fill many of the gaps left by private institutions.

The principal policy issue for Alaska, therefore, is whether the benefits resulting from any increased exports due to its financing programs would be worth the risk, cost, administrative burden, and responsibility. To answer this issue, further study and policy decisions are required. Such public programs often cater to small, financially weak, risky and even poorly managed entities. Any State effort should be designed very carefully to assure that its activities strengthen industry rather than underwrite nonviable activities.

There are three reasons the State might be warranted to intervene to strengthen the private market:

- o the Alaska financial system is limited in size and scope;
- o sufficient capital may not be obtainable for profitable projects;
- o political or social reasons.

B. Program Design Considerations

In selecting an option or in designing a specific program it will be necessary to consider the following:

Why: Why does the State really want to get involved? Is it to support an economically depressed industry? to encourage exports from small firms? to provide Alaskan goods with a little extra boost?

Cost: How much will the start-up costs be? What will be the administrative costs? Will the program bring in enough revenue to be self-sustaining or will the program be a subsidy and a drain on State resources?

Source of Funds: Where will the program get its start-up and operating funds? Options include selling of bonds, charging fees, general State appropriations, charging a royalty on sales, federal grants, and so forth.

Efficiency: For each dollar spent, how many new exports and jobs will result? If the State has a financing program, somebody will always be there with his hand out. The State must set up a mechanism to ensure that the State gets the most bang for its buck.

Terms and conditions: What will be the eligibility requirements, interest rates, type of financing, maturity, amount, collateral required, and so forth?

Impact on private financing mechanisms: Several State loan programs, due to the low rates of interest, have essentially removed the private sector from the market. Does the State program make the maximum use of private institutions?

Benefits: What will be the impact on employment, tax revenue, economic diversification, and personal income? Where will these benefits occur and who will receive them?

Effectiveness: Will the program reach the groups for which the program is intended? The State may finance exports, but would these exports have taken place without State assistance? Will the program improve the competitiveness of in-State exporters?

Who will administer the program: Will a new organization be created to run the program or will an existing entity, such as the Alaska Department of Commerce and Economic Development or AIDA, be charged with the responsibility? This will depend on the capability of the organizations, its relationship to other State programs, acceptability to other State agencies.

Administrative complexity: Will the program require few or many people to run? What level of skill will be required? Are there legal complications? Will the program require several locations throughout the State?

Opportunity cost of money: What else could be done with the money used for financing exports?

Type of company aided (size, product, etc.): Will the program be aimed at a specific interest group (i.e., the timber industry or seafood industry)? Will the program be for small firms only? Will firms in any region in Alaska be eligible or only rural firms?

Potential conflict with U.S. regulations or international agreements: If interest rates are subsidized, international agreements may be violated.

Overlap with federal programs: Many federal programs exist that may perform a similar function. Is the program designed to complement or replace federal programs?

Maximum use of federal expertise: The Federal Government has experienced people located throughout the world. Does the State program make the maximum use of this?

Risk: What level of risk will the State be willing to accept? Will the financing have a reasonable assurance of repayment? What level of defaults will be acceptable? Will the program be geared to simple, low risk, short term financing or complex, risky, long-term financing?

State policy: How does the export financing program relate to other State economic development programs and policies?

Adaptability to changes: Economic environments are constantly changing. For example, interest rates, economic growth, and the strength of the dollar are constantly in a state of flux. Will the program be able to adapt itself to these changes?

Constituency: Who is going to support the program? How does the business community react to the program? Will the program maintain legislative support over a number of years? Will there be any major opposition to the program? Only the timber industry has voiced a need for export financing and much of what they requested really wasn't export financing. For example, a logger that needs financing to harvest timber that he sells to a domestic mill is not strictly export financing.

Last resort: Will exporters have to prove that all other avenues of financing have been attempted?

Legislative requirements: Will the program need legislation in order to be implemented or will additional staff be sufficient?

V. CONCLUSIONS AND RECOMMENDATIONS

A. General

No matter what program the State selects, it should have the following characteristics:

1. It should not be in conflict with federal legislation or international agreements.
2. It should complement rather than compete with existing finance programs.
3. It should use federal expertise and support.
4. The program should make maximum use of private financial institutions. Banks should support State involvement.
5. The program should be financially sound and self sustaining.
6. The program should help make Alaskan goods more competitive in foreign markets.
7. The program should benefit in-State exporters and residents.
8. The program should support primarily small and medium sized firms, without precluding larger firms.
9. Initially, the program should not require high expertise, large staffs, large amounts, long terms, or risky investments.
10. The program should be closely related to State development policies.
11. The program should be flexible and adaptable to changing environments.

B. What to do next

The State of Alaska is not yet prepared to initiate an export financing program. It has not considered in any depth why it needs a program; who it might benefit; how much it might help; how much it is willing to spend or risk; who would administer it, etc.

Only one thing appears clear at this point. The State should not consider getting involved in making direct loans unless it is willing to lose money, own sawmills, be in competition with banks, assume high risks, and be susceptible to political pressures. Export financing is risky, requires a lot of up-front money, does not have widespread support, and requires a large staff with a high level of expertise. Loans are even more risky when Alaska is a lender of last resort. Several loan programs the State now offers have a high delinquency or default rate. ARC did not have a successful life.

Loan guarantees have substantial merit but are also risky. This is especially true in the timber industry where short-term working capital can easily run into the millions. Counseling services have been used successfully in other states. The cost and risk is low but the demand for such services unknown. The linked-deposit program, despite its subsidy aspect, is interesting because of its simplicity and low risk.

Given this discussion, a reasonable course the State can take now is to appoint a high-level task force composed of bankers, exporters, politicians, State representatives, ITA officials, resource specialists, and business leaders. The task force would be assigned the task of holding hearings to get widespread opinions, determining costs and benefits, estimating demand, recommending a specific export financing program, and proposing legislation if necessary. The panel should be able to complete its final report within six months. It might be useful to have a modest amount of contractual money for the panel to commission short-term, specific research.

While the panel is performing its duties, it would be wise for the State to :

- a) attend training seminars and conferences on export financing. The Eximbank, for example, offers a 4-day training seminar that appears excellent.
- b) invite an ITA representative to Alaska. The ITA will send a specialist up to Alaska, at no cost, who will work with Alaska in developing an export finance program. This should be taken advantage of.
- c) visit other states that have successful programs.
- d) explore whether any monies are available from the federal government to research export financing needs and programs. The EDA, for example, funded an export development study for Washington in 1981.

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APPENDIX

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APPENDIX A

A. OVERVIEW OF EXPORT FINANCING

1. Financing needs

There are basically two kinds of export financing: pre-shipment and post-shipment. Pre-shipment involves financing of capital investments, inventories, searching for markets, work in progress or anything else necessary to produce the product. For example, in the timber industry it is necessary to finance the mill, harvesting operations, logging equipment, roads, personnel, raw material, and so forth. This type of financing often requires real property as collateral. The fact that the goods will eventually be exported has little impact on the the ability to obtain financing.

Post-shipment financing deals with how the importer pays the exporter for the product. For example, the importer can agree to pay the exporter in 30 days or 180 days. The credit arrangements will specify the interest rate, maturity, grace period, and so forth. Post-shipment financing has become increasingly important in being competitive in international markets. The exporter is often able to obtain this type of financing by using his inventory or a letter of credit as collateral.

As a starting point for discussing financing mechanisms, it is useful to begin with an overview of the typical ways an exporter receives payment for goods shipped. In order of increasing risk, the following methods of payment are used:

2. Basic Methods of Payment

a. cash in advance: Although risk free and ideal for the exporter, an importer will seldom agree to pay cash in advance. This can only be justified when a product is in high demand or the product has special specifications. In the past, this payment method has been surprisingly popular in the seafood and timber industries when a seller's market existed. In today's buyer's market, it is used less and less.

b. Letter of Credit (LC): This is the most widely used form of payment. This is a document, issued by the foreign bank at the importer's request, promising to pay the exporter a specific amount of money for a specific quantity of goods when the conditions set forth in the LC are fulfilled completely.

When an LC is issued, the importer's bank assumes responsibility for the importer. With an LC, the importer and exporter do not communicate directly; the banks are positioned as intermediaries. The process of mailing documents back and forth between banks can take several weeks, with the exporter financing the product between shipment and payment. LC's can be for payment on sight or at some future date.

Letters of credit may be revocable, irrevocable, unconfirmed, or confirmed. The most desirable is the confirmed irrevocable LC. Irrevocable means that the LC cannot be cancelled or changed without the exporter's consent. Confirmed means that the exporter's bank guarantees that it will make payment irrespective of whether the importer or issuing bank defaults. If the LC is unconfirmed, the exporter is relying on the foreign bank to make payment.

c. Documentary Draft for Collection: With this method, the exporter, after shipment of his goods, presents a draft and shipping documents to his bank which forwards them to the importer's bank for collection. The exporter is guaranteed that the goods will be paid for before the documents are handed over to the importer while the importer is guaranteed that the goods have been shipped before he pays for them. Drafts can be sight, time, or date:

A sight draft (request for payment) is sent by the exporter's bank to the foreign bank for presentation to the buyer. Attached to the sight draft are shipping documents (bill of lading, invoices, packing list, insurance certificates, etc.). The buyer usually pays the draft when the vessel carrying the shipment arrives. Without payment, the buyer cannot obtain the documents or possession of the goods. Sight drafts are typically used when the U.S. firm wishes to retain title until payment. It also meets the buyer halfway by not tying up his funds for an excessive time.

A time draft is similar to a sight draft except that the buyer signs rather than pays the draft in order to obtain the documents necessary to receive the goods. By accepting, the buyer agrees to make payment within a specified time. If the exporter needs the money right away, he can ask the bank to discount the draft. This type of payment system is usually used only with long-time accounts since there is a risk to the exporter of non-payment.

A date draft requires payment by a specified date regardless of the date on which the products and the draft are accepted by the foreign buyer. With sight and time drafts, the buyer can effectively extend the period of credit by simply avoiding receipt of the products. Date drafts make this impossible.

In the case of drafts, banks are not financing credit, but earn commissions for handling of paperwork.

d. Open account: In this method, payment arrangements are between the exporter and importer. If the importer defaults, it can be very difficult for the exporter to collect. Even when payment is certain, the exporter's capital is tied up until payment is received. This method is practiced only with the best customers in the most competitive markets and is advisable only for firms making sales to subsidiaries or to trusted buyers.

e. Consignment: Under this arrangement, the exporter ships the goods to the importer, but the exporter retains title to the goods until the importer has sold the goods to a third party. Under this arrangement, the exporter runs considerable risk since he cannot get paid until the merchandise is sold. Payment is deferred until the agent has sold the product and reimburses the exporters. This method is generally used only in countries having economic and political stability. This system is most common for inter-company transactions or contractual agents. If the agent defaults, there may be little the exporter can do. The laws of many countries protect innocent third party buyers.

3. Criteria by Which to Compare Financing

There are many ways in which financing programs can differ: eligibility, interest rates, maturity, collateral required, amount available, etc. The actual financing agreement will depend on a host of factors: the credit rating of the participants; terms offered by the competition; foreign exchange availability; customary trade practices; stability of the importing country; whether the financing is pre or post shipment; complexity of the deal; size of the exporting firm; type of product; type of financial institution being used; and so on. The discussion below concentrates on the principal terms and conditions of a financing program: why they may differ, how they differ, and how this relates to Alaska.

Eligibility: Both banks and public agencies set standards by which they determine to whom they will lend or not lend. Eligibility for a program may depend on company size, legislative intent, years of export experience, product exported, country of destination, creditworthiness of the borrower, and so on. Some programs are designed for exporters and others for the importers. Some deal with companies while others deal with banking institutions.

Availability: Company size has an important influence on funds available for export. Export financing is generally not available or needed by all companies on an equal basis. Typically, smaller firms export noncapital goods and sell their goods for cash, against a letter of credit, for terms not exceeding 180 days. While their needs are short-term, smaller firms and firms with little export experience have the greatest difficulty in obtaining export financing. Many are not aware of the fundamentals of export financing or of available programs. Because of the lack of a track record, marginal financial conditions, and small financing requirements, pre-shipment financing may be particularly difficult for smaller firms. Large firms typically find it relatively easy in comparison to small and mid-sized firms to arrange pre and post shipment export credit and services.

Another important determinant of the availability of funds is the banking system close to the exporter. Regional banks, such as in Alaska, may lack expertise or interest in export financing while large international banks may have a minimum transaction size that exceeds the needs of even medium firms. Lack of a local office of a federal program, such as not having an Eximbank office in Alaska, may also inhibit use of a program.

Availability also often depends on the general state of the economy, both domestic and foreign. When the domestic economy is growing, banks may prefer to finance domestic items rather than more risky foreign business. In addition, when economic conditions in an industry are poor, such as is the case of the timber industry in Alaska, funds often dry up for the industry most in need.

Political and economic stability of the importing country can be an important factor in the availability and need for funds. While Japan, Alaska's primary trading partner, pays cash for many of their U.S. imports, less developed countries, many with debt problems, typically require financing with longer terms.

Availability of financing will also depend on whether the buyer is a subsidiary of a U.S. company. Approximately 40% of U.S. exports are to overseas subsidiaries of U.S. firms. Forty-seven percent of U.S. shipments to Japan were to subsidiaries. In Alaska, Japanese ownership is important in the seafood and timber industries.

Interest Rates: If money is borrowed to produce a product, the interest rate will directly influence the cost of the product. The cost of money, as measured by the interest rate, can determine whether a product is viable or not. Likewise, once a product is ready for sale, the trade credit offered may determine how easily the product sells.

As the international market place becomes increasingly competitive, trade credit is becoming an essential sales tool. Even when the interest rate is a small portion of the total sales price, high rates can hurt the competitiveness of a company's product. Other countries are offering subsidized trade credit, with long maturities, and grace periods.

There are three key criteria in evaluating interest rates: the absolute rate; the rate relative to competing sellers; and whether the rate is fixed or floating. Compared to other countries, the U.S. has not been very competitive. In recent years, U.S. interest rates, including subsidized rates of the Eximbank, have been above those of competing nations. Furthermore, most interest rates offered by U.S. commercial banks are offered on a floating basis at 1 to 3 percent points over prime while many countries offer fixed rates.

Large exporters, by selling to subsidiaries or by having better access to financial markets in other countries, have fewer problems with interest rates than smaller firms.

Maturity: Loans can be classed as short-term (less than one year), mid-term (one to five years), and long-term (more than five years).

Short-term post-shipment financing is generally used for agricultural products, raw materials, parts, and other consumables. Medium-term financing is generally used for capital equipment. Long-term financing is generally needed only for large projects or multi-million dollar high technology products. Most of Alaska's current post-shipment financing needs are short-term.

Lending Limits: Every bank or government agency sets limits upon the amount it will lend. Limits depend on the financial strength of the trade participants, the intended use of the money, the maturity, the track record of the company, the size of the bank, the country of destination, and a host of other factors.

Timing of Financing: Financing can be divided into two categories: pre-shipment and post-shipment. Pre-shipment finance is the financing of production facilities, stocks, and work in progress up to the time when the goods are ready for shipment. In terms of obtaining pre-shipment financing, most financial institutions care little whether the shipment will be consumed domestically or in a foreign market. Because of the risk, in terms of both the viability of the collateral and the possibility of default, pre-shipment financing can be more

difficult to obtain than post-shipment financing. Yet some industries, such as the forest industry in Alaska, are most in need of working capital.

Post-shipment financing is easier to obtain since it is often secured by a product or letter of credit. In terms of post-shipment financing (not much is known how pre-export shipment varies by product), approximately two-thirds of U.S. manufactured exports are paid for in cash (or less than 30 days). Of the amount financed (1980 data), 85% is on terms less than one year and 6% has a term of 1-5 years. The ITA estimated that 68% of food products exports, 66% of lumber products, 66% of paper products, and 58% of chemical products required some type of post-shipment financing. Almost all of the financing for these products is for less than one year. The ITA estimated that 86% of Alaska's manufactured exports had a term of less than one year.

Form of Financing: Export financing can exist in many forms. For example, direct loans, loan guarantees, insurance, tax incentives, interest rate subsidies, and infrastructure development can all be forms of export financing.

Degree of Coverage: Most all loans, guarantees, and insurance programs do not cover 100% of the value of the shipment. The Eximbank and FCIA, for example, assume many of the risks of exporting but coverage of guarantees and insurance is usually less than 90%. Other programs provide much less coverage.

Collateral Required: Some programs require real estate as security while others may be satisfied with a letter of credit, equipment, or partial down payment. Some programs require 100% collateral, others more or less. Small borrowers are critical of many commercial banks' insistence on obtaining personal guarantees to support export borrowing.

Ease of Use: Some programs may not be used up to their limit because of complex reporting requirements or distance to program headquarters.

Speed of Response: The speed with which a program responds to a financing request or to which it makes payments once documents have been approved is critical. One major complaint of the Eximbank is slow response time.

Dependability: Amounts, availability, terms, and conditions of export financing have fluctuated in recent years. In attempting to establish long-term business ties, the dependability of export financing is critical. Some federal programs, such as the Eximbank, change frequently due to political consideration. Recent efforts have even been aimed at eliminating many federal programs.

Repayment Schedule: Some loan programs have grace periods while others only interest need be paid for a time.

Recipient: Some programs are designed to loan money to the exporter while others are designed to loan money to the importer. Some banks will make loans based on the exporters' creditworthiness rather than the foreign buyers' creditworthiness. Some programs will deal only with institutions such as bank or export trading companies rather than individual exporters.

Cost: Besides the interest rate, financing programs often charge fees and premiums. These fees charged for a service can inhibit use of a program.

APPENDIX B

B. EXISTING PROGRAMS AVAILABLE TO FINANCE ALASKAN EXPORTS

Aside from internal financing, firms have an array of state, federal, or private programs from which to attempt to fund exports. These can include direct loans, guarantees, insurance, or infrastructure assistance from federal and state governments; loans from commercial banks; purchase of receivables from factoring houses; or assistance from export trading companies. A brief description of state, federal, and private financing programs follows:

1. State of Alaska Programs

While Alaska does not currently have a specialized export financing facility, the state does offer several types of financial incentives to business and industry that may directly or indirectly benefit exporters. Incentives offered by Alaska generally fall into three categories: loans, infrastructure development, and tax incentives. To the extent possible, these are discussed below in a standard format.

LOAN PROGRAMS

As of the first quarter 1985, Alaska had outstanding economic development loans of about \$650 million.

a. Agricultural Loan Fund

Administered by: Alaska Department of Natural Resources

Purpose: To promote agriculture through low interest loans for product processing, land clearing, chattel (livestock and equipment), farm development, and irrigation.

Eligibility: Individual farmers, homesteaders, partnerships, and corporations who are Alaskan residents and have farming or related business experience.

Amount: Several types of loans are available. Loans for general farm operations may be made up to a maximum of \$200,000. Loans up to \$250,000 may be made for product processing. Land clearing loans may not exceed \$250,000. Farm development, chattel, and irrigation loans have a limit of \$1 million.

Repayment: Short-term loans for general farm operations may be made for up to one year. Loans for product processing have up to 30 years to repay. Land clearing loans may not exceed 20 years. Farm development, chattel, and irrigation loans have a 30 year maximum term.

Interest Rate: All loans currently charge an 8% interest rate.
Collateral: Mortgage on real property or a security interest in equipment.

Outstanding Loans: Currently there are 770 loans outstanding from 270 borrowers for a total of \$48 million. Of this amount, 18.5% is considered delinquent and 10.5% in default.

For further information, contact: Alaska Department of Natural Resources, 915 South Bailey, P.O. Box 2470, Palmer, Alaska 99645, telephone: 745-7200

b. Alaska Commercial Fishing and Agricultural Bank (CFAB)

Administered by: Although established by state statute, CFAB is a private lending cooperative, not a state agency.

Purpose: The cooperative provides its members with such benefits as competitive loan rates at terms and conditions designed to meet the needs of the individual and the industry.

Eligibility: Loans may be made to members for harvesting, marketing, or processing of fish, timber, or agriculture products.

Repayment: Maturity can be up to 15 years and loans can cover up to 75%.

Interest Rates: Interest rates are determined by the periodic sale of Farm Credit bonds in the national market and the rates are floated or adjusted whenever the cost to CFAB changes.

Outstanding Loans: CFAB provides a significant share of working capital needs for fish processors. The timber industry, according to the timber task force report, has experienced major difficulties with CFAB's loan and collateral requirements. As of 1983, CFAB had loans of \$110 million. Loan losses have been severe for the past few years.

For further information, contact: CFAB, P.O. Box 4-2070, Anchorage, Alaska 99509, telephone: 276-2007.

c. Alaska Industrial Development Authority (AIDA)

Administered By: The Alaska Industrial Development Authority (AIDA) is a public corporation of the state established in 1967 to promote the general economic welfare of Alaskans. AIDA has three principal methods to provide financing. Two financing methods involve the use of tax exempt bonds. The third involves purchase by AIDA of federally guaranteed loans. AIDA does not make direct loans to borrowers. It is a requirement that a financial institution be the originator and servicer of any AIDA loan. The Authority's operations are paid for by fees charged to users of AIDA programs.

Bonds

Purpose: AIDA issues two types of tax exempt bonds that assist businesses in securing long-term financing for eligible capital investments such as buildings, plants, property, and equipment at moderate interest rates. Through its bond programs, AIDA has participated in funding such projects as an air cargo facility, engine repair service, bulk fuel facility, commercial warehouse, mini storage unit, shopping center, office building, and manufacturing facility.

Eligibility: Any business entity located in Alaska.

Amount: Loans may be made for up to \$10 million. Under the umbrella program, the total loan amount cannot exceed 75% of the lesser of the purchase price or appraised value of the asset financed. AIDA will buy up to 90% of a loan with the lender holding the remainder. Umbrella bonds are backed by the full faith and credit of the Authority. Under the revenue bond program, the loan can be up to 100% of the eligible, actual costs. AIDA functions only as a bridge between the borrower and lender. The lender must agree beforehand to purchase all the bonds. The full faith and credit of the Authority is not involved in these transactions.

Repayment: Up to 25 years.

Interest Rate: Based on the cost of bond funds.

Collateral: Collateral such as real property of a security interest in machinery is required.

Outstanding loans: As of the first quarter 1985, outstanding loans totaled \$178 million for the Umbrella Program.

Federal Guarantee Program

Purpose: AIDA will purchase the federally guaranteed portion (primarily SBA) of a loan approved by a lending institution. To provide fixed-rate, long-term loans for accounts receivables, inventories, working capital, equipment, and some debt refinancing.

Eligibility: Any business entity meeting SBA requirements.

Amount: Up to \$500,000 per borrower. Generally, these loans have been guaranteed by the U.S. Small Business Administration.

Repayment: Negotiable

Interest Rate: Equal to the most recent index of AA corporate bond yield average plus 1.5% on loans less than \$100,000 and 1% on loans over \$100,000.

Collateral: Negotiated by lending institution and approved by the SBA

Outstanding Loans: As of the first quarter 1985, \$64 million.

For further information, contact: AIDA, 1577 C Street, Suite 304, Anchorage, Alaska 99501-5177, telephone: 907-274-1551.

d. Alaska Municipal Bond Bank Authority

Administered by: The Alaska Municipal Bond Bank Authority is a public corporation created by state law. The full faith and credit of the state is not pledged to secure bonds issues by the bank.

Purpose: To assist Alaskan communities with financing capital projects such as harbors, docks, schools, and public buildings.

Eligibility: Communities with a general obligation bond election

Amount: There is no maximum loan amount.

Repayment: Repayment depends on the amount and terms established at the time of the bond sale.

Interest rates: Determined by national financial markets.

Collateral: The Bank has first claim on funds the community would receive from the state. In addition to a 15% reserve established at the bond sale, the bonds are backed by the municipality's taxing power.

Outstanding loans: As of the first quarter 1985, the Bank had 46 loans totaling \$159 million. None were delinquent or in default.

For further information, contact: The Alaska Municipal Bond Bank Authority, 601 West 5th Ave. Suite 430, Anchorage, Alaska 99501, telephone: 274-7366

e. Commercial Fishing Loans

Administered by: Alaska Department of Commerce and Economic Development.

Purpose: To assist the fishing industry. Programs are available to lend money for the purchase of limited entry permits, purchase or upgrading of vessels, and hatchery construction and operation.

Eligibility: Depends on the particular program. Loans can be made to individual Alaskan residents with commercial fishing experience; or Alaskan individuals or business entities that are dependent on the fishing industry; or a qualified regional association or private nonprofit corporation

Amount: Up to \$300,000 may be borrowed to purchase a limited entry permit. Loans up to \$100,000 may be made to individuals, partnerships, and corporations for the purchase, repair, restoration, or upgrading of vessels and gear. The state will lend up to \$10 million to a qualified regional association or private nonprofit corporation for the planning, construction, and operation of hatchery facilities.

Repayment: Up to 15 years for limited entry permits and vessel purchase or repair. Up to 30 years for fisheries enhancement.
Interest Rates: Loans for fisheries enhancement charge 9.5% with no principal repayment for the first 6 to 10 years. All other loans are 10.5%.

Collateral: Security interest in a limited entry permit, gear, vessel, or mortgage on hatchery.

Outstanding loans: To date, 1,744 loans totaling \$81 million have been issued under the commercial fishing loan program. Of this, 10.7% are delinquent and 1% in default. Eighty-seven loans totaling \$35 million have been made for the fisheries enhancement loan fund. None are delinquent or in default.

For further information, contact: Alaska Department of Commerce and Economic Development, Division of Investments, Juneau, Alaska 99811, telephone: 907-465-2510.

f. Mining Loan Fund

Administered by: The Alaska Department of Commerce and Economic Development

Purpose: To assist mineral exploration, development, or mining

Eligibility: The applicant(s) must be a resident of the state and be able to establish five years of exploration or mining experience in Alaska.

Amount: Up to \$5 million

Repayment: up to 15 years

Interest Rate: 10%

Collateral: Real property, interest in mining claim, or machinery. Loans can not exceed exceed 75% of the appraised collateral value.

Outstanding Balance: Since its inception in 1980, 48 loans totaling \$20 million have been made. Of this, 42% is delinquent and 1.3% in default.

For further information, contact: Alaska Department of Commerce and Economic Development, Division of Investments, 675 7th Ave., Station A, Fairbanks, Alaska 99701, telephone: 907-452-8182.

INFRASTRUCTURE DEVELOPMENT

g. Development of Access Roads to Mineral Areas

Administered by: Alaska Department of Natural Resources

Purpose: To help small operators develop nonoil and gas minerals in areas where mining prospects of valid commercial promise are inaccessible to truck haulage.

Amount: The state can provide 50% or \$50,000, whichever is lower, of the road construction.

Outstanding Loans: To date, although the legislation is still active, has not been funded. Due to the limited loan amount, the program is not expected to be widely used.

For further information, contact: Alaska Department of Natural Resources, Juneau, Alaska, telephone: 907-465-2400

h. Regional Resource Development Authorities

Under legislation passed in 1983, it is possible for local areas to organize a Resource Development Authority for the purpose of building roads, railroads, docks, and other transport facilities required to support resource development activities. The Authority has the power to borrow money and issue bonds for the development of facilities as well as to own and operate facilities. To date, this legislation has not resulted in much activity.

i. Special Funding

Legislation can be passed to aid development of a specific project. For example, this session legislation was passed to transfer money to the Alaska Industrial Development Authority and to permit the Authority to issue bonds up to \$175 million to finance construction of a road and port facility for the Red Dog Mine near Kotzebue, Alaska. The state also contributed to the building of dock facilities in Seward necessary for coal shipments to Korea.

TAX INCENTIVES

j. Special Investment Tax Credit

Administered by: Alaska Department of Revenue

Purpose: A tax credit is available for development of gas processing projects (integrated plant, facilities and equipment) and for the mining of minerals other than oil and gas. Pipelines from oil and gas wells or to or from plant and facilities are explicitly prohibited.

Amount: For each taxable year after December 31, 1984, the tax credits available are:

- a) 100% on the first \$50 million of qualified investment
- b) 80% over \$50 million but less than \$100 million
- c) 70% over \$100 million but less than \$150 million
- d) 60% over \$150 million but less than \$200 million
- e) 40% over \$250 million but less than \$250 million

For further information, contact: Alaska Department of Revenue, Pouch SA, Juneau, Alaska 99811, telephone: 907-465-2300.

2. Federal Programs

Listed below are some of the major federal programs that can be used directly or indirectly to finance exports of U.S. products.

a. Agency for International Development (AID)

Administered by: Agency for International Development (AID)

Purpose: AID administers U.S. foreign economic assistance programs to less developed countries on concessionary terms.

Eligibility: Foreign governments, including mixed private and public entities.

Amount: Appropriations for this agency exceeded \$5 billion in FY '83.

Repayment: Foreign governments can receive 40 year loans with a ten year grace period.

Interest Rates: Interest rates are 2% during the grace period and 3% thereafter.

Supported Exports: In FY '83, AID supported procurement of \$1.6 billion in U.S. goods.

For further information, contact: AID, Washington, D.C. 20523, 202-632-0482.

b. ANILCA 705 (b)

This is a \$5 million revolving loan fund for equipment. The program is pending U.S. congressional funding.

c. Commodity Credit Corp. (CCC)

Administered by: The CCC is a quasi-government corporation set up by the U.S. Department of Agriculture

Purpose: The CCC has three programs that provide for short-term financing (less than 36 months) of U.S. agricultural commodities (including some forest products).

Eligibility: Agricultural and timber products. Financing is influenced by the importing country.

Amount: Approximately \$5 billion was appropriated to these programs in FY '83.

Repayment: Maximum financing period is 36 months

Interest Rates: Either negotiable or set at commercial rates

For further information, contact CCC Operating Division, Export Credits, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., telephone: 202-447-3224

d. Department of Housing and Urban Development

This program, administered by the Alaska Department of Community and Regional Affairs, offers community development block grants through a competitive bid process for utilities, housing, and economic development.

For more information, contact the Alaska Department of Community and Regional Affairs, 907-465-4700

e. Export-Import Bank (Eximbank)

The Eximbank is a U.S. agency created in 1981 that facilitates expansion of U.S. exports, which would not otherwise occur, through credit supports in the form of loans, guarantees, and insurance. This assistance may, for example, be needed where commercial banks hesitate to make loans because of high risk of nonpayment; the length of financial terms needed; or to match foreign government subsidies (as a recent example, the 5/29/85 Wall Street Journal reported that the Japanese won a contract to build the fifth largest bridge in the world in Turkey by bidding \$100 million less than the nearest competitor and by offering \$205 million in Japanese government loans, at 5% interest, repayable over 25 years, with no payments for the first seven years). In FY '83, the Eximbank supported procurement of \$10.3 billion of U.S. goods. Since its creation, the Eximbank has supported over \$160 billion in exports and paid the U.S. treasury more than \$1 billion in dividends. Only three Alaskan companies are currently using the Eximbank's services.

There is an inherent conflict between the bank's mandate for both self-sufficiency and subsidization. Until FY '82, the Eximbank had been self-sufficient. As world markets have become more competitive, the Eximbank has been forced to subsidize U.S. exports and operate in the red. Since its rate of lending is currently less than the funds it obtains from the Federal Financing Bank, deficits are now all that are expected in the foreseeable future. Deficits, combined with the fact that much

of Eximbank's funding is directed to financing large, profitable companies, have resulted in the Eximbank becoming a center of controversy, with both Presidents Carter and Reagen attempting to reduce the bank's funding levels. The Eximbank's charter must be renewed every five years (the next being 9/88).

The Eximbank acts in conjunction with the Foreign Credit Insurance Association (FCIA), which was formed in 1961, and consists of many of the U.S.'s top insurance companies. FCIA insures repayment of export credit against nonpayment due to political or commercial causes such as deteriorating economic conditions, bad management, devaluations, fires, floods, or confiscation of assets. In FY '83, FCIA supported procurement of \$7.5 billion of U.S. goods.

The Eximbank also operates in conjunction with the Private Export Funding Corporation (PEFCO), a private corporation consisting of commercial banks, industrial companies, and investment banks that participate in export financing.

The importance of U.S. federal export assistance declined between 1975 and 1982. In 1982, the Eximbank's loans and guarantee authorizations were \$4.3 billion or 2% of U.S. exports. This is down from FY '75, when Eximbank's loan and authorizations totaled \$5.4 billion or 5% of U.S. exports. FCIA insurance authorizations changed from \$2.9 billion or 2.7% of U.S. exports in FY '75 to \$5.1 billion or 2.4% of U.S. exports in FY '82. Considering all programs, the U.S. government covered 7.3% of exports in 1982 compared with 9.4% in 1975. Private groups have taken up the slack. In general, the Eximbank offers a more limited set of export supports than most other major trading countries.

Eximbank typically is of most benefit to large-sized exporters of manufactured goods, equipment, and heavy capital goods that need fixed rate financing for 5 to 12 years' maturity. In 1981, only 1% of Eximbank direct loans and 22% of FCIA insurance were to small firms. A special effort is being made to aid small businesses. By 1986, the Eximbank will set-aside 10% of its lending authority for small businesses. To date, however, Eximbank's programs intended for smaller businesses have not been widely used. The Eximbank, however, does have a small business advisory service to provide information on the availability and use of export credit insurance, guarantees, loans, and foreign bank credits.

The Eximbank has entered into master guarantee agreements with hundreds of U.S. banks. When a bank has completed a number of satisfactory export transactions, Eximbank will consider extending delegated authority, subject to prescribed conditions, enabling the bank to commit Eximbank to guarantee specific transactions without prior Eximbank approval.

The Eximbank identifies fifteen programs which are of interest to exporters. These vary by eligible products, applicant eligibility, coverage, collateral required, time frame, recipient, premium, and buyer cash payments. Some of the programs, however, are difficult to distinguish from other programs in the level of detail presented below. A more detailed description of each program is outside the scope of this overview.

Insurance Programs:

FCIA New-to-Export Insurance Policy

Purpose: This program provides a one-year policy insuring against political and commercial short-term export credit sales risk.

Eligibility: Firms that are just beginning to export or have an average annual export sales volume of less than \$750,000 for the past two years. Only exports of consumables, raw materials, spare parts, agricultural commodities, and consumer durables are eligible.

Amount: 100% of political risk; 95% of commercial risk; interest up to U.S. Treasury rate plus 1%.

Repayment: The usual term for covered shipments is 180 days.

Cash Payment: None

Premium: The premium typically costs from .25% to 1.00% of the sales value or a minimum of \$500.

FCIA Umbrella Insurance Policy

Purpose: This policy protects exporters that had average annual export credit sales of less than \$2 million in the past two years against a foreign buyer's failure to pay for goods or services for political or commercial reasons.

Eligibility: Any entity capable of administering a policy (for example, banks, export companies, insurance brokers, and trade organizations) on behalf of multiple exporters is eligible. Only exports of consumables, raw materials, spare parts, agricultural commodities, and consumer durables are eligible.

Amount: 100% of political risk; 90% of commercial risk; interest up to U.S. Treasury rate plus 1%.

Repayment: The usual term for covered shipments is 180 days.

Cash Payment: None

Premium: From .25% to 1.00% of the sales value or a minimum of \$500.

FCIA Short Term Insurance Policy

Purpose: Provides a one-year policy insuring all eligible short-term export credit sales.

Eligibility: Exporters or financial institutions. Only exports of consumables, raw materials, spare parts, agricultural commodities, and consumer durables are eligible.

Amount: 100% of political risk; 90% of commercial risk; interest up to U.S. Treasury rate plus 1%.

Repayment: The usual term for covered shipments is 180 days.

Cash Payment: None

Premium: Premiums are determined on a case specific basis.

FCIA Medium Term Insurance Policy

Purpose: Policy insures a single buyer for individual medium-term export credit sales against political and commercial risk.

Eligibility: Exporters or financial institutions; capital equipment or services

Amount: 100% of political risk; 90% of commercial risk; interest up to U.S. Treasury rate plus 1%.

Repayment: Between two and seven years

Cash Payment: 15% at shipment

Premium: Premiums vary from 1% to 6.5% of the export receivable depending on the term and nature of the buyer.

FCIA Combined Short-Term/Medium-Term Insurance Policy

Purpose: The policy is designed to provide commercial and political risk protection for repetitive export sales of capital equipment to dealers or distributors. Policy provides insurance for short-term inventory financing followed by medium-term coverage for receivables.

Eligibility: Exporters or financial institutions; capital equipment

Amount: 100% of political risk; 90% of commercial risk; interest up to U.S. Treasury rate plus 1%.

Repayment: Up to 270 days for short-term inventory financing; up to three years for receivables.

Cash Payment: None for short-term; 15% when rolled over to medium-term;

Premium: Depending on the buyer, the premium can vary from 1.25% to 6.5%.

FCIA Master Insurance Policy

Purpose: This policy protects against short-term and medium-term political and commercial risks.

Eligibility: Sizeable exporters; all products

Amount: 100% of political risk; 90% of commercial risk; interest up to U.S. Treasury rate plus 1%.

Repayment: Up to 180 days for short-term sales; from two to seven years for medium term sales

Cash Payment: A 15% cash payment is required on medium term coverage.

Premium: Fees are variable depending on the specific situation.

Loan Guarantee Programs:

Eximbank Working Capital Guarantee Program

Purpose: To provide exporters with access to working capital loans from commercial banks. Loans may be used to purchase materials, products, services, and labor for production of goods or services for current or future export sales. Loan funds may also be used for foreign business development. The guarantee can be for a single export related loan or for a revolving line of credit.

Eligibility: Creditworthy small and medium-sized businesses; All products and services. If an exporter qualifies as a small business, it is possible to combine SBA and Eximbank guarantees.

Amount: The Eximbank protects the commercial bank against default by the exporter: 90% of the principal; up to the U.S. Treasury rate plus 1%;

Repayment: up to 12 months

Cash Payment: None

Premium: A fee of 1% is charged for the first six months and .5% for each additional six months.

Eximbank Medium Term Bank Guarantee Program

Purpose: This program provides commercial banks with medium term export financing guarantees for export financing to individual foreign buyers.

Eligibility: Approved commercial banks in U.S.; capital equipment and services.

Amount: 100% of political risk; variable commercial risk; treasury rate plus 1%;

Repayment: two to seven years

Cash Payment: 15% at shipment

Premium: Premium vary from 1% to 6.5%

Eximbank Financial Guarantee

Purpose: To guarantee export financing extended to foreign buyers. Guarantees are often blended with direct loans to provide a complete financing package.

Eligibility: Domestic or foreign financial institutions for major projects or procurement. Major project or major procurement.

Amount: 100% commercial and political risk protection; treasury rate plus 1%

Repayment: five to 10 years

Cash Payment: 15% at shipment

Premium: Fees include .5% per year on the outstanding balance and a .125% fee on the undisbursed balance.

Funding or Financing

Eximbank Small Business Credit Program

Purpose: To enable U.S. banks to offer medium-term fixed rate export loans at the lowest possible rates. Banks can borrow from the Eximbank at 1% below the rate on the export loan.

Eligibility: Approved U.S. banks financing small business exports; capital equipment and services produced by small businesses

Amount: maximum value is \$2.5 million per transaction. Outstanding balance of the export loan

Repayment: two to seven years

Interest Rates: Minimum interest rates depend on whether the importing country is classed as rich, intermediate, or poor.

Cash Payment: A 15% cash payment is required at shipment.

Premium: Depending on the term of the loan, the premium varies from .15% to .75%.

Eximbank Medium-Term Credit Program

Purpose: To help exporters that face officially supported subsidized foreign competition.

Eligibility: Commercial banks; capital equipment and services; exporters that face subsidized competition.

Amount: Outstanding balance of the export loan. Maximum value is \$10 million per transaction.

Repayment: two to seven years

Interest Rates: Minimum interest rates depend on whether the importing country is classed as rich, intermediate, or poor.

Cash Payment: 15% at shipment

Premium: Depending on the term of the loan, the premium varies from .15% to .75%.

Eximbank Direct Loan

Purpose: To make available long-term, fixed rate loans for export sales facing officially supported foreign competition

Eligibility: Creditworthy foreign buyers for major projects or procurement

Amount: Up to 65% of the export value

Repayment: Repayment can take from five to 10 years.

Interest Rates: The interest rate varies with the status (rich, intermediate, poor) of the borrower's country.

Cash Payment: A 15% cash commitment is required from the borrower.

Premium: The Eximbank charges the borrower a 2% fee when the loan is approved and a .5% annual commitment fee on the undischursed balance.

Engineering Multiplier Program

Purpose: Provides medium-term fixed interest rate direct loans. This service helps U.S. architectural and engineering firms win foreign contracts.

Eligibility: Creditworthy foreign borrowers for project related feasibility studies and pre-construction design and engineering services. It is required that the project have the potential for procurement of U.S. equipment and services of \$10 million.

Amount: Up to \$10 million

Repayment: Varies from two to five years

Interest Rates: Varies with the status (rich, intermediate, poor) of the borrower's country.

Cash Payment: 15% cash commitment is required from the borrower

Premium: The Eximbank charges the borrower a 2% fee when the loan is approved and a .5% annual commitment fee on the undischursed balance.

Private Export Funding Corporation (PEFCO)

Purpose: PEFCO provides financial institutions, U.S. exporters, or creditworthy foreign buyers with medium and long-term fixed interest loans guaranteed by the Eximbank for major projects and procurement.

Eligibility: Financial institutions, U.S. exporters, and creditworthy foreign buyers. Financing is for major projects or procurements such as jet aircraft, railroads, steel mills.

Amount: Loans are typically greater than \$1 million.

Repayment: The loan is made for five to 10 years

Interest Rates: usually averages 1% to 2% over comparable rates for U.S. treasury obligations.

Cash Payment: A 15% cash payment is required at shipment.

Premium: A .5% per annum fee is charged on the undisbursed loan balance.

Other Programs:

Eximbank Preliminary Commitment

Purpose: The Eximbank details in advance of a particular transaction the terms and conditions for direct loans/financial guarantee support. This enables the participants to establish terms of financing for more effective planning or marketing. The commitment is generally valid for 180 days.

Eligibility: The program is intended for major projects or procurements. Eligible applicants for this program include prospective borrower, exporter, or financial institution.

For further information on Eximbank programs, contact: Export-Import Bank of the U.S., 811 Vermont Ave., N.W., Washington, D.C. 20571, telephone: 202 566-8990.

f. Farmers Home Administration (FmHA)

Administered by: The Farmers Home Administration (FmHA), USDA.

Purpose: To create and maintain employment in rural communities.

Eligibility: FmHA requires a local lender to be the lead lender. FmHA can guarantee loans for any type of business activity, in rural areas or communities of 50,000 or less population, except any tourist, recreation or amusement facility.

Amount: The FmHA provides loan guarantees from \$500,000 to \$10,000,000. FmHA guarantees the lender for a maximum of 90% of principal and interest.

Repayments: Maximum maturity is 30 years for land, buildings, and permanent fixtures; 15 years for machinery; and seven years for working capital.

Interest Rate: The interest rate may be either fixed or variable.

Collateral: These loans are generally secured by real property.

For more information, contact the Farmers Home Administration, Palmer, Alaska, telephone: 907-745-2176

g. Federal Job Training Partnership Act

This act is administered by the Alaska Department of Community and Regional Affairs and can cover 50% of a qualified employee's salary for up to six months.

For further information, contact the Alaska Department of Community and Regional Affairs, telephone: 907-465-4700

h. Federal Land Bank (FLB)

Administered by: A federally chartered private institution that is member owned.

Purpose: To make loans to the fishing and agriculture (including timber) industries

Eligibility: All aspects of timber production and agriculture. Because the state has subsidized agricultural loans, the FLB has a difficult time competing. The FLB recently stopped making loans to the timber industry in Alaska due to its belief that the economics were poor and the risk too high. The FLB will also make loans to fishermen.

Amount: The FLB provides direct loans of up to \$30,000,000

Repayments: Up to 30 years

Interest Rate: Loans are currently over 12%.

Collateral: Loans are secured by fee ownership in real estate and the improvements thereon.

For more information, contact, Federal Land Bank, Palmer, AK, telephone: 907-745-3390

i. Foreign Sales Corporations (FSC)

Eligibility: An FSC is a corporation set up in a foreign country or U.S. possession other than Puerto Rico. FSC can be formed by manufacturers, nonmanufacturers, and export groups.

Amount: An FSC can obtain a corporate tax exemption on a portion of earnings generated by the sale or lease of export property with at least 50% U.S. content and some services.

j. National Oceanic and Atmospheric Administration (NOAA)

Administered by: U.S. Department of Commerce

Purpose: NOAA administers two programs of interest to fishermen. The first, called the fisheries obligation program, makes long-term financing available to the U.S. fishing industry by providing U.S. government guarantees of repayment. NOAA also administers a program, the Capital Construction Fund (CCF), which enables fishermen to construct, reconstruct, or acquire fishing vessels with before tax rather than after tax dollars. This is done by allowing fishermen to defer payment of Federal tax. In effect, the government provides an interest free loan.

Eligibility: The guarantee is for financing of fishing vessels and fisheries shoreside facilities.

Amount: There is a guarantee limit of 87%.

Repayments: Maximum maturity is 25 years or the useful life of the item being financed.

For further information, contact: National Marine Fisheries Service, Regional Financial Service Division, 1700 Westlake Ave., North, Seattle, Washington 98109, telephone: 206-442-5532

k. Overseas Private Investment Corporation (OPIC)

Purpose: OPIC offers political risk insurance, loan guarantees, and direct loans to encourage U.S. investment in developing countries.

Eligibility: U.S. citizens or corporations exporting to friendly LDC's.

Amount: OPIC will make loans from \$100,000 to \$4 million. These loans are primarily for small businesses. In FY '83, \$25 million had been loaned. In FY '83, OPIC had \$5.5 billion of outstanding insurance. Insurance coverage is for 90% of the total investment cost. Loan guarantees can range from \$1 million to \$50 million and all sized companies are eligible. In FY '83, \$156 million was guaranteed.

Premiums: Rates for insurance are .3% for inconvertibility, .6% for expropriation, and .75% for war. OPIC's fee for loan guarantees ranges from 1.75% to 2.5% per year on the outstanding guaranteed amount.

For further information, contact: Overseas Private Investment Corporation, 1129 20th St., N.W. Washington, D.C. 20527, telephone: 202-653-2800.

1. The Small Business Administration (SBA)

The SBA has three loan programs that are of interest to exporters. All three programs have similar eligibility requirements, interest rates, and premiums.

Eligibility: To qualify, a firm must be classed as small under SBA definitions, be independently owned and operated, and not be dominant in the field. The applicant must show an ability to repay the loan from earnings and that funds are not available on reasonable terms from private sources.

Interest Rates: Interest rates, while set by the lending bank, may not exceed 2.25% over the prime rate for loans with a maturity of less than seven years and 2.75% on loans with maturity of more than seven years.

Premiums: The SBA charges a guarantee fee of .25% on loans of less than 12 months and 1% on loans for more than one year.

Regular Business Loan Guarantee Program:

Purpose: Provides financing for the establishment, operation, or expansion of a small business.

Amount: The SBA can guarantee 90% of a bank line of credit up to \$500,000. In FY '84, the SBA guaranteed about 17,000 loans averaging about \$150,000 each.

Repayments: Maximum 25 years. Working capital loans are generally limited to seven years.

Export Revolving Line of Credit Guarantee Program (ERLC)

Administration: Applications for this loan are filed with the bank, which in turn deals with the SBA.

Purpose: Provides pre-export financing for the manufacture or purchase of goods for sale to foreign markets.

Eligibility: Loan proceeds may not be used to purchase fixed assets, equipment, or to repay debt.

Amount: In FY '84, 31 of these loans were guaranteed by the SBA with an average value of \$287,000.

Repayments: Maximum maturity of this loan is 18 months.

EM-11/SBA Cooperative Program

Administered by: Done in cooperation with the Eximbank

Amount: Between \$200,000 and \$1,000,000

Repayments: Maximum maturity is 18 months.

For further information on SBA programs, contact: Small Business Administration, 701 C Street, Anchorage, Alaska, telephone: 907-271-4022.

m. Trade and Development Program (TDP)

Administered by: International Development Cooperation Agency
Purpose: TDP promotes economic development in middle income developing countries by financing planning services for developmental projects leading to U.S. exports.
Eligibility: "Friendly" developing countries planning substantial procurement of foreign goods. Must show that a competitor is being assisted by its government.
Amount: In FY '85, appropriations by Congress were \$21 million. As a rule of thumb, TDP expects resulting exports to be 75 to 100 times the amount of TDP funding.
Repayments: Reimbursable grants on cost-sharing basis for activities proposed by investing firms.

For further information, contact: Trade and Development program, International Development Cooperation Agency, Washington, D.C. 20523, telephone: 202-235-3663

14. Trade Adjustment Assistance Program

Administered by: U.S. Department of Commerce
Purpose: Offers technical and financial assistance to domestic manufacturers that have been adversely affected by foreign import competition. Marketing, product development, diversification, computer systems, and export promotion assistance may be given.
Amount: The program can make both direct loans (up to \$1 million) and loan guarantees (up to 90% and up to \$3 million).

For further information, Contact, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Room 4004, Washington, D.C. 20230, telephone: 202-377-4031

3. International Programs

Many international organizations finance trade. Listed below are a few:

a. African Development Bank Group (AFDB & AFDF)

The AFDF promotes the economic development of least developed member countries by making long-term loans on concessionary terms. The bank's activities supported U.S. exports of \$14 million in 1982. U.S. exporters can compete in the competitive bidding process.

For further information, contact: African Development Bank, S.P. NO. 1387, Abidjan, Ivory Coast.

b. Asian Development Bank (ADB)

The ADB promotes economic development in developing Asian countries through conventional and concessional long-term loans, technical assistance, and investment promotion. In FY '84, this bank's activities supported \$75 million of U.S. exports. In order to participate, exporters must compete in a bidding process restricted to contributing countries.

For further information, contact: Asian Development Bank, P.O. Box 789, Manila 2800, Republic of Philippines.

c. Inter-American Development Bank (IDB)

The IDB has several programs that accelerate the development process in member countries by providing long-term loans on conventional and concessional terms. In 1983, loans totaled \$1.4 billion. The IDB's loan contracts provide for competitive public bidding from member countries.

For further information, contact: Inter-American Development Bank, 308 17th St., NW, Washington, D.C. 20577, 202-634-3044.

d. World Bank

Procurement based on World Bank financing is open to international competitive bidding to all suppliers and contractors from member countries. U.S. businesses can be placed on the Bank's mailing list to be informed of project loan approvals. Three of the World Bank's programs are discussed below.

International Bank for Reconstruction and Development (IBRD)

The IBRD promotes economic development of member countries by extending loans on conventional terms for specific high priority projects. Total borrowing through FY '84 were \$10 billion. Interest rates are currently 9.9% per year, but are subject to quarterly revisions. There is also a front end fee of .25%. Most loans run from 20 to 25 years.

International Development Association (IDA)

IDA promotes the economic development of less developed member countries by making credits on concessionary terms. In FY '84, \$4 billion credits were given. Loans are available to member countries with per capita GNP less than \$725. No interest is charged, but there is a .75% yearly fee and a .5% fee on the undisbursed balance. Maturities are for 50 years including a ten year grace period.

International Finance Corporation (IFC)

The IFC encourages growth of productive private enterprises in developing countries by extending loans, equity, and acting as a catalyst for outside financing. In FY '84, 62 investment commitments were made valued at \$696 million. Interest rates are market based. Loans are usually for a period of 7-12 years.

For further information, contact: World Bank, 1818 H St. NW, Washington D.C. 20433, -telephone: 202-477-1234

4. Private Financing Sources

The first source of private financing is the company's own equity or personal savings. After this, there are several private institutions which can provide export financing. These are discussed briefly below.

a. Private Banks

Commercial banks provide the bulk of U.S. export financing. Banks can help finance the production, storage, and shipment of product as well as extend credit to foreign buyers. Not all Alaskan banks are engaged in export financing. National Bank of Alaska and the Alaska Pacific Bancorporation are believed to be the two biggest. In addition to commercial banks, credit unions, savings and loans, mutual savings banks, insurance companies, and pension funds are also potential sources of private capital.

b. Factoring Houses

In addition to banks, factoring houses can also provide financing. These firms purchase accounts receivables with immediate payment and assume full risk and responsibility for their collection. The buyer pays the factoring house directly. Generally these organizations, many of which are subsidiaries of banks, charge 2-4% of the product value as a fee, but negate the need to purchase insurance.

c. Export Trading Companies (ETC)

ETC's are made possible by the 1982 Export Trading Act. Although at least 50 trading firms have been created as a result of the act, not much new export business has been created. There are basically four types of ETC's: bank affiliated; companies receiving Commerce Department antitrust certifications; state and local governments; and major corporations.

The primary advantage of an ETC for the exporter is that the selling process involves only a domestic transaction. ETC's assume the risks associated with international trade by taking title to goods domestically and handling export operations for the business owner. ETC's enjoy economies of scale and low per unit costs due to large export volumes through established networks of overseas offices, transportation, insurance, and warehouses.

Export trading companies can receive guarantees from the Eximbank. Alaska Mutual Bancorporation and Sealaska recently formed an export trading company. The New York-New Jersey Port Authority and the Virginia Port Authority are the only two government ETC's that are operational. The NY-NJ ETC sells on behalf of clients, performs market research, sends market

specialists overseas, and helps with documentation and shipping. Clients are not charged until sales result. The NY-11J also has insurance and loan programs. The Virginia ETC does not sell, but provides market research, arranges insurance, and assists in product design.

For further information, contact the U.S. Department of Commerce, International Trade Administration, Office of Export Trading Company Affairs, telephone: 202-377-5111

d. Export Management Companies (EMC)

An export management company can be a source of financing on a limited basis for a negotiable fee. When EMC's provide financing, they usually become responsible for collection as well, thus reducing the exporter's credit risk.

For more information, contact the National Association of Export Companies, telephone: 212-561-2025

e. Joint Ventures

Joining forces with foreign companies can provide the double advantage of financing and access to markets. The timber, seafood, and mining industries in Alaska have grown through joint venture or outright foreign ownership.

f. Venture Capital

Capital for new exiting businesses is sometimes available from venture capitalists. This source of financing may be especially important for the mining industry.

APPENDIX C

C. APPARENT GAPS AND BOTTLENECKS

1. Generic Assessment

Due to the matrix of existing financial programs, the number of criteria that must be examined, and the different types of financing needed, it is difficult to determine whether in fact there is a lack of available export financing in a cell of the matrix. If one believes in the free market, there will be basically three reasons for an absence of financing in a given situation: lack of profit potential, not enough available capital, or too much risk. A financing shortage would exist if there are profitable situations for which no financing could be found.

The private sector, and to a much lesser degree, the Federal Government are meeting most of the financing requirements of exporters on terms that are generally competitive with other supplier nations. As a means of putting the subject of gaps and bottlenecks in perspective, the following quote from "How to Finance Your Company" (24) is presented:

"There is far too much unsubstantiated talk about the 'deficiencies' of the capital market. . . . most of the so-called 'gaps' are a myth. True, there are thousands of companies which seem unable to find the finance they think they ought to be able to find, but many of them are denied for good reasons. Banks, insurance companies, pension funds and other financial institutions are entrusted with the community's savings; and those savings ought not to be exposed to undue risks. . . .

. . . the biggest 'gap' is the knowledge gap; the ignorance of the would-be borrower of the way the capital market works; of how to present a case;"

Nonetheless, based on the previous discussion, the Alaska Timber Task Force Report, and a recent study by the International Trade Administration, several possible gaps and bottlenecks can be identified in existing funding mechanisms which might inhibit exports.

- o Many small and medium-sized firms have a very low awareness of federal export finance programs due, in part, to a lack of local agencies to help them use these programs.

- o Many smaller firms appear to have difficulty arranging both pre-shipment and post-shipment financing due to commercial banks' concerns about their creditworthiness or the lack of profit in small transactions.
- o Banks that provide export financing typically set a high minimum transaction size requirement which disqualifies many small exporters.
- o Many firms that are small or new to exports are discouraged from obtaining credit insurance because of the complexity and cost of doing business with the Federal Credit Insurance Association and the unavailability of private credit insurance for smaller transactions.
- o Sufficient short and mid term capital in the timber industry is difficult to obtain even when contracts for the sale of products have been signed.
- o Collateral required by financial institutions is often unattainable in the timber industry. Funds are even difficult to obtain when contracts have been signed with foreign purchasers.
- o Commercial banks do not typically offer fixed rate long-term financing. To be competitive, financing must often match that offered by competitors.
- o There is a limited amount of fixed rate medium-term financing available at competitive interest rates.
- o Several possible shortcomings of the Eximbank were identified: lack of an efficient delivery system; excessive paper work; long turn around; high cost; restrictive eligibility requirements; low profits for banks for small transactions; emphasis on large firms;

2. Special Needs of Alaskan Firms

Of the \$591 million of direct export of Alaskan manufactured goods in 1981, the ITA estimated that 41% received some post-shipment financing. Almost all the post-shipment export financing is short-term. Interestingly enough, their estimates showed that Alaskan companies did not make use of any federal programs; all credit was extended by private institutions. The percentage of loans financed by Alaskan banks as opposed to out of state banks is not known.

A possible explanation for the nonexploitation of federal programs is ITA's finding of a correlation between the nearness of a finance office and the extent to which offices are used. Other possible explanations are: lack of awareness of federal programs and adequate private lending services.

A particular company's financing needs will depend on company size, product, labor requirements, age of facilities, markets, methods of payment, management skill, current financial position, and a host of other variables. The adequacy of the financing will depend on the amount, maturity, repayment schedule, interest rate, and security required. The following is a brief discussion of the special financing needs of several of Alaska's resource industries.

Timber Industry

The 1984 Timber Task Report dealt in detail with the issue of financing of timber operations. The findings and recommendations are worth summarizing here.

Several factors characterize the timber industry's financing needs:

- o the industry is seasonal; large sums of working capital are needed for start-up each season;
- o much of the short-term funding needs are not obtainable by financing from banks;
- o large capital outlays for harvesting operations are needed to harvest timber; these have a recovery period of from one to five years;
- o some of the assets in a timber operation are so site specific they have little collateral value;
- o long-term (more than 5 years) financing is needed for production and conversion facilities.

The timber industry has traditionally secured financing through private mechanisms. Small operators have gotten started using a combination of personal assets, purchasers' advances, trade financing, and small operating lines from banks. Large firms have either built equity or have been backed by large firms. Private financial institutions have, in most instances, provided long-term capital to meet the needs of large operators. Sufficient working capital, however, has not been as available from private sources due to the downturn in the industry, inherent riskiness of timber operations and the low loan limits of Alaskan banks.

The Governor's timber task force identified their criteria for adequate financing of the timber industry. These are worth summarizing here:

Amount Financing must be available up to \$1.5-\$2 million for the short-term, \$4-15 million (mid-term), and from \$20 to \$250 million for the long-term.

Term The term must be consistent with the time necessary to amortize the investment.

Repayment schedule:

Delayed repayment is necessary in many instances for mid and long-term financing due to the time lag between investment and sales. Lenders must often be willing to defer payment during hard times. Refinancing may also be necessary to allow restructuring.

Interest Rates

Interest rates must be competitive despite Alaska's remoteness and marginally secured security.

Security Assets of Alaskan operators are often not sufficient, by traditional standards of liquidity and transferability, to secure loans. Loan guarantees are important to overcome this.

The task force recommended that the state consider establishing an export-import bank for the purpose of translating purchaser commitments into funds for production.

Fisheries

Seafood companies are generally able to secure sufficient working capital and long-term financing from commercial banks. These loans typically range from \$100,000 to several million. Many seafood processors have headquarters in Seattle and hence use Seattle banks. Because the seafood trade has such a long tradition, the system for export financing is generally in place. Most payments for seafood exports are made through a letter of credit, cash, or open account. Hence the exporter receives payment soon after shipment. It is also not uncommon for exporters to receive cash advances from importers in addition to an assured price. The sentiment in the seafood industry seems to be that if the state got involved with export financing it would be dealing with the financially weak and risky firms. The state might be able to improve competitiveness by subsidizing loans such as the linked deposit program in Ohio. State guarantees might be helpful for young businesses that are not considered creditworthy.

Minina

The biggest financial needs for the mining industry appear to be for start-up costs. The needs can perhaps be better defined as for venture capital as opposed to export financing.

APPENDIX D

D. PROPOSALS AND PROGRAMS OF OTHER STATES

In the past few years, states have dramatically increased their activities in foreign trade in order to strengthen state economies, provide jobs, increase tax revenues, and exploit opportunities overseas. Most state programs provide market research, overseas trade missions, sister/state relationships, trade fairs, counseling, overseas offices, and developing trade leads.

1. Summary of State Programs

According to estimates by First Washington Associates, a private consulting group, 19 states have passed legislation for export finance programs and another seven have legislation pending. Programs range from financing working capital to providing export insurance and are geared to promote exports from small and medium sized businesses.

Most state programs are administered by a Department of Economic Development (or entity with a similar function). Most states work in cooperation with the U.S. International Trade Administration and the Small Business Administration located in their states. Several activities are common to most states: catalog shows, trade missions, trade fairs, referral services, workshops, and overseas offices. Export finance programs are generally supported through bond sales, direct appropriations, or cash deposits. Aside from these similarities, export finance programs vary widely on details such as percentage guaranteed, fees charged, and loan limits.

Based on an October 1984 report published by the U.S. Small Business Administration, telephone calls to several states, and other sources, only California, Colorado, Illinois, Indiana, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, Ohio, South Carolina, Tennessee, Washington, and Wisconsin have or are close to having specialized export financing activities. While the information may be slightly out of date, it does demonstrate the range of options available.

California (\$18.7 billion in manufactured exports in 1981): While the state does not currently have its specialized export facility geared up, a bill was passed that created an Export Finance Office within the California World Trade Commission. In addition to providing technical assistance and coordination of other funding sources, the office would provide up to \$350,000 of financial assistance such as insurance, co-insurance, and loan guarantees up to 85% of the transaction value. The program is funded for \$2 million; with a 25% reserve ratio, the office will be able to guarantee up to \$8 million.

Colorado (\$1.3 billion in manufactured exports in 1981): The State's Housing Financing Authority recently was authorized to provide counseling on export finance activities.

Illinois (\$10.4 billion in manufactured exports in 1981): The Illinois Export Development Authority is a specialized export financing facility intended to establish a source of guaranteed financing and insurance to support export development. The authority is authorized to sell up to \$100 million in bonds to finance its activities. Both pre-shipment and post-shipment assistance through loans to lenders and loan guarantees to exporters and their banks are provided. Although any sized business is eligible, the program is geared to small and medium sized businesses. The program is just getting started. The authority also provides financial counseling.

Indiana (\$5.0 billion in manufactured exports in 1981): The Employment Development Commission provides loan guarantees for working capital loans for export purposes. The guarantees can cover 80% of the outstanding loan balance but may not exceed \$500,000. The term is less than 18 months and is not renewable. Fees are set annually, but are at least .5% per year of the outstanding principal.

Minnesota (\$2.7 billion in manufactured exports in 1981): The Minnesota Export Finance Authority has a small business pre-export loan guarantee program designed to provide operating capital between the conclusion of a sales agreement and the time of delivery. The program is also open to medium sized manufacturers, service firms, export management companies, and export trading companies. The maximum guarantee is \$250,000 for 12 months and to date, six applications worth \$1 million have been approved since the program began operation in February 1984. There is a fee of from 1% to 3%.

Mississippi (\$1.1 billion in manufactured exports in 1981): The Certified Development Company is authorized to guarantee bank pre-export and export financing. An income tax incentive is also available. The net increase in export sales profits from one year to the next is exempt from the Mississippi State income tax.

Missouri (\$3.0 billion in manufactured exports in 1981): The Missouri Economic Development Commission is authorized to guarantee loans to Missouri businesses for export activities provided the loans are reinsured or reguaranteed by Eximbank. The mechanism to accomplish this, however, is not in place and is in the process of negotiation.

Nebraska (\$0.9 billion in manufactured exports in 1981): Nebraska is investigating an Export Finance Fund to help small firms finance export.

New Jersey (\$4.5 billion in manufactured exports in 1981): The N.J. Division of International Trade uses programs of the N.J. Economic Development Authority.

Ohio (\$10.3 billion in manufactured exports in 1981): This program, which is run by the Ohio treasury, has the authority to invest up to \$100 million of the state's normal cash deposits as certificates of deposits at financial institutions making loans to eligible small businesses. Applications are made to participating lending institutions (in excess of 200). The lending institution applies all the usual lending standards to determine the creditworthiness of each applicant. The state assumes no risk, but merely subsidizes the loan. To date, \$60 million has been loaned. Approved applications are forwarded to the state stating the amount of the loan and the number of jobs created or sustained. The state then places a certificate of deposit with the lending institution in an amount based on the loan, at up to 3% below the current market rate. The lending institution then lends those funds to eligible small businesses at 3% below the current market rate. Loans can range from short-term working capital to longer term (CD's can be up to four years) plant and equipment. The Ohio budget office estimates that for every dollar given up in investment revenue because of lower yielding CD's, \$3 to \$4 are returned to the Ohio treasury in the form of taxes and lower costs associated with unemployment. The Special Industries Group also offers guaranteed loans for fixed assets up to 75% of a project and direct loans up to 50% of a project.

South Carolina (\$2.2 billion in manufactured exports in 1981): The Jobs-Economic Development Authority is permitted to use funds to provide exporters with low interest loans, guarantees, or insurance of up to 90% of a bank's commitment. Although the program exists by law, no funds have yet been allocated to the program.

Tennessee (\$3.3 billion in manufactured exports in 1981): The Tennessee Competitive Export Corporation acts as a marketing or sales agent for all federal export financing plans. Although this corporation has the authority to make loan guarantees to Tennessee banks making export loans, initially it will only help small businesses take advantage of existing programs.

Washington (\$9.0 billion in manufactured exports in 1981):
Washington, by the constitution, is prohibited from making loans and guarantees. Instead, Washington has set up an export assistance center, a nonprofit corporation financed by the state, comprised of three people with a budget of about \$200,000. The center has developed computer software to help guide exporters through the export process and secure private or federal financing. The staff will help exporters determine what information they are lacking and will help prepare a loan application. The center started in October 1984, and has counseled about 120 clients. They have about five cooperating centers such as port authorities or economic development councils that leverage their activities. These cooperating groups are given the software and training and in return purchase a computer, provide office space, and part-time personnel. The cooperating groups provide initial assistance with complex problems referred to the export assistance center. They eventually intend to have 10 or 15 cooperating groups throughout the state. The center will soon facilitate the FCIA program. No fee has been charged for the use of the service yet, but after July 1, 1985 \$25 will be charged for computer access and \$100 for a loan package. The counseling service is of help to mainly small firms.

Wisconsin (\$4.0 billion in manufactured exports in 1981):
The Wisconsin Housing and Economic Development Authority is authorized to issue up to \$50 million in bonds to provide loans to lenders who make export loans. The principal of the loan can cover 85% of the export sale and may not exceed \$5 million. The term may vary from 180 days to five years. Businesses with gross annual sales of less than \$25 million are given preference.

C. Other Ideas for Export Financing

In addition to those activities already mentioned, the state can take many actions that might increase exports. Basically anything the state pays for that a private company would have to pay for is a form of export financing. A number of ideas have been proposed by a variety of groups. Programs the state can initiate are listed below:

The state can:

- o Organize a one stop export-import program: teaming up banks, freight forwarders, and export management groups
- o Use port authorities to issue bonds, promote market research, advertise, provide legal assistance, transportation, trade documentation, freight forwarding, communication services, and to operate as ETC

- o Provide a free assessment of a firm's export potential, assist in business plan preparation, identify distribution channels, financing, licensing
- o Match student interns with marketing expertise to firms wanting cheap market research
- o Initiate workshops on exporting
- o Set up an Export Trading Company
- o Grant industrial tax credits, industrial property tax exemptions
- o Expand the CFAB
- o Create a state agency to guarantee performance and payment bonds for more than one year and more than \$1 million
- o Join forces with the the Eximbank to provide training, technical assistance, promotional efforts, joint delivery systems, information sharing, to assist states set up and operate export finance programs.
- o Set up an export finance facilitator to:
 - provide details of export financing programs
 - refer requests to the proper agency
 - work closely with banks
 - provide current data
- o Subsidize the market interest rate to adjust for the strong dollar or relatively high interest rates
- o Organize cooperatives for the purpose of financing and guaranteeing the exports of members
- o States could facilitate the use of foreign currencies to finance exports
- o Offer mixed credits, ie., the combination of two or more sources of financing for a single export project
- o Participate as equity partner in new export ventures
- o Issue international trade bonds, a new tax exempt security
- o Issue monthly publications -- these can contain updates on conferences, planned trade missions, visiting foreign business persons, trade opportunities

- o Compile a list of prospective Alaskan exporters, best prospects for their products
- o Form Foreign Trade Zone, such as in Valdez,
- o Hold seminars on world economic trends, marketing techniques, export controls, documentation, transportation, specific countries, potentials of specific products, export financing
- o Have catalogue shows and trade fairs to get face to face meetings between buyers and exporters. These provide a forum for discussion of pricing, quality, performance, and competitiveness
- o Getting experienced exporters to meet with those new to exporting as a type of mentor program
- o Encourage foreign investment in Alaska (according to the U.S. Department of Commerce, in 1981 Alaska ranked third in the nation in the value of foreign owned property. This investment resulted in 8,573 jobs).

APPENDIX E

E. OPTIONS FOR ALASKA

The ITA compared the requirements of personnel, operating expenses, risk, and operating funds for these five types of programs:

<u>Program</u>	<u>Personnel</u>	<u>Admin. Expense</u>	<u>Risk</u>	<u>Operating Funds</u>
Counseling	low	low	low	low
Guarantees	high	high	high	low
Medium-term funding	medium	medium	low	high
Insurance	high	high	medium	low
Delivery Programs	high	high	medium	low

The 1983 ITA study also estimated the costs and benefits of these State programs to support \$10 million in exports. The chart below shows that medium-term funding can be operated on a profitable basis.

<u>Program</u>	<u>Revenue to State</u>	<u>Cost to State *</u> (\$)	<u>Net Cost to State</u>
Counseling	9,000	65,000	(56,000)
Guarantees	127,500	216,200	(89,300)
Medium-term funding	1,020,000	939,800	80,200
Insurance	127,500	214,800	(87,300)
Delivery Programs	127,500	308,300	(180,800)

* Does not include potential cost of loan losses. Costs would probably be higher in Alaska. Additional costs would be borne by the Federal Government

In considering ways to design and implement export finance programs, it is useful to look at how other states have gone about it.

California: Meetings were held with representatives from manufacturers, service companies, potential exporters, banks, the FCIA, and the state to determine needs and to propose initiatives for legislation.

Illinois: Legislation was the work of the state house and the U.S. Department of Commerce. Hearings were held throughout the state.

Indiana: Proposals came from state legislators and the U.S. Department of Commerce

Minnesota: Programs had the support of the Governor, Senate leader, business groups, and banks.

New York: A governor's advisory panel on state export finance was formed consisting of leaders in state government, business, and banks. The panel held six meetings, evaluated studies on export finance, met with federal officials, endorsed a range of programs, and recommended legislation.

Ohio: Legislation was drafted through the cooperation of members of the legislature, state Department of Commerce, and the U.S. Department of Commerce.

Wisconsin: Legislative initiatives came from the Governor's Advisory Committee on International Trade. The committee members included executives from industry, academia, and state government. The committee met eight times to listen to export specialists, evaluate reports, meet with federal officials, formulate a written program, and advise legislation.

These committees need information: the supply and demand for export financing, exports by company size, typical terms of financing, financing by product, and financing sources.

(7) "reserve fund" means the Alaska municipal bond bank reserve fund established under AS 44.85.280;

(8) "revenues" means all fees, charges, money, profits, payments of principal of or interest on municipal bonds and other investments, gifts, grants, contributions, appropriations and all other income derived or to be derived by the bond bank authority under this chapter. (§ 1 ch 79 SLA 1975; am § 2 ch 48 SLA 1978; am §§ 1, 2 ch 23 SLA 1980)

Revisor's notes. — Formerly AS 44.58.410. Renumbered in 1980.

Effect of amendments. — The 1980 amendment in subparagraph (B) of paragraph (3), inserted "other than diesel-powered generation" following "generation purposes," substituted "pledges" for "is a pledge of" following "a

municipality which," inserted "and which is" following "capital improvement," substituted "the revenue of the revenue-producing capital improvement" for "unpledged revenue of the public facility for which the obligations are issued" at the end of the subparagraph; and added subparagraph (D) in paragraph (3).

Sec. 44.85.420. Short title. This chapter may be cited as the Alaska Municipal Bond Bank Authority Act or the Alaska Municipal Bond Bank Act. In transactions involving general obligation bonds of municipalities, the Alaska Municipal Bond Bank Authority created by this chapter may be referred to as the Alaska Municipal Bond Bank with the same legal effect as if the reference were to Alaska Municipal Bond Bank Authority. (§ 1 ch 79 SLA 1975; am § 3 ch 48 SLA 1978)

Revisor's notes. — Formerly AS 44.58.420. Renumbered in 1980.

Chapter 88. Alaska Industrial Development Authority.

Article

1. Creation and Organization (§§ 44.88.010 — 44.88.050)
2. Purpose and Powers (§§ 44.88.070 — 44.88.085)
3. Financial Provisions (§§ 44.88.090 — 44.88.159)
4. General Provisions (§§ 44.88.160 — 44.88.220)

Article 1. Creation and Organization.

Section

10. Legislative finding and policy
20. Creation of authority
30. Membership of authority

Section

40. Chairman and vice-chairman
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, without limitation, facilities for transportation, facilities for pollution control and waste disposal, facilities for the local furnishing of gas, facilities for water, facilities for industrial parks, mass commuting vehicles, facilities for local district heating or cooling, parking facilities, or a storage or training facility relating to a plant or facility, will be accelerated and facilitated by the creation of an instrumentality of the state with powers to incur debt, to own and operate facilities, to 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, without limitation, facilities for transportation, facilities for pollution control and waste disposal, facilities for the local furnishing of gas, facilities for water, facilities for industrial parks, mass commuting vehicles, facilities for local district heating or cooling, parking facilities, or a storage or training facility relating to a plant or facility;

(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; am § 3 ch 162 SLA 1984)

Revisor's notes. — Formerly AS 44.61.010. Renumbered in 1980.

Effect of amendments. — The 1980 amendment deleted "and" following "manufacturing" near the beginning of paragraph (3) of subsection (a), inserted "small business, tourism, mining, and commercial fishing" preceding "enterprises" near the middle of paragraph (3) of subsection (a), inserted "and other facilities referred to in AS 44.88.010(a)(5)" following "enterprises" near the middle of paragraph (3) of subsection (a); deleted "and" preceding "manufacturing" near the beginning of paragraph (4) of subsection (a), substituted "small business, tourism, mining, and commercial fishing enterprises" for "plants" preceding "in Alaska" near the beginning of paragraph (4) of subsection (a), inserted "facilities for" following "transportation" near the middle of paragraph (4) of subsection (a), substituted "facilities" for "and" following "waste disposal" near the middle of paragraph (4) of subsection (a), deleted "electric energy or" following "local furnishing of" near the middle of paragraph (4) of subsection (a), inserted "facilities for water, and facilities for industrial parks" preceding "is essential to" near the middle of paragraph (4) of subsection (a); rewrote paragraph (5) of subsection (a); added paragraphs (6) and (7) of subsection (a); deleted "and" preceding "industrial" near the middle of subsection (b), inserted "small business, tourism, mining, and commercial fishing" preceding "enterprises" near the middle of subsection (b), and inserted "and the other facilities referred to in AS 44.88.010(a)(5)" following "enterprises" near the end of subsection (b).

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 "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."

The 1984 amendment, in paragraph (5) of subsection (a), substituted "without limitation, facilities for" for "facilities for air and water" twice and "to own and operate facilities" for "and," deleted "and" following "water" near the beginning and end of the paragraph, inserted "mass commuting vehicles, facilities for local district heating or cooling, parking facilities, or a storage or training facility relating to a plant or facility," and added "mass commuting vehicles, facilities for local district heating or cooling, parking facilities, or a storage or training facility relating to a plant or facility" at the end of the paragraph.

NOTES TO DECISIONS

Former state development corporation law construed. — See *DeArmond v. Alaska State Dev. Corp.*, Sup. Ct. Op. No. 116 (File No. 285), 376 P.2d 717 (1962); *Walker v. Alaska State Mtg. Ass'n*, Sup.

Ct. Op. No. 353 (File No. 669), 416 P.2d 245 (1966); *City of Nome v. Block*, No. H., Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).

Collateral references. — 72 Am. Jur. 2d, States, Territories and Dependencies, §§ 90, 91.
 81A C.J.S., States, § 297 et seq.

Sec. 44.88.020. Creation of authority. There is created the Alaska Industrial Development Authority. The authority is a public corporation of the state and a body corporate and politic constituting a political subdivision within the Department of Commerce and Economic Development, but with separate and independent legal existence. (§ 1 ch 64 SLA 1967; am § 104 ch 218 SLA 1976)

Revisor's notes. — Formerly AS 44.61.020. Renumbered in 1980.
Editor's notes. — Section 42, ch. 106, SLA 1980 provides: "On August 20, 1980, the Alaska State Development Corporation (AS 44.86.010) shall transfer its assets and liabilities to the Alaska Industrial Development Authority (AS 44.88.020). On August 20, 1980, the Small Business Development Corporation (AS 44.87.020) shall transfer its assets and

liabilities to the Alaska Industrial Development Authority (AS 44.88.020). On August 20, 1980, the Alaska Toll Bridge Authority (AS 44.84.010) shall transfer its assets and liabilities to the Alaska Industrial Development Authority (AS 44.88.020). The Alaska Industrial Development Authority is responsible for the management of the assets and liabilities transferred to it under this section."

Sec. 44.88.030. Membership of authority. (a) The membership of the authority consists of

- (1) the commissioner of revenue and the commissioner of commerce and economic development;
- (2) one other person appointed by the governor who serves as the head of a principal department of the executive branch; and
- (3) two public members appointed by the governor.

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

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

(d) If a vacancy occurs in the membership of the authority, the governor shall immediately appoint a member for the unexpired portion of the term. (§ 1 ch 64 SLA 1967; am § 7 ch 207 SLA 1975; am § 2 ch 64 SLA 1977; am § 49 ch 106 SLA 1980)

Revisor's notes. — Formerly AS 44.61.030. Renumbered in 1980.

Effect of amendments. — Section 49, ch. 106, SLA 1980, rewrote the section.

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. 44.88.040. Chairman and vice-chairman. The members of the authority shall elect a chairman from among themselves. A vice-chairman may be elected by the authority from among its other members. The vice-chairman presides over all meetings in the absence of the chairman and has other duties which the authority may direct. (§ 1 ch 64 SLA 1967; am § 105 ch 218 SLA 1976; am § 51 ch 106 SLA 1980)

Revisor's notes. — Formerly AS 44.61.040. Renumbered in 1980.

Effect of amendments. — The 1980 amendment rewrote the section.

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, 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)

Revisor's notes. — Formerly AS 44.61.050. Renumbered in 1980.

Effect of amendments. — The 1980 amendment rewrote subsection (b), and in subsection (c), deleted "or executive vice-president" following "executive direc-

tor" in the first sentence and added the second sentence.

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, and by owning and operating the enterprises and other facilities. (§ 1 ch 64 SLA 1967; am § 54 ch 106 SLA 1980; am § 31 ch 115 SLA 1981; am § 4 ch 162 SLA 1984)

Revisor's notes. — Formerly AS 44.61.070. Renumbered in 1980.

Effect of amendments. — The 1980 amendment substituted "various" for "a" preceding "means of financing" near the middle of the section, inserted "means of facilitating the financing of" near the middle of the section, and substituted "small business, tourism, mining, and commercial fishing enterprises and the other facilities referred to in AS 44.88.010(a)(5) within the state" for "plant construction, conversion or expansion

within the state, including the acquisition of real property, for lease or sale to business enterprises for industrial or manufacturing purposes" at the end of the section.

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

The 1984 amendment added "and by owning and operating the enterprises and other facilities" at the end of the section.

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 this chapter;

(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 this chapter;

(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 projects as the authority considers necessary or appropriate to serve a public purpose;

(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 this chapter;

(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;

(19) to charge fees or other forms of remuneration for the use or possession of the projects described in (14) of this section in accordance with the agreements described in (11) and (17) of this section, other agreements pertaining to the projects, covenants, or representations made in bond documents pertaining to the projects, or regulations of the authority pertaining to the projects. (§ 1 ch 64 SLA 1967; am §§ 55-59 ch 106 SLA 1980; am §§ 32, 33 ch 115 SLA 1981; am § 5 ch 162 SLA 1984)

Revisor's notes. — Formerly AS 44.61.080. Renumbered in 1980.

Effect of amendments. — The 1980 amendment substituted "adopt" for "make rules and" at the beginning of paragraph (4), rewrote paragraph (5), inserted "in accordance with AS 44.88.090" following "to issue bonds" near the beginning of paragraph (7), deleted "acquiring by construction, purchase or lease or improving and equipping" following "the cost of" near the middle of paragraph (7), inserted "by installment sale or otherwise" following "to sell" at the beginning of paragraph (8), inserted "including a project" following "has an interest" near the middle of paragraph (8), and added paragraphs (12) through (18).

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."

The 1984 amendment substituted "projects as the authority considers necessary or appropriate to serve a public purpose" for "a project when it becomes necessary or desirable to do so to safeguard the authority from losses" in paragraph (14) and added paragraph (19).

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 24.20.400 — 24.20.460.

(b) The authority may adopt regulations under this section by motion 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.

Section	Section
90. Bonds of the authority	150. Bonds legal investments for fiduciaries
100. Trust indentures and trust agreements	155. Enterprise development fund
105. Capital reserve funds and capital reserve fund requirement	156. Multi-family housing loan account
110. Validity of pledge	157. Loan insurance and loan insurance account
120. Nonliability on bonds	158. Small enterprise loan account
130. Pledge of the state	159. Interest rates
140. Exemption from taxation	

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 a bond may not 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 mort-

gage, 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)

Revisor's notes. — Formerly AS 44.61.090. Renumbered in 1980.

Effect of amendments. — The 1980 amendment substituted "Subject to (g) of this section, the" for "The" at the beginning of subsection (a), deleted

"therefor" following "may issue bonds" near the beginning of subsection (a), and added subsections (g) and (h).

The 1981 amendment rewrote paragraph (1) of subsection (g).

Sec. 44.88.100. Trust indentures and trust agreements. In the discretion of the authority, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee (which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee (hereinafter in this section referred to as "trust agreement") by means of which the authority may:

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

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

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

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

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

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

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

(3) provide for any other matters of like or different character which in any way affect the security or protection of the bonds. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AS
44.61.100. Renumbered in 1980.

Sec. 44.88.105. Capital reserve funds and capital reserve fund requirement. (a) For the purpose of securing one or more issues of its bonds, the authority may establish one or more special funds, called "capital reserve funds", and shall pay into those capital reserve funds the proceeds of the sale of its bonds and other money which may be made available to the authority from other sources for the purposes of the capital reserve funds. A capital reserve fund may be established only if the authority determines that the establishment of the fund would enhance the marketability of the bonds, and if those costs of a project, as defined in AS 44.88.220, which are to be financed with the proceeds of the bonds, do not exceed \$10,000,000. Money in a capital reserve fund, except as provided in this section, may be used as required only for (1) the payment of the principal of, and interest on, bonds or of the sinking fund payments with respect to those bonds; (2) the purchase or redemption of the bonds; or (3) the payment of a redemption premium required to be paid when the bonds are redeemed before maturity. However, money in a capital reserve fund may not be withdrawn if the withdrawal would reduce the amount in the capital reserve fund to less than the capital reserve requirement, except for the purpose of making payment, when due, of principal, interest, redemption premiums on the bonds, and sinking fund payments when other money of the authority is not available for the payments. Income or interest earned by, or increment to, a capital reserve fund, from the investment of all or part of the fund, may be transferred by the authority to other funds or accounts of the authority if the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

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

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

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

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

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

(g) The authority may establish reserve funds, other than capital reserve funds, to secure one or more issues of its bonds. The authority may deposit in a reserve fund established under this subsection the proceeds of sale of its bonds and other money which may be made available from any other source. A reserve fund established under this subsection must comply with (a) — (c) of this section. The authority may allow a reserve fund established under this subsection to be depleted without complying with (d) of this section.

(h) Notwithstanding any other provision of this section, the authority may waive or modify the requirements of (a) of this section establishing maximum costs of \$10,000,000 for a project and the requirements of (f) of this section as it considers appropriate and prudent in order to finance a project if the authority intends to own the project. However, if the authority intends to lease or otherwise permit the state to use or occupy a majority of the project, the authority may only establish a reserve fund under (g) of this section to secure bonds issued to finance a project. (§ 62 ch 106 SLA 1980; am §§ 36, 37 ch 115 SLA 1981; am § 6 ch 162 SLA 1984)

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Revisor's notes. — Enacted as AS 44.61.105. Renumbered in 1980.

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).

The 1984 amendment added subsection (h).

Sec. 44.88.110. Validity of pledge. It is the intention of the legislature that a pledge made in respect of bonds shall be valid and binding from the time the pledge is made; that the money or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice. Neither the resolution, trust agreement nor any other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code to be valid, binding or effective against the parties. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AS 44.61.110. Renumbered in 1980.

Sec. 44.88.120. Nonliability on bonds. (a) Neither the members of the authority nor a person executing the bonds are liable personally on the bonds or are subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the authority do not constitute an indebtedness or other liability of the state or of a political subdivision of the state, except the authority, but shall be payable solely from the income and receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or of a political subdivision of the state (except the authority) to the payment of a bond and the issuance of a bond by the authority does not directly or indirectly or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AS 44.61.120. Renumbered in 1980.

Sec. 44.88.130. Pledge of the state. The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency which loans or contributes funds in respect to a project, that the state will not limit or alter the rights and powers vested in the authority by this chapter to fulfill the terms of a contract made by the authority with the holders or federal agency, or in any way impair the rights and remedies of the holders until the bonds, together with the

interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, insofar as it refers to holders of bonds of the authority, in a contract with the holders, and insofar as it relates to a federal agency, in a contract with the federal agency. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AS 44.61.130. Renumbered in 1980.

Sec. 44.88.140. Exemption from taxation. (a) The real and personal property of the authority and its assets, income and receipts are declared to be the property of a political subdivision of the state and, together with any project financed under this chapter and a leasehold interest created in a project applicant or other person under this chapter, devoted to an essential public and governmental function and purpose, and the property, assets, income, receipts, project and leasehold interests shall be exempt from all taxes and special assessments of the state or a political subdivision of the state, including, without limitation, all boroughs, cities, municipalities, school districts, public utility districts and other taxing units. All bonds of the authority are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose and to be a public instrumentality and the bonds, and the interest on them, the income from them and the transfer of the bonds, and all assets, income and receipts pledged to pay or secure the payment of the bonds, or interest on them, shall at all times be exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death. Nothing in this section affects or limits an exemption from license fees, property taxes, or excise, income or any other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the authority, in any property, assets, income, receipts, project or lease whether or not financed under this chapter.

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

(c) [Repealed, § 126 ch 6 SLA 1984.] (§ 1 ch 64 SLA 1967; am § 3 ch 64 SLA 1977; am §§ 63, 64 ch 106 SLA 1980; am § 126 ch 6 SLA 1984)

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Revisor's notes. — Formerly AS 44.61.140. Renumbered in 1980.

Effect of amendments. — The 1980 amendment substituted "applicant" for "occupant" following "project" near the middle of the first sentence in subsection

(a) and twice near the beginning of subsection (b).

The 1984 amendment repealed former subsection (c), relating to exempted property being considered taxable real and personal property.

NOTES TO DECISIONS

Cited in City of Nome v. Block No. H, Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).

Sec. 44.88.150. Bonds legal investments for fiduciaries. The bonds of the authority are securities in which all public officers and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the authority are also securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AS 44.61.150. Renumbered in 1980.

Sec. 44.88.155. Enterprise development fund. (a) The enterprise development fund is established in the authority. The enterprise development fund is a trust fund for the uses and purposes of AS 44.88.010 — 44.88.220. The enterprise development fund consists of money or assets appropriated or transferred to the authority and other money or assets deposited in it by the authority.

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

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

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

(1) may not exceed

(A) \$10,000,000; or

(B) \$500,000 if the loan is purchased under AS 44.88.158;

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

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

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

(5) shall be in the form and contain the terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, acceleration 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.

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(g) Notwithstanding any other provision of this section, the authority may waive or modify the requirements of this section as it considers appropriate and prudent in order to finance a project if the authority intends to own the project. (§ 65 ch 106 SLA 1980; am § 38 ch 115 SLA 1981; am § 7 ch 162 SLA 1984)

Revisor's notes. — Formerly AS 44.61.155. Renumbered in 1980. The 1984 amendment added subsection (g).

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

Sec. 44.88.156. Multi-family housing loan account. (a) In addition to the findings and declarations in AS 44.88.010, the legislature finds, determines, and declares that

(1) there exists in the state a serious shortage of decent, safe, and sanitary multifamily housing units, and that this shortage is inimical to the safety, health, welfare, and prosperity of the residents of the state and to the sound growth of communities in the state; and

(2) it is necessary to give the Alaska Industrial Development Authority the power to provide a means for financing additional multifamily housing projects in the state.

(b) In addition to the purposes specified in AS 44.88.070, the purpose of the authority is to promote, develop, and maintain an adequate supply of decent, safe, and sanitary multifamily housing projects during times of shortage of such projects in the state, by providing various means of financing and facilitating the financing of multifamily housing projects in the state.

(c) In addition to the powers conferred on the authority under AS 44.88.080 and its other powers, the authority has the following powers:

(1) to make loans and to participate in the making of loans in conjunction with other lenders, the Alaska State Housing Authority, or a municipality of the state to assist in the financing of multifamily housing projects;

(2) to own a multifamily housing project with sponsors, developers, builders, or other persons or to own a multifamily housing project alone, for the purpose of maintaining a security interest in that multifamily housing project;

(3) to borrow money, to issue its bonds, and to provide security for bonds it issues in connection with the financing of multifamily housing projects, except that the authority may not issue bonds for the construction financing for a multifamily housing project unless the bonds are, in the opinion of the authority, adequately secured by a letter of credit or equivalent security;

(4) to make loans and to participate in the making of loans from the proceeds of tax-exempt bonds for a multifamily housing project at interest rates determined or agreed to by the authority;

Sec. 44.88.156. Multi-family housing loan account. (a) In addition to the findings and declarations in AS 44.88.010, the legislature finds, determines, and declares that

(1) there exists in the state a serious shortage of decent, safe, and sanitary multifamily housing units, and that this shortage is inimical to the safety, health, welfare, and prosperity of the residents of the state and to the sound growth of communities in the state; and

(2) it is necessary to give the Alaska Industrial Development Authority the power to provide a means for financing additional multifamily housing projects in the state.

(b) In addition to the purposes specified in AS 44.88.070, the purpose of the authority is to promote, develop, and maintain an adequate supply of decent, safe, and sanitary multifamily housing projects during times of shortage of such projects in the state, by providing various means of financing and facilitating the financing of multifamily housing projects in the state.

(c) In addition to the powers conferred on the authority under AS 44.88.080 and its other powers, the authority has the following powers:

(1) to make loans and to participate in the making of loans in conjunction with other lenders, the Alaska State Building Authority, or a municipality of the state to assist in the financing of multifamily housing projects;

(2) to own a multifamily housing project with sponsors, developers, builders, or other persons or to own a multifamily housing project alone, for the purpose of maintaining a security interest in that multifamily housing project;

(3) to borrow money, to issue its bonds, and to provide security for bonds it issues in connection with the financing of multifamily housing projects, except that the authority may not issue bonds for the construction financing for a multifamily housing project unless the bonds are, in the opinion of the authority, adequately secured by a letter of credit or equivalent security;

(4) to make loans and to participate in the making of loans from the proceeds of tax-exempt bonds for a multifamily housing project at interest rates determined or agreed to by the authority;

(5) to acquire, sell, or otherwise dispose of an interest in a multifamily housing project as necessary or appropriate to provide financing for the housing project;

(6) to enter into agreements with respect to a multifamily housing project on terms and conditions that the authority considers advisable;

(7) to assist private lenders, the Alaska State Building Authority, and municipalities of the state to make loans to finance the costs of multifamily housing projects;

(8) to use assets of the multifamily housing loans security fund to establish capital reserve funds to secure bonds issued in connection

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with the financing of multifamily housing projects and to provide a loan loss reserve for loans purchased by the multifamily housing loan account of the enterprise development fund.

(d) With respect to the issuance of bonds to finance one or more multifamily housing projects, in order to facilitate the financing of a multifamily housing project the authority may waive or modify, as it considers appropriate and prudent, the requirements of AS 44.88.090(e), 44.88.155(d), and 44.88.160.

(e) A capital reserve fund established under this section to secure bonds issued in connection with the financing of multifamily housing projects is not subject to the \$10,000,000 limitation stated in AS 44.88.105(a). The provisions of AS 44.88.105(f) do not apply to capital reserve funds established to secure bonds issued to finance one or more multifamily housing projects.

(f) A multifamily housing loan account is established in the enterprise development fund of the authority (AS 44.88.155), consisting of money and other assets of the enterprise development fund that the authority deposits into it. The multifamily housing loan account shall be used only to purchase or originate loans for multifamily housing projects. The authority may not use proceeds from the sale of bonds of the authority to finance secondary loans for multifamily housing. Notwithstanding the provisions of AS 44.88.155(d), a loan purchased or originated by the authority for the multifamily housing loan account

(1) may not be for a term longer than 30 years from the date the loan is made;

(2) shall be secured 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; the mortgage or other security instrument constitutes a first lien against the multifamily housing project, except that it may be subordinated by the authority to a loan made directly or indirectly with the proceeds of a sale of bonds by the authority, the Alaska State Building Authority, or a municipality of the state during the time when the loan from these proceeds is outstanding, and may be subordinated to a loan that refinances the original loan, if the authority considers it appropriate to do so;

(3) shall provide for a schedule of payments of principal and interest that is satisfactory to the authority, and that may include, without limitation, deferrals or reductions of payments, variable payments, balloon payments, sharing in equity appreciation, and other arrangements;

(4) 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 as the authority prescribes.

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(g) The interest rate on a loan for one or more multifamily housing projects financed from the proceeds of tax-exempt bonds or expected by the authority to be financed from the proceeds of tax-exempt bonds may be at a higher or lower rate, as the authority considers appropriate, than the cost of funds as defined in AS 44.88.159(a), with respect to that loan.

(h) The multifamily housing loans security fund is established in the authority. The multifamily housing loans security fund consists of money and assets appropriated or transferred to it, the income produced from its investments and holdings, and deposits that the authority may make from repayments of multifamily housing loans purchased by the multifamily housing loan account of the enterprise development fund. The assets of the multifamily housing loans security fund may be used to establish capital reserve funds to secure bonds issued in connection with the financing of multifamily housing projects. The assets of the multifamily housing loans security fund may also be used to provide a loan loss reserve for the enterprise development fund for multifamily housing loans made by the authority from the multifamily housing loan account of the enterprise development fund. The multifamily housing loans security fund is not a general asset of the authority and may not be pledged or committed in any way except as provided in this subsection. The authority may

(1) establish separate accounts in the multifamily housing loans security fund for multifamily housing loans, as it finds appropriate, and may establish other accounts that it considers appropriate;

(2) hold and invest money and other assets of the multifamily housing loans security fund at competitive national market rates in the types of investments described in AS 37.10.070(a).

(i) If a multifamily housing loan from the multifamily housing loan account of the enterprise development fund of the authority is not fully repaid, including accrued interest, and is not fully satisfied after the enforcement of any security that the authority has acquired under (f)(2) of 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. 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. (§ 69 ch 113 SLA 1982; am §§ 22 — 26 ch 102 SLA 1983)

Editor's notes. — This section is set out to reflect the change in the name of the former "Alaska State Housing Authority" to the "Alaska State Building Authority" made by § 1, ch. 103, SLA 1936. Implementation of this legislative action is made by the revisor of statutes under AS 01.05.031.

Part 9. Miscellaneous Provisions.

Chapter

99. Miscellaneous Provisions (§§ 44.99.001, 44.99.100)

Chapter 99. Miscellaneous Provisions.

Article

1. Miscellaneous Provisions (§ 44.99.001)
2. General State Policy (§ 44.99.100)

Article 1. Miscellaneous Provisions.

Section

01. Administration of highway safety program

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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. 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. (§ 69 ch 113 SLA 1982; am §§ 22-26 ch 102 SLA 1983)

Editor's notes. — This section is conditionally repealed by §§ 73 and 75, ch. 113, SLA 1982.

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

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payments from the loan insurance account will be made with respect to a loan insured under this section, agreements as to separate subaccounts in the loan insurance account for different categories of loans or as to loans made by the authority or any other person, and agreements regarding the payment of and security for bonds issued by the authority. An agreement, the rights of the authority under an agreement, or payments received or to be received under an agreement may be pledged or assigned by the authority for the benefit of the holders of bonds issued by the authority.

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

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

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

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

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

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

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

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

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

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

(g) On December 1 of each year the authority shall determine the amount on deposit in the loan insurance account and in each subaccount in the loan insurance account. If the amount in the loan insurance account or the amount in a subaccount in the loan insurance account is less than the fund requirement for the account or for the subaccount, the authority shall transfer the amount necessary to restore the loan insurance account or the subaccount to the fund requirement. The transfer shall be made from available money which is not encumbered or restricted for other use under the terms of contracts with bondholders or others. If sufficient money is not available for transfer, the chairman of the authority shall, no later than January 2 of the following year, certify in writing to the governor and to the legislature the amount, if any, required to restore the account or a subaccount to the fund requirement. The legislature may appropriate the amount certified and the authority shall deposit in the account or proper subaccount the amounts appropriated by the legislature for the purposes of this subsection during the then current state fiscal year. Nothing in this subsection creates a debt or liability of the state.

(h) A contract of insurance executed by the authority under this section is conclusive evidence of eligibility for the insurance. The validity of a contract of insurance executed by the authority or of an advance commitment to insure is incontestable from the date of the execution of the contract or commitment, except for fraud or

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misrepresentation on the part of the insured or, as to commitments to insure, noncompliance with the terms of the advance commitment or authority regulations in force at the time of issuance of the advance commitment.

(i) In this section:

(1) "loan insurance commitment fee" means a fee which is a percentage of the principal amount of a loan to be insured under this section determined by the authority to be actuarially sound for the operation of the loan insurance account;

(2) "loan insurance premium" means an annual insurance premium which is a percentage of the portion of the unpaid principal amount of a loan insured under this section determined by the authority to be actuarially sound for the operation of the loan insurance account or any subaccount.

(j) Notwithstanding (a) — (i) of this section, the authority may establish additional insurance accounts to secure special obligation bonds, and may pay into an insurance account established under this subsection money made available from an appropriation or any other source. An insurance account established under this subsection is not subject to the requirements of (d) and (g) of this section.

(k) A loan may not be insured from a loan insurance account within the enterprise development fund if the loan is for a project the cost of which exceeds \$10,000,000.

(l) A loan in excess of \$1,000,000 may not be insured from a loan insurance account within the enterprise development fund unless at least 20 percent of the principal amount of the loan is retained by a federal or state chartered financial institution or the Alaska Commercial Fishing and Agriculture Bank. (§ 65 ch 106 SLA 1980; am § 39 ch 115 SLA 1981)

Revisor's notes. — Formerly AS 44.61.157. Renumbered in 1980. Effect of amendments. — The 1981 amendment added subsections (j) — (l).

Sec. 44.88.158. Small enterprise loan account. (a) A small enterprise loan account is established in the enterprise development fund. The account may be composed of money or assets appropriated or transferred to the authority, interest on investments and loans of the small enterprise loan account, the unpledged income of the enterprise development fund, and other money or assets deposited in it by the authority.

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

(c) The authority may purchase loans originated by the Alaska Rural Rehabilitation Corporation which are made to agricultural enterprises. Loans purchased under this subsection may be secured by substitute collateral if the amount of the loan does not exceed 75 percent of the value of the total collateral for the loan. Loans may be purchased under this subsection only from money appropriated to the small enterprise loan account for that purpose. (§ 65 ch 106 SLA 1980; am § 40 ch 115 SLA 1981)

Revisor's notes. — Formerly AS 44.61.158. Renumbered in 1980.

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

Sec. 44.88.159. Interest rates. (a) The interest rate on a loan financed from the proceeds of tax-exempt bonds or expected by the authority to be financed from the proceeds of tax-exempt bonds is equal to the cost of funds to the authority. In this subsection "cost of funds" means the true interest cost expressed as a rate on tax-exempt bonds of the authority plus an additional percentage as determined by the authority to represent the allocable expenses of operation, costs of issuance, and loan servicing.

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

(c) The interest rate on a loan purchased by the authority with money in the small enterprise loan account that is not from the proceeds of the sale of a series of bonds is equal to the most recent index of Aa corporate bond yield averages as published by Moody's Investors Service. (§ 41 ch 115 SLA 1981; am § 54 ch 113 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "expected" for "excepted" in the first sentence of subsection (a).

Article 4. General Provisions.

Section	Section
160. Findings of the authority	177. Operation of projects
165. Delinquent loans	180. Conflicts of interest
170. Purchase of project and leases	190. Operation of certain statutes excepted
172. Economic development fund	200. Annual audit
173. Finance plan	205. Operating budget
174. Regional resource advisory council	210. Reports and publications
175. Requirements prior to approval of projects	212. Fees charged by authority
176. Hearing to consider proposed project	220. Definitions

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Sec. 44.88.160. Findings of the authority. Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project for which bonds are agreed to be issued by the authority in an amount in excess of \$6,000,000, or before approving insurance or a commitment to insure a loan as provided in AS 44.88.157(b) with a principal amount in excess of \$6,000,000, there must have been filed with the authority a certified copy of a resolution of the governing body of the political subdivision of the state, if any, in which the project is to be located, consenting to the location (which consent need only refer to the general nature of the project ultimately to be acquired as set out in a request of the proposed project applicant). Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project, the authority must find, on the basis of all information reasonably available to it, that

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

(2) the project applicant is financially responsible;

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

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

(5) the scope of the project is sufficient to provide a reasonable expectation of a benefit to the economy of the state. (§ 1 ch 64 SLA 1967; am § 66 ch 106 SLA 1980)

Revisor's notes. — Formerly AS 44.61.160. Renumbered in 1980.

Effect of amendments. — The 1980 amendment divided the former section into two sentences by deleting "and"; in the present first sentence, inserted "as provided in AS 44.88.090(e)" near the beginning, substituted the language beginning "for which bonds are agreed to be issued" and ending "principal amount in excess of \$6,000,000" for "as mentioned

in AS 44.88.090(e)" near the middle, and substituted "applicant" for "occupant" at the end; and in the second sentence, added "Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project" to the beginning, substituted "applicant" for "occupant" in paragraph (2), deleted "and" from the end of paragraph (2), and added paragraphs (4) and (5).

Sec. 44.88.165. Delinquent loans. If more than two percent of the total outstanding balance of loans purchased from a financial institution under this chapter becomes delinquent for 90 days or more, the authority shall discontinue purchasing loans from that financial institution for which it has not already made a purchase commitment and may not make new commitments to purchase loans from that financial institution until the delinquency is reduced to less than two percent. (§ 42 ch 115 SLA 1981; am § 55 ch 113 SLA 1982)

Effect of amendments. — The 1982 amendment inserted "for which it has not already made a purchase commitment and may not make new commitments to purchase loans from that financial institution."

Sec. 44.88.170. Purchase of project and leases. (a) Nothing in this chapter prevents the inclusion in a lease or other agreement relating to a project of a provision granting the right to purchase the project, or to renew or extend the lease or agreement, upon the terms and conditions which may be provided for in the lease or agreement.

(b) A lease with respect to a project may provide for two or more lessees with the legal relationship between themselves and the authority which the authority may approve, including without limitation, provisions to the effect that the obligations of the lessees under the lease for payment of rental or otherwise between themselves and the authority are several, joint, or joint and several and that the lessees lease the project as tenants-in-common, or otherwise. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AS 44.61.170. Renumbered in 1980.

Sec. 44.88.172. Economic development fund. (a) The economic development fund is established in the authority. 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. The fund may only be used to finance, acquire, manage, and operate projects that the authority intends to own and operate. The term "operate" includes operation directly by the authority, or by an agent of the authority.

(b) If a project is financed or developed through use of the assets of the economic development fund, the authority may not pledge or use other assets of the authority to assist in the financing, development, or operation of the project. However, whether or not the authority uses the economic development fund, it may issue bonds to finance a project and may secure the bonds with a mortgage, pledge, or assignment of the project or of revenues, money, or agreements attributable to the project or the bonds as provided in Sec. 10 of this Act. (§ 8 ch 162 SLA 1984)

Cross references. — For requirement of legislative approval prior to the issuance of bonds to finance projects under this section, and for expression of legislative intent, see §§ 10 and 11, ch. 162, SLA 1984 in the Temporary and Special Acts.

Sec. 44.88.173. Finance plan. (a) Before approving a project financed under AS 44.88.172, 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 money 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 the money that is to be used to pay the operational costs.

(b) The authority shall give preference to a project that does not require financial assistance from the state. If the authority determines that a project requires 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. A finance plan required under (a) of this section must identify the method of financing that minimizes the cost to the state.

(c) The authority shall submit a finance plan prepared under this section to the state bond committee, the governor, and the legislature before issuing bonds or otherwise incurring debt for the project. If a project requires financial assistance from the state, the state financial assistance must be available before bonds are issued for the project. (§ 8 ch 162 SLA 1984)

Sec. 44.88.174. Regional resource advisory council. (a) Within 30 days after the authority adopts a resolution certifying that a project in the unorganized borough is eligible for financing under AS 44.88.172, the governor shall appoint a Regional Resource Advisory Council in the area of the state where the project is to be located and for which a regional housing authority has been established under AS 18.55.996. The purpose of a council is to assist the authority in reviewing a project that has been proposed for development in its area of the state.

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

(c) Members of a Regional Resource Advisory Council do not receive compensation for their services on the council, but are entitled to per diem and travel expenses authorized by law for state boards and commissions under AS 39.20.180. (§ 8 ch 162 SLA 1984)

Sec. 44.88.175. Requirements prior to approval of projects. (a) Before entering into an agreement to finance or to develop a proposed project with a cost in excess of \$10,000,000 that is financed under AS 44.88.172, the authority shall obtain the approval of each Regional Resource Advisory Council or municipality in the area in which the

proposed project is to be located. Approval under this subsection must be evidenced by a certified copy of a resolution of the council or of the governing body of the municipality.

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

- (1) obtain approval under (a) of this section;
- (2) find, on the basis of all information reasonably available to it, that
 - (A) the project and its development under this chapter will be economically advantageous to the state and to the general public welfare and will contribute to the economic growth of the state;
 - (B) the project applicant is financially responsible;
 - (C) the project is economically and financially feasible and able to produce revenue adequate to repay the bonds or loans with which it is financed;
 - (D) increased demand on public facilities that might result from the project will be provided for;
 - (E) the project will provide or retain employment reasonably related to the amount of the financing by the authority, considering the amount of investment per employee for comparable facilities, and other relevant factors;
 - (F) the scope of the project is sufficient to provide a reasonable expectation of a benefit to the economy of the state;
 - (G) the project is in compliance with applicable law; and
 - (H) issuance of the bonds is not expected to adversely affect the ability of the state or any political subdivision of the state to market other bonds. (§ 8 ch 162 SLA 1984)

Sec. 44.88.176. Hearing to consider proposed project. Before considering a resolution regarding the approval or rejection of the development or financing of a proposed project with a cost in excess of \$10,000,000, that is financed under AS 44.88.172, a Regional Resource Advisory Council shall conduct a public hearing within the region. If a proposed project is located within a municipality, the governing body of a municipality shall conduct a hearing on the proposed project. (§ 8 ch 162 SLA 1984)

Sec. 44.88.177. Operation of projects. If a project is financed under AS 44.88.172, the authority shall solicit the review and advice of the Regional Resource Advisory Council or governing body in the area in which a project is located before the execution of contracts, agreements, resolutions, or other matters that directly concern the development, maintenance, and operation of a project. (§ 8 ch 162 SLA 1984)

Sec. 44.88.180. Conflicts of interest. (a) A member of the authority may not vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if the

member is a party to the lease or contract or has a direct ownership or equity interest in a firm, partnership, corporation or association that may be a party to the contract or lease. A resolution of the authority that is approved by a majority of the members who are not barred from voting under this subsection is a valid action of the authority for all purposes. (§ 1 ch 64 SLA 1967; am § -56 ch 113 SLA 1982)

Revisor's notes. — Formerly AS 44.61.180. Renumbered in 1980.

Effect of amendments. — The 1982 amendment, in subsection (a), substituted "A member of the authority may not" for "No member of the authority may," "the member" for "he," and "that may be" for "which may be" in the first sentence, rewrote the second sentence, which formerly read, "If a person may not vote because of this prohibition, for all purposes regarding action of the authority relating

to adoption of the resolution, the position of the persons as a member shall be transferred to the first one of the following state officers who is not then acting as a member and would not be prohibited from voting on the resolution because of the same prohibition. commissioner of administration, attorney general, commissioner of revenue, commissioner of health and welfare, commissioner of labor, commissioner of public works, commissioner of public safety."

Sec. 44.88.190. Operation of certain statutes excepted. (a) The authority shall not be considered or constitute (1) a political subdivision of the state as the term is used in AS 37.10.085, (2) a municipal corporation or political subdivision of the state as the terms are used in AS 29, or (3) except as provided in AS 44.88.205, a state agency as the term is used in AS 37, but for all other purposes the authority constitutes a political subdivision and an instrumentality of the state as provided in this chapter.

(b) The funds, income or receipts of the authority shall not be considered or constitute money of the state, nor shall real property in which the authority has an interest be considered land owned in fee by the state or to which the state may become entitled or in any way lands belonging to the state, or state lands referred to in Art. VIII of the Alaska Constitution. (§ -1 ch 64 SLA 1967; am § 67 ch 106 SLA 1980)

Revisor's notes. — Formerly AS 44.61.190. Renumbered in 1980.

Effect of amendments. — The 1980

amendment inserted "except as provided in AS 44.88.205" preceding "a state agency" near the middle of subsection (a).

Sec. 44.88.200. Annual audit. The authority shall have its financial records audited annually by the legislative auditor or by a certified public accountant approved by the legislative auditor. The legislative auditor may prescribe the form and content of the financial records of the authority and shall have access to these records at any time. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AS 44.61.200. Renumbered in 1980.

Sec. 44.88.205. Operating budget. For fiscal years beginning after June 30, 1981, the operating budget of the authority is subject to the Executive Budget Act (AS 37.07). (§ 68 ch 106 SLA 1980)

Revisor's notes. -- Formerly AS 44.61.205. Renumbered in 1980.

Sec. 44.88.210. Reports and publications. (a) By January 10 of each year, the authority shall publish a report for distribution to the governor, legislature, and the public. The report shall be written in easily understandable language. The report shall include a financial statement audited by an independent outside auditor, a statement of the authority's investments under this chapter including an appraisal of the investments at market value, a comparison of the authority's performance with the goals of the authority and the levels of bonding and investment activities anticipated in the previous year's report under (b) of this section, and any other information the members of the authority believe would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the authority shall be published in at least one newspaper in each judicial district. The authority may also publish other reports it considers desirable to carry out its purpose.

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

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

(2) an estimate of the amount of bonds to be issued during the following 12-month period. (§ 1 ch 64 SLA 1967; am § 69 ch 106 SLA 1980)

Revisor's notes. -- Formerly AS 44.61.210. Renumbered in 1980. Effect of amendments. -- The 1980 amendment rewrote the section.

Sec. 44.88.212. Fees charged by authority. (a) An application fee may not be charged for an application for authority participation in a loan under AS 44.88.158.

(b) The commitment fee for a loan commitment by the authority may not exceed two percent of the principal amount of the loan. (§ 34 ch 115 SLA 1981)

Revisor's notes. -- Enacted as AS 44.88.085. Renumbered in 1981.

Sec. 44.88.220. Definitions. In AS 44.88.010 — 44.88.220

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

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

(3) "commercial activity" includes work in process or activity involving stock in trade, accounts receivable, or the refinancing of existing indebtedness, subject to the provisions of AS 44.88.158;

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

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

(6) "lease" includes, when used as a noun, an interest in, or when used as a verb, the transfer of an interest in, property less than fee simple title, including, without limitation, when used as a noun, agreements to use or occupy property;

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

(8) "project" means

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

(i) in connection with making, processing, preparing, or producing in any manner, goods, products or substances of any kind or nature or in connection with developing or utilizing a natural resource, or extracting, smelting, transporting, converting, assembling or producing in any manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and materials, products or substances of any kind or nature;

(ii) as an industrial park; in connection with transportation; for the prevention, limitation or control of pollution; for the disposal of sewage or solid waste; for the local furnishing of gas; for the furnishing of water; as or in connection with mass commuting vehicles; for local district heating or cooling; as a parking facility; or as a storage or training facility directly related to a plant or facility described in this paragraph;

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

(C) commercial activity by a small enterprise;

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

(A) use or occupy a project; or

(B) agree to permit others to use or occupy a project;

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

(11) "real property" means land and rights and interests in land, including, without limitation, interests less than full title such as easements, uses, leases, and licenses;

(12) "small enterprise" means a business enterprise which is a project applicant with gross income of \$10,000,000 or less for its annual reporting period ending immediately before the application to the authority for a loan. (§ 1 ch 64 SLA 1967; am §§ 4, 5 ch 64 SLA 1977; am § 70 ch 106 SLA 1980; am §§ 43 — 47, 51 ch 115 SLA 1981; am § 9 ch 162 SLA 1984)

Revisor's notes. — Formerly AS 44.61.220. Renumbered in 1980.

Reorganized in 1984 to alphabetize the defined terms.

Effect of amendments. — The 1980 amendment, in paragraph (2), inserted "single proprietorship" and substituted "which is not organized on a nonprofit basis" for "or a single proprietorship"; in paragraph (4), deleted "borough" preceding "assembly" and added "or a unified municipality" to the end; so changed paragraphs (5), (6), and (9) as to make a detailed comparison impracticable; deleted former paragraph (7), which defined "project"; in paragraph (8), substituted "or tangible personal property" for "property" and "the cost of a project includes, without limitation, the

cost of financing the project" for "the cost of financing the project, including, without limitation"; in paragraph (11), deleted "real" preceding "property" in two places; and added paragraphs (12)-(15).

The 1981 amendment substituted "for any business purpose, other than" for "which is not organized" in paragraph (2). The amendment rewrote paragraphs (8) and (12). In paragraph (10), the amendment added "expansion" following "construction" in three places. The amendment also added paragraph (13).

The 1984 amendment divided the formerly undivided subparagraph (A) of paragraph (8) into introductory language and items (i) and (ii) and, in item (ii), added "as or in connection with mass commuting vehicles; for local district heating or cooling; as a parking facility; or



LAWS OF ALASKA

1984

Source

HCS CSSR 347(SA) am H

Chapter No.

162

AN ACT

Authorizing the construction of the Knik Arm Crossing and relating to the acquisition, construction, equipping, and maintenance of toll facilities funded by revenue bonds and providing toll collection authority.

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

THE ACT FOLLOWS ON PAGE 1, LINE 12

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: July 6, 1984
Actual Effective Date: October 4, 1984

AN ACT

Authorizing the construction of the Knik Arm Crossing and relating to the acquisition, construction, equipping, and maintenance of toll facilities funded by revenue bonds and providing toll collection authority.

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

ARTICLE 4. TOLL FACILITIES REVENUE BONDS.

Sec. 37.15.610. BOND AUTHORIZATION. For the purpose of providing part or all of the money to be used, with or without any grants or other money that may become available, the issuance and sale of revenue bonds of the state in the total principal sum of not to exceed \$500,000,000 is authorized to acquire, construct, equip, and install the additions, improvements, extensions, and facilities authorized in AS 37.15.720 and 37.15.730. The principal of and interest on these bonds are paid out of and secured by the gross revenues derived by the state from the ownership, use, and operation of the toll facilities, and out of any other revenue or money that the state legislature may provide exclusive of any state tax or license. Bonds may not be issued to assist in the acquisition, financing, or operation of projects without prior approval from the legislature.

Sec. 37.15.620. CONSTRUCTION FUND. (a) The toll facilities construction fund is established for deposit of proceeds of the sale of the bonds authorized by AS 37.15.610 and any grant or other money

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

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

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

(1) pay or secure the payment of the principal of and interest on the toll facilities bonds and principal of and interest on other revenue bonds issued by authorization of the legislature

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

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

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

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

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

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

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

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

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

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

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

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

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

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

determined by the committee;

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

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

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

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

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

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

(e) A bond resolution may provide that the bonds issued con-
 a recital that they are issued under AS 37.15.610 - 37.15.760, and
 bonds containing this recital are conclusively considered to be
 and to have been issued in conformity with AS 37.15.610 - 37.15.760

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

Sec. 37.15.660. BOND RESOLUTION. The committee is authorized
 and directed to adopt the bond resolution and prepare all other doc-
 uments and proceedings necessary for the issuance, sale, and delivery
 of the bonds or any part or series of them. The bond resolution shall
 fix the principal amount, denomination, date, maturities, places
 places of payment, rights of redemption, if any, terms, form, con-
 ditions, and covenants of the bonds or each series of them. The com-
 mittee shall also determine and provide for the date and manner of sale
 of the bonds, and shall provide whether the notice of sale is to be

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

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

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

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

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

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

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

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

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

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

commissioner of transportation and public facilities.

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

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

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

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

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

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

accomplish the purposes of AS 37.15.610 - 37.15.760.

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

(1) "bond redemption fund" means the toll facilities revenue bond redemption fund created by ~~AS 37.15.640~~, including any accounts that are created in that fund after the effective date of this Act;

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

(3) "bonds" means the toll facilities revenue bonds authorized by AS 37.15.610 - 37.15.760;

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

(5) "construction fund" means the toll facilities construction fund created by AS 37.15.620;

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

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

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

Sec. 19.05.040. POWERS OF DEPARTMENT. The department may

(1) acquire property;

(2) exercise the power of eminent domain;

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

(4) acquire rights-of-way for present or future use;

(5) control access to highways;

(6) regulate roadside development;

(7) preserve and maintain the scenic beauty along state highways;

(8) dispose of property acquired for highway purposes;

(9) accept and dispose of federal funds or property available for highway construction, maintenance, or equipment;

(10) enter into contracts or agreements relating to highways with the federal government, municipalities, a political subdivision, or with a foreign government, if the contract is approved by the federal government; [AND]

(11) establish, levy, and collect tolls, fees, charges, and rentals for the use of state roads, highways, bridges, crossings, and causeways; and

(12) exercise any other power necessary to carry out the purpose of AS 19.05 - 19.25.

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

(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,

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

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

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

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

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

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

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

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

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

- 19 (1) to sue and be sued;
- 20 (2) to have a seal and alter it at pleasure;
- 21 (3) to make and alter bylaws for its organization and
 22 internal management;
- 23 (4) to adopt regulations governing the exercise of its
 24 corporate powers;
- 25 (5) to acquire an interest in a project as necessary or
 26 appropriate to provide financing for the project, whether by purchase,
 27 gift or lease;
- 28 (6) to lease to others a project acquired by it for the
 29 rentals and upon the terms and conditions the authority may consider

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 this chapter;

(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 this chapter;

(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 projects as the authority considers [A PROJECT WHEN IT BECOMES] necessary or appropriate [DESIRABLE] to serve a public purpose [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 this chapter;

(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;

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

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

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

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

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

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

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

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

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

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

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 the money that is
 to be used to pay the operational costs.

(b) The authority shall give preference to a project that does
 not require financial assistance from the state. If the authority
 determines that a project requires 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. A finance plan required under (a) of
 this section must identify the method of financing that minimizes the
 cost to the state.

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

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

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

members to reflect the economic and geographic diversity of the region. Council members serve three-year terms at the pleasure of the governor, except that the initial members may be appointed for less than three years so that the term of at least one of the members expires each year. The governor shall appoint a chairperson who shall call meetings as required and preside over the deliberations of the council. A majority of the council constitutes a quorum for conducting the business of the council.

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

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

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

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

(2) find, on the basis of all information reasonably available to it, that

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

(B) the project applicant is financially responsible;

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

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

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

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

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

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

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

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

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

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

5 (5) "project" means

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

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

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

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

27 (C) commercial activity by a small enterprise;

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

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

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

Original sponsors: Kelly, Kerttula,
Faiks, et al.

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2

CS FOR SENATE BILL NO. 64 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST 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 is amended to read:

10

Sec. 44.88.010. LEGISLATIVE FINDING AND POLICY. (a) The legis-

11

lature finds, determines, and declares that

12

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

14

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

17

(3) the state lacks the basic manufacturing, industrial,
18 export, entrepreneurial, small business, and business enterprises and
19 the other facilities referred to in [(5) OF] this subsection necessary
20 to permit adequate development of its natural resources and the bal-
21 anced growth of its economy;

22

(4) the establishment and expansion of industrial, manu-
23 facturing, export, entrepreneurial, small business, and business
24 enterprises in Alaska and the other facilities referred to in [(5) OF]
25 this subsection are essential to the development of the natural re-
26 sources and the long-term economic growth of the state, and will
27 directly and indirectly alleviate unemployment in the state;

28

(5) the expansion of export trade is vital to the health
29 and growth of the state's economy;

1 (6) many Alaska businesses could benefit from additional
2 financial and technical assistance with respect to the exportation of
3 their products and services;

4 (7) the United States Export-Import Bank has been mandated
5 by the Export-Import Bank Act Amendments of 1983 to provide technical
6 assistance and export financing support to small businesses in coop-
7 eration with state export finance agencies;

8 (8) Alaska-based exporters can be effectively assisted
9 through the establishment, as part of the Alaska Industrial Develop-
10 ment Authority, of an export financing program designed to work with
11 the U.S. Export-Import Bank and other federal, state, and private
12 institutions;

13 (9) the achievement of the goal of full employment, and of
14 establishment and continuing operation and development of industrial,
15 manufacturing, export, entrepreneurial, small business, and business
16 enterprises in the state, including, without limitation, facilities
17 for transportation, facilities for pollution control and waste dis-
18 posal, facilities for the local furnishing of gas, facilities for
19 water, facilities for industrial parks, mass commuting vehicles,
20 facilities for local district heating or cooling, parking facilities,
21 or a storage or training facility relating to a plant or facility,
22 will be accelerated and facilitated by the creation of an instrumen-
23 tality of the state with powers to incur debt, to own and operate
24 facilities, to make and insure loans to finance, and to assist private
25 lenders to make loans to finance, the establishment, operation, and
26 development of industrial, manufacturing, export, entrepreneurial,
27 small business, and business enterprises, including, without limita-
28 tion, facilities for transportation, facilities for pollution control
29 and waste disposal, facilities for the local furnishing of gas,

1 facilities for water, facilities for industrial parks, mass commuting
2 vehicles, facilities for local district heating or cooling, parking
3 facilities, or a storage or training facility relating to a plant or
4 facility;

5 (10) [(6)] it is in the public interest to promote the
6 prosperity and general welfare of all citizens of the state by

7 (A) stimulating commercial and industrial growth and
8 expansion by encouraging an increase of private investment by
9 banks, investment houses, insurance companies, and other finan-
10 cial institutions, including pension and retirement funds, to
11 help satisfy the need for economic expansion;

12 (B) encouraging the production of raw materials and
13 goods for export, the expansion of exports of raw materials and
14 goods, and the rendering of services abroad by residents of the
15 state through the establishment of a program that provides finan-
16 cial assistance in cooperation with federal, state, and private
17 institutions for these purposes in the form provided in this
18 chapter;

19 (C) creating the Alaska Industrial Development Author-
20 ity with the powers necessary to accomplish the objectives stated
21 in this paragraph, including the power to issue taxable and
22 tax-exempt bonds and to acquire ownership interests in projects
23 as provided in this chapter;

24 (11) [(7)] it is in the state's interest to import private
25 capital to create new economic activity which would not otherwise take
26 place in the state.

27 (b) It is declared to be the policy of the state, in the inter-
28 ests of promoting the health, security, and general welfare of all the
29 people of the state, and a public purpose, to increase job

1 opportunities and otherwise to encourage the economic growth of the
2 state, including the development of its natural resources, through the
3 establishment and expansion of manufacturing, industrial, export,
4 entrepreneurial, small business, and business enterprises and the
5 other facilities referred to in (a) [(a)(5)] of this section by creat-
6 ing the Alaska Industrial Development Authority [PUBLIC CORPORATION]
7 with the powers [POWER], duties, and functions [AS] provided in this
8 chapter [AS 44.88.010 - 44.88.220].

9 * Sec. 2. AS 44.88.010 is amended by adding a new subsection to read:

10 (c) It is further declared to be the policy of the state, in the
11 interests of promoting the health, security, and general welfare of
12 all the people of the state, and a public purpose of the state, to
13 accomplish the objectives set out in (b) of this section through the
14 provision of financial support in cooperation with federal, state, and
15 private institutions for the purpose of increasing the export of
16 Alaska goods, entrepreneurial talent, raw materials, and services.

17 * Sec. 3. AS 44.88 is amended by adding a new section to article 1 to
18 read:

19 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY REVOLV-
20 ING FUND. The Alaska Industrial Development Authority revolving fund
21 is established in the authority. The revolving fund consists of
22 appropriations made to the revolving fund by the legislature, money or
23 other assets transferred to the revolving fund by the authority, and
24 unrestricted payments on loans made or purchased by the authority.
25 Amounts deposited in the revolving fund may be pledged to the payment
26 of bonds of the authority or expended for the purposes of the au-
27 thority under this chapter.

28 * Sec. 4. AS 44.88.070 is amended to read:

29 Sec. 44.88.070. PURPOSE OF THE AUTHORITY. The purpose of the

1 authority is to promote, develop, and advance the general prosperity
2 and economic welfare of the people of Alaska, to relieve problems of
3 unemployment, and to create additional employment by

4 (1) providing various means of financing and means of
5 facilitating the financing, in cooperation with federal, state, and
6 private institutions, of industrial, manufacturing, export, entrepre-
7 neurial, small business, and business enterprises and the other facil-
8 ities referred to in AS 44.88.010(a) in [AS 44.88.010(a)(5) WITHIN]
9 the state;

10 (2) [, AND BY] owning and operating the enterprises and
11 other facilities described in AS 44.88.172;

12 (3) fostering the expansion of exports of Alaska goods,
13 services, and raw materials;

14 (4) cooperating and acting in conjunction with other orga-
15 nizations, public and private, the objects of which are the promotion
16 and advancement of export trade activities in the state;

17 (5) establishing a source of funding credit guarantees and
18 insurance, not otherwise available, to support export development;

19 (6) providing and cooperating or participating with feder-
20 al, state, and private institutions to provide actual and potential
21 Alaska exporters, particularly small- and medium-sized exporters, with
22 financial assistance in support of export transactions.

23 * Sec. 5. AS 44.88.080(7) is amended to read:

24 (7) to issue bonds and otherwise to incur indebtedness, in
25 accordance with AS 44.83.090, in order to pay the cost of a project or
26 development projects or in order to provide money for the authority's
27 purposes under this chapter; the authority may also [AND TO] secure
28 payment of the bonds or other indebtedness as provided in this chap-
29 ter;

1 * Sec. 6. AS 44.88.080 is amended by adding new paragraphs to read:

2 (20) to participate with government or private industry in
3 programs for technical assistance, loans, technology, transfer, or
4 other programs related to the exportation of Alaska goods, services,
5 or raw materials with respect to its financing activities;

6 (21) to provide export finance training for office staff and
7 other individuals involved in export finance assistance, including the
8 training sessions that may be provided by the United States Export-
9 Import Bank or other organizations;

10 (22) to coordinate to the maximum extent possible its
11 efforts to promote the export of Alaska goods, services, and raw
12 materials with programs and goals of the United States Export-Import
13 Bank, the International Trade Administration of the United States
14 Department of Commerce, the Foreign Credit Insurance Association, and
15 other private and public programs designed to provide export assis-
16 tance and export-related financing;

17 (23) to guarantee loans related to qualified export trans-
18 actions under regulations adopted by the authority;

19 (24) to provide financing assistance, in cooperation with
20 federal, state, and private institutions, as provided in this chapter
21 for entrepreneurial and small business enterprises.

22 * Sec. 7. AS 44.88.085(a) is amended to read:

23 (a) Except for AS 44.62.310 and 44.62.312 regarding public
24 meetings, and except for AS 44.62.320(a) regarding legislative review
25 of regulations, the provisions of the Administrative Procedure Act
26 regarding the adoption of regulations (AS 44.62.040 - 44.62.320) do
27 not apply to the authority. The authority shall make available to
28 members of the public copies of the regulations adopted under [(b) -
29 (e) OF] this section. Within 45 days after adoption of a regulation

1 under [(b) - (e) OF] this section, the chairman of the authority shall
2 submit the regulation adopted to the chairman of the Administrative
3 Regulation Review Committee under AS 24.20.400 - 24.20.460.

4 * Sec. 8. AS 44.88.085(c) is repealed and reenacted to read:

5 (c) The authority may adopt regulations to carry out the pur-
6 poses of this chapter and shall adopt regulations as provided in (g)
7 and (h) of this section.

8 * Sec. 9. AS 44.88.085(d) is amended to read:

9 (d) Except as provided in (e) of this section, at least 15 days
10 before the adoption, amendment, or repeal of a regulation [ON A SUB-
11 JECT SPECIFIED IN (c) OF THIS SECTION], the authority shall give
12 public notice of the proposed action by publishing the notice in at
13 least three newspapers of general circulation in the state and by
14 mailing a copy of the notice to every person who has filed a request
15 for notice of proposed regulations with the authority. The public
16 notice must include a statement of the time, place, and nature of the
17 proceedings for the adoption, amendment, or repeal of the regulation
18 and must include an informative summary of the subject of the proposed
19 action. On the date and at the time and place designated in the
20 notice, the authority shall give each interested person or an autho-
21 rized representative of the person, or both, the opportunity to pre-
22 sent statements, arguments, or contentions orally or in writing and
23 shall give members of the public an opportunity to present oral state-
24 ments, arguments, or contentions for a total period of at least one
25 hour. The authority shall consider all relevant matter presented to
26 it before taking the proposed action on the regulation. At a hearing
27 under this subsection, the authority may continue or postpone the
28 hearing to a time and place determined by the authority and announced
29 at the hearing before taking the action to continue or postpone the

1 hearing. A regulation adopted, amended, or repealed by the authority
2 may vary from the informative summary specified in this subsection if
3 the subject matter of the action taken on the regulation remains the
4 same and if the original notice of the proposed action was written so
5 as to assure that members of the public are reasonably notified of the
6 subject matter of the proposed action in order for them to determine
7 whether their interests could be affected by the authority's proposed
8 action on that subject.

9 * Sec. 10. AS 44.88.085(e) is amended to read:

10 (e) The adoption, amendment, or repeal of a regulation [ON A
11 SUBJECT SPECIFIED IN (c) OF THIS SECTION] may be made as an emergency
12 regulation if, in the order of adoption, the authority states the
13 facts constituting the emergency and makes a finding that the adoption
14 of the regulation is necessary for the immediate preservation of the
15 orderly operation of the authority's [LOAN AND BONDING] programs. The
16 requirements of (d) of this section do not apply to the initial adop-
17 tion of an emergency regulation [COVERING A SUBJECT SPECIFIED IN (c)
18 OF THIS SECTION]; however, upon adoption of an emergency regulation
19 under this subsection, the authority shall, within 10 days after that
20 adoption, publish notice of the adoption in accordance with the notice
21 procedures specified in (d) of this section. An emergency regulation
22 adopted under this subsection may not remain in effect for more than
23 120 days unless, before the expiration of that period, the authority
24 adopts that regulation as a permanent regulation in accordance with
25 the procedures specified in (d) of this section.

26 * Sec. 11. AS 44.88.085(f) is amended to read:

27 (f) A regulation adopted under [(b) - (e) OF] this section takes
28 effect immediately upon its adoption by the authority or at another
29 [SUCH OTHER] time [AS] specified by the authority in its order of

1 adoption.

2 * Sec. 12. AS 44.88.085 is amended by adding new subsections to read:

3 (g) The authority shall adopt regulations necessary for the
4 following purposes in connection with its programs for the financing
5 of projects under AS 44.88.155 - 44.88.159:

6 (1) determination of borrower eligibility;

7 (2) loan guidelines and terms including, but not limited
8 to, maximum loan amounts and required loan-to-value ratios, but ex-
9 cluding loan interest rates;

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

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

15 (h) The authority shall adopt regulations necessary for the
16 following purposes in connection with its program for encouraging the
17 exportation of Alaska goods, services, and raw materials under AS 44.-
18 88.300 - 44.88.390:

19 (1) establishing criteria for the eligibility of exporters
20 and export transactions for the loan guarantees provided in AS 44.88.-
21 300;

22 (2) setting out the minimum equity interest a borrower must
23 have in the borrower's business to qualify for a loan guarantee under
24 AS 44.88.300 - 44.88.390;

25 (3) adoption of collateral or security requirements to
26 ensure the full repayment of loan guarantees and solvency of an insur-
27 ance program established under AS 44.88.300 - 44.88.390;

28 (4) providing guidelines for extension of a loan guarantee
29 under AS 44.88.300 - 44.88.390;

1 (5) setting out the maximum aggregate amount of guaranteed
2 financing available to an exporter and the maximum amount of guaran-
3 teed financing available for a transaction eligible for guaranteed
4 financing;

5 (6) establishing the limits on the interest that may be
6 charged for guaranteed financings, the maximum fees that a participat-
7 ing financial institution may charge for making a loan that will be
8 guaranteed under AS 44.88.300 - 44.88.390, and the terms of and proce-
9 dures for repayment of a guaranteed financing; and

10 (7) establishing procedures for making a claim on the
11 guarantee or insurance in the event of a default.

12 * Sec. 13. AS 44.88.090(a) is amended to read:

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

16 (1) exclusively from the income and receipts or other money
17 derived from the project or development project financed with the
18 proceeds of the bonds or derived from the exporter or exporting trans-
19 action financed, guaranteed, or insured with the proceeds of the
20 bonds; [.]

21 (2) exclusively from the income and receipts or other money
22 derived from designated projects or development projects or other
23 sources whether or not they are financed, insured, or guaranteed in
24 whole or in part with the proceeds of the bonds; [.] or

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

27 * Sec. 14. AS 44.88.090(e) is repealed and reenacted to read:

28 (e) Before issuing bonds, the authority shall provide for con-
29 sideration at least sufficient, in the judgment of the authority, to

1 pay the principal of and interest on the bonds as they become due and
2 to create and maintain the reserves for the payments that the authori-
3 ty considers necessary or desirable, and to meet all obligations in
4 connection with the lease or agreement and all costs necessary to
5 service the bonds, unless the lease or agreement provides that the
6 obligations are to be met or costs are to be paid by a party other
7 than the authority. If the bonds are being issued to finance a
8 project or projects under AS 44.88.155 - 44.88.159, then the con-
9 sideration shall be provided by lease or other agreement regarding the
10 project or projects. If the bonds are being issued to finance a
11 development project or development projects under AS 44.88.172 -
12 44.88.177, then the consideration shall be provided by lease or other
13 agreement regarding the development project or development projects.
14 If the bonds are being issued to provide money to finance, guarantee,
15 or insure an exporting transaction under AS 44.88.300 - 44.88.390,
16 then the consideration shall be provided by agreement with the ex-
17 porter.

18 * Sec. 15. AS 44.88.090(g) is amended to read:

19 (g) The authority may not

20 (1) issue bonds, other than refunding bonds, in any 12-
21 month period beginning after June 30, 1982, in an amount that exceeds
22 the amount of bonds authorized to be issued during the preceding
23 12-month period, unless a different amount is authorized by the legis-
24 lature; or

25 (2) issue revenue bonds other than refunding bonds for a
26 project under AS 44.88.155 - 44.88.159, for a development project
27 under AS 44.88.172 - 44.88.177, or to provide money to finance,
28 guarantee, or insure an exporting transaction under AS 44.88.300 -
29 44.88.390, [THIS CHAPTER] in an amount greater than \$50,000,000 during

1 any 12-month period beginning after June 30, 1981, unless the issuance
2 is included separately in the estimates required in the report of the
3 authority under AS 44.88.210(b) and unless the legislature, by law,
4 approves the issuance.

5 * Sec. 16. AS 44.88.090(h) is amended to read:

6 (h) The authority may combine, for the purposes of a single
7 offering, bonds financing more than one project or development project
8 under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, and bonds
9 issued to provide money to finance, guarantee, or insure an exporting
10 transaction under AS 44.88.300 - 44.88.390 [AS 44.88.010 - 44.88.220].

11 * Sec. 17. AS 44.88.100 is amended to read:

12 Sec. 44.88.100. TRUST INDENTURES AND TRUST AGREEMENTS. In the
13 discretion of the authority, an issue of bonds may be secured by a
14 trust indenture or trust agreement between the authority and a corpo-
15 rate trustee (which may be a trust company, bank, or national banking
16 association, with corporate trust powers, located inside or outside
17 the state) or by a secured loan agreement or other instrument or under
18 a resolution giving powers to a corporate trustee (hereinafter in this
19 section referred to as "trust agreement") by means of which the auth-
20 ority may:

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

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

1 (B) the fixing and collection of rents or other con-
2 sideration for, and the other terms to be incorporated in, a
3 lease or contract of sale of a project or development project
4 financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177,
5 or of a facility that is part of an exporting transaction fi-
6 nanced, guaranteed, or insured under AS 44.88.300 - 44.88.390;

7 (C) the assignment by the authority of its rights in
8 the lease or contract of sale of a project or development project
9 financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177,
10 or of a facility that is part of an exporting transaction fi-
11 nanced, guaranteed, or insured under AS 44.88.300 - 44.88.390 or
12 in a mortgage or other security interest created with respect to
13 a project or development project financed under AS 44.88.155 -
14 44.88.159 or 44.88.172 - 44.88.177, or with respect to a facility
15 that is part of an exporting transaction financed, guaranteed, or
16 insured under AS 44.88.300 - 44.88.390 to a trustee for the
17 benefit of the bondholders;

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

20 (E) the vesting in a trustee of rights, powers,
21 duties, funds or property in trust for the benefit of bond-
22 holders, including, without limitation, the right to enforce
23 payment, performance and all other rights of the authority or of
24 the bondholders [,] under a lease, contract of sale, mortgage,
25 security agreement, or trust agreement with respect to a project
26 or development project financed under AS 44.88.155 - 44.88.159 or
27 44.88.172 - 44.88.177, or with respect to a facility that is part
28 of an exporting transaction financed, guaranteed, or insured
29 under AS 44.88.300 - 44.88.390 by mandamus or other proceeding or

1 by taking possession of by agent or otherwise and operating a
2 project or facility and collecting rents or other consideration
3 and applying the same in accordance with the trust agreement;

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

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

10 * Sec. 18. AS 44.88.105(f) is amended to read:

11 (f) The authority may not establish a capital reserve fund to
12 secure an issue of bonds in an amount in excess of \$1,000,000 unless
13 at least 20 percent of the principal amount of the loan for the proj-
14 ect or development project being financed under AS 44.88.155 -
15 44.88.159 or 44.88.172 - 44.88.177, or of the loan to finance, guaran-
16 tee, or insure an exporting transaction under AS 44.88.300 - 44.88.390
17 is retained by a federal or state chartered financial institution or
18 the Alaska Commercial Fishing and Agriculture Bank.

19 * Sec. 19. AS 44.88.130 is amended to read:

20 Sec. 44.88.130. PLEDGE OF THE STATE. The state pledges to and
21 agrees with the holders of bonds issued under this chapter and with
22 the federal agency that lends [WHICH LOANS] or contributes funds in
23 respect to a project or development project financed under AS 44.88.-
24 155 - 44.88.159 or 44.88.172 - 44.88.177, or in respect to an export-
25 ing transaction financed, guaranteed, or insured under AS 44.88.300 -
26 44.88.390 [,] that the state will not limit or alter the rights and
27 powers vested in the authority by this chapter to fulfill the terms of
28 a contract made by the authority with the holders or federal agency
29 and that the state will not [, OR] in any way impair the rights and

1 remedies of the holders until the bonds, together with the interest on
2 them with interest on unpaid installments of interest, and all costs
3 and expenses in connection with an action or proceeding by or on
4 behalf of the holders [,] are fully met and discharged. The authority
5 is authorized to include this pledge and agreement of the state,
6 insofar as it refers to holders of bonds of the authority, in a con-
7 tract with the holders [,] and, insofar as it relates to a federal
8 agency, in a contract with the federal agency.

9 * Sec. 20. AS 44.88.140 is amended to read:

10 Sec. 44.88.140. EXEMPTION FROM TAXATION. (a) The real and
11 personal property of the authority and its assets, income, and re-
12 ceipts are declared to be the property of a political subdivision of
13 the state and, together with any project or development project fi-
14 nanced under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, [THIS
15 CHAPTER] and a leasehold interest created in a project or development
16 project financed [APPLICANT OR OTHER PERSON] under AS 44.88.155 -
17 44.88.159 or 44.88.172 - 44.88.177 [THIS CHAPTER], devoted to an
18 essential public and governmental function and purpose, and the
19 property, assets, income, receipts, project, development project, and
20 leasehold interests shall be exempt from all taxes and special assess-
21 ments of the state or a political subdivision of the state, including,
22 without limitation, all boroughs, cities, municipalities, school
23 districts, public utility districts and other taxing units. All bonds
24 of the authority are declared to be issued by a political subdivision
25 of the state and for an essential public and governmental purpose and
26 to be a public instrumentality, and the bonds, and the interest on
27 them, the income from them and the transfer of the bonds, and all
28 assets, income and receipts pledged to pay or secure the payments
29 [PAYMENT] of the bonds, or interest on them, shall at all times be

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

10 (b) The authority may enter into agreements with an applicant or
11 [A] proposed [PROJECT] applicant under this chapter [OR PROJECT APPLI-
12 CANT] providing for payments, computed on a formula basis or otherwise
13 [,] in lieu of taxes, which the authority may consider appropriate.
14 The agreement may provide that the payments be made to the political
15 subdivision of the state in which a project or development project is
16 or is to be located or to any other taxing unit of the state includ-
17 ing, without limitation, a borough, city, municipality, school dis-
18 trict or public utility district, the area of which is coterminous in
19 whole or in part with that of the political subdivision.

20 * Sec. 21. AS 44.88.155(a) is amended to read:

21 Sec. 44.88.155. ENTERPRISE DEVELOPMENT ACCOUNT [FUND]. (a) The
22 enterprise development account [FUND] is established in the revolving
23 fund [AUTHORITY]. The enterprise development account [FUND] is a
24 trust fund for the uses and purposes of this chapter [AS 44.88.010 -
25 44.88.220]. The enterprise development account [FUND] consists of
26 money or assets appropriated or transferred to the authority and other
27 money or assets deposited in it by the authority.

28 * Sec. 22. AS 44.88.155(b) is amended to read:

29 (b) The authority may establish in the enterprise development

1 account [FUND] a small enterprise loan account, a loan insurance
2 account, and other accounts it considers appropriate.

3 * Sec. 23. AS 44.88.155(c) is amended to read:

4 (c) Money and other assets of the enterprise development account
5 [FUND] may be used to secure bonds of the authority issued to finance
6 the purchase of loans for projects [,] and shall be held and invested
7 by the authority in the types of investments described in AS 37.10.-
8 070(a) and AS 39.35.110(a)(9) and (14) or shall be used to purchase
9 loans for projects [AS DEFINED IN AS 44.88.220].

10 * Sec. 24. AS 44.88.155(d) is amended to read:

11 (d) A loan purchased in whole or in part by the authority with
12 assets of the enterprise development account or with proceeds of bonds
13 secured by assets of the enterprise development account, other than a
14 loan which is financed with the proceeds of bonds of the authority and
15 secured only by a project applicant or a project,

16 (1) may not exceed

17 (A) \$10,000,000; or

18 (B) \$500,000 if the loan is purchased under AS 44.88.-
19 158;

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

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

27 (4) shall contain complete amortization provisions satis-
28 factory to the authority requiring periodic payments by the borrower;

29 (5) shall be in the form and contain the terms and

1 provisions with respect to insurance, repairs, alterations, payment of
2 taxes and assessments, default reserves, delinquency charges, default
3 remedies, acceleration of maturity, secondary liens, and other matters
4 the authority prescribes;

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

9 (7) may not be made unless

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

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

15 (8) must be

16 (A) at least partially guaranteed by the United States
17 or an agency or instrumentality of the United States, subject to
18 the provisions of AS 44.88.158; [OR]

19 (B) financed from the proceeds of bonds; or

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

22 * Sec. 25. AS 44.88.155(e) is amended to read:

23 (e) The authority may adopt regulations for the administration
24 of the enterprise development account including [FUND WHICH MAY IN-
25 CLUDE], without limitation, provisions for fees and agreements re-
26 lating to application, loan commitment, servicing, and origination of
27 loans by other lenders.

28 * Sec. 26. AS 44.88.155(f) is amended to read:

29 (f) The authority may enter into agreements as to the use of the

1 money in the enterprise development account [FUND], including without
2 limitation, trust or custody arrangements with banks or trust com-
3 panies. It may also pledge, assign, or grant the agreement, interests
4 under an agreement, or interests in the enterprise development account
5 [FUND] as may be necessary or appropriate to provide for payment and
6 security for bonds of the authority issued to finance the purchase by
7 the authority of loans for projects.

8 * Sec. 27. AS 44.88.155 is amended by adding a new subsection to read:

9 (h) The provisions of this section apply only with respect to
10 loans purchased or made by the authority for projects under AS 44.88.-
11 155 - 44.88.159.

12 * Sec. 28. AS 44.88.157(a) is amended to read:

13 (a) The loan insurance account is established in the revolving
14 fund. The purpose of the loan insurance account is to provide insur-
15 ance of mortgage loans and other loans made or purchased by the au-
16 thority under AS 44.88.155, or made by others and approved for insur-
17 ance by the authority, for a project. The authority may enter into
18 agreements as to the use of money in the loan insurance account and
19 may pledge, assign, or grant interests in the loan insurance account
20 as provided in this section. The authority may adopt regulations and
21 enter into agreements with respect to the exercise of any power or
22 approval relating to the loan insurance account under this section,
23 including, without limitation, agreements as to the use of money in
24 the loan insurance account, agreements with respect to the terms and
25 conditions upon which payments from the loan insurance account will be
26 made with respect to a loan insured under this section, agreements as
27 to separate subaccounts in the loan insurance account for different
28 categories of loans or as to loans made by the authority or any other
29 person, and agreements regarding the payment of and security for bonds

1 issued by the authority. An agreement, the rights of the authority
2 under an agreement, or payments received or to be received under an
3 agreement may be pledged or assigned by the authority for the benefit
4 of the holders of bonds issued by the authority.

5 * Sec. 29. AS 44.88.157(b) is amended to read:

6 (b) The authority may, upon application of a borrower or pro-
7 posed borrower, insure and make advance commitments to insure loan
8 repayments required under the terms of a loan made by it or by another
9 lender with respect to a project, upon the terms and conditions the
10 authority prescribes. To be eligible for insurance under this section
11 [AS 44.88.010 - 44.88.220], a loan for a project

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

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

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

20 (4) shall contain complete amortization provisions satis-
21 factory to the authority requiring periodic payments by the borrower;
22 and

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

28 * Sec. 30. AS 44.88.157(k) is amended to read:

29 (k) A loan may not be insured under this section [FROM A LOAN

1 INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOPMENT FUND] if the loan
2 is for a project the cost of which exceeds \$10,000,000.

3 * Sec. 31. AS 44.88.157(1) is amended to read:

4 (1) A loan in excess of \$1,000,000 may not be insured under this
5 section [FROM A LOAN INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOP-
6 MENT FUND] unless at least 20 percent of the principal amount of the
7 loan is retained by a federal or state chartered financial institution
8 or the Alaska Commercial Fishing and Agriculture Bank.

9 * Sec. 32. AS 44.88.158(a) is amended to read:

10 Sec. 44.88.158. ENTREPRENEURIAL AND SMALL BUSINESS ENTERPRISE
11 LOAN ACCOUNT. (a) An entrepreneurial and [A] small business enter-
12 prise loan account is established in the revolving [ENTERPRISE DE-
13 VELOPMENT] fund. The account may be composed of money or assets
14 appropriated or transferred to the authority, interest on investments
15 and loans of the entrepreneurial and small business enterprise loan
16 account, the unpledged income of the revolving [ENTERPRISE DEVELOP-
17 MENT] fund, and other money or assets deposited in it by the authori-
18 ty.

19 * Sec. 33. AS 44.88.158(b) is amended to read:

20 (b) The authority may use money in the entrepreneurial and small
21 business enterprise loan account to purchase or participate in the
22 purchase of loans to entrepreneurial and small business enterprises
23 and to purchase the guaranteed portion of a loan made by a private
24 financial institution after June 30, 1981, to an entrepreneurial or
25 [A] small business enterprise to pay the cost of a project or ex-
26 porting transaction [, AS DEFINED IN AS 44.88.220], if the loan is
27 guaranteed by the United States or an agency or instrumentality of the
28 United States, including, but not limited to, the Small Business
29 Administration, the National Marine Fisheries Service, and the Farmers

1 Home Administration.

2 * Sec. 34. AS 44.88.159 is amended by adding a new subsection to read:

3 (d) The provisions of this section apply only to loans financed
4 under AS 44.88.155 - 44.88.159.

5 * Sec. 35. AS 44.88.172 is amended to read:

6 Sec. 44.88.172. ECONOMIC DEVELOPMENT ACCOUNT [FUND]. (a) The
7 economic development account [FUND] is established in the revolving
8 fund [AUTHORITY]. The account [FUND] consists of money or assets
9 appropriated, loaned, or transferred to the authority, and other money
10 or assets deposited in the account [FUND] by the authority. The
11 account [FUND] may [ONLY] be used only to finance, acquire, manage,
12 and operate development projects that the authority intends to own and
13 operate. The term "operate" includes operation directly by the au-
14 thority, or by an agent of the authority.

15 (b) If a development project is financed or developed through
16 use of the assets of the economic development account [FUND], the
17 authority may not pledge or use [OTHER] assets of the enterprise de-
18 velopment account established in AS 44.88.155 [AUTHORITY] to assist in
19 the financing, development, or operation of the development project.
20 However, whether or not the authority uses the economic development
21 account [FUND], it may issue bonds to finance a development project
22 and may secure the bonds with a mortgage, pledge, or assignment of the
23 development project or of revenues, money, or agreements attributable
24 to the development project or the bonds. Financing assistance pro-
25 vided with respect to a development project under this section shall,
26 to the maximum extent reasonable under the circumstances, be made in
27 the form of a loan to the project [AS PROVIDED IN SEC. 10 OF THIS
28 ACT].

29 * Sec. 36. AS 44.88.190 is amended by adding a new subsection to read:

1 (c) A loan purchased or financed by the authority in whole or in
2 part is exempt from the provisions of AS 45.45.010. A guarantee
3 extended under AS 44.88.300 or insurance provided under AS 44.88.390
4 does not constitute insurance for the purposes of AS 21.03.010.

5 * Sec. 37. AS 44.88.220 is amended by adding new paragraphs to read:

6 (13) "development project" means a plant or facility used or
7 intended for use in connection with making, processing, preparing, or
8 producing goods, products, or substances, or in connection with de-
9 veloping or utilizing a natural resource, or extracting, smelting,
10 transporting, converting, assembling, or producing minerals, raw
11 materials, chemicals, compounds, alloys, fibers, commodities and
12 materials, products, or substances;

13 (14) "entrepreneurial enterprise" means an enterprise in
14 which one or more individuals have an ownership interest in an innova-
15 tive venture or ventures;

16 (15) "revolving fund" means the Alaska Industrial Develop-
17 ment Authority revolving fund created in AS 44.88.060.

18 * Sec. 38. AS 44.88 is amended by adding new sections to read:

19 ARTICLE 5. EXPORT ASSISTANCE.

20 Sec. 44.88.300. GUARANTEED FUNDING FOR EXPORT TRANSACTIONS. The
21 authority may provide guaranteed funding, through a participating
22 banking organization, for an export transaction that the authority
23 determines is eligible under AS 44.88.310.

24 Sec. 44.88.310. ELIGIBILITY OF EXPORT TRANSACTIONS. An export-
25 ing contract is a transaction eligible for guaranteed funding under
26 AS 44.88.300 - 44.88.390 if, in the judgment of the authority, it will
27 create or maintain employment in the state and it

28 (1) promotes the sale abroad of raw materials extracted in
29 the state, or goods whose final stage of production occurs in the

1 state, that constitutes 25 percent or more of the contract price;

2 (2) provides for the rendering of services abroad by a
3 business located in the state if 25 percent or more of the contract
4 price consists of wages or other payments made to persons normally
5 residing in the state;

6 (3) promotes the sale abroad of raw materials or goods
7 distributed by a business located in the state if

8 (A) 25 percent or more of the contract price consists
9 of wages or other payments made to persons or businesses normally
10 residing or located in the state; or

11 (B) the business has a significant relationship with
12 the state based upon

13 (i) the amount of capital investments it has that
14 are located in the state;

15 (ii) the number of state residents employed by the
16 business;

17 (iii) the amount of business transacted in the
18 state; or

19 (iv) a combination of (i) - (iii); or

20 (4) provides both for the sale abroad of raw materials
21 extracted in the state or goods whose final stage of production occurs
22 in the state, and for the rendering of services abroad by state resi-
23 dents, the aggregate value of which is 25 percent or more of the
24 contract price.

25 Sec. 44.88.320. LIMITATIONS ON GUARANTEES. (a) The authority
26 may not guarantee more than 90 percent of a loan under AS 44.88.300.

27 (b) The authority may not guarantee a loan under AS 44.88.300
28 unless the authority finds that the guarantee is reasonably necessary
29 to stimulate or facilitate the making of a loan for an eligible

1 exporting transaction.

2 Sec. 44.88.330. CREDIT OF EXPORTER. Before the authority may
3 guarantee a loan under AS 44.88.300, the participating financial
4 institution shall investigate the credit or sources of credit avail-
5 able to the exporter to determine the economic benefits to be derived
6 from the guarantee, the prospects of repayment, and other factors
7 necessary to determine that the guaranteed funding is consistent with
8 the purposes of AS 44.88.300 - 44.88.390.

9 Sec. 44.88.340. CONFIDENTIALITY OF INFORMATION. Information
10 submitted to or compiled by the authority regarding the identity,
11 background, finances, marketing plans, trade secrets, or other commer-
12 cially sensitive affairs of the exporter is confidential, unless the
13 exporter consents to its disclosure.

14 Sec. 44.88.350. FEES CHARGED. The authority shall, by regula-
15 tion, establish fees to be charged to a participating financial insti-
16 tution for providing a guarantee under AS 44.88.300. The fees must be
17 sufficient to cover the costs of administering the guarantee program
18 under AS 44.88.300 - 44.88.390 and any premium the authority pays for
19 insuring its risks.

20 Sec. 44.88.360. EFFECT OF GUARANTEE. (a) A guarantee under
21 AS 44.88.300 shall guarantee against political or commercial loss, in
22 whole or in part, of principal and interest on an eligible export
23 transaction. The guarantee may include, without limitation, insurance
24 against loss up to a stated amount. A guarantee under AS 44.88.300
25 may not be terminated, canceled, or revoked, except under its terms.
26 A guarantee held by a participating financial institution is presumed
27 to be valid.

28 (b) In this section, "political loss" means a loss incurred as a
29 result of a political risk insured under an export credit insurance

1 umbrella policy, or a comparable policy or agreement, issued by the
2 Export-Import Bank of the United States.

3 Sec. 44.88.370. GUARANTEE NOT A GENERAL OBLIGATION OF THE STATE.
4 A guarantee under AS 44.88.300 is not a general obligation of the
5 state.

6 Sec. 44.88.380. PERSONAL LIABILITY. An officer, employee, or
7 agent of the authority may not be held personally liable on a contract
8 or agreement entered into with respect to a guarantee under AS 44.88.-
9 300, or for damage or injury resulting from the performance of duties
10 under AS 44.88.300 - 44.88.390.

11 Sec. 44.88.390. EXPORT INSURANCE ACCOUNT. (a) The export
12 insurance account is established in the revolving fund. The account
13 consists of money appropriated to it by the legislature and other
14 money and assets, including bond proceeds, deposited in it by the
15 authority. The account shall be held as security for the holders of
16 bonds issued by the authority for the purposes of AS 44.88.300 -
17 44.88.390. The authority may enter into trust agreements with respect
18 to the use of money in the account, including the use of that money to
19 discharge a guarantee obligation of the authority. The trust agree-
20 ments may contain provisions and limitations concerning the investment
21 and disbursement of money in the account, the payment of expenses of
22 the account, the appointment, resignation and discharge of trustees,
23 the delegation of enforcement and collection powers under the insur-
24 ance agreements to the trustee, the duties of the trustees, amendments
25 of the trust agreements, and other lawful provisions and limitations
26 the authority considers appropriate. The trust agreements may pledge
27 premiums and other money that may be deposited in the account. The
28 pledge shall be valid and binding from the time the pledge is made.
29 The premiums and other money pledged and thereafter received by the

1 account, or by the trustees in its behalf, shall immediately be sub-
2 ject to the lien of the pledge. The pledge shall be valid and binding
3 against parties having claims against the account, irrespective of
4 whether the parties have notice of the pledge.

5 (b) The authority may use proceeds of bonds issued for the
6 purposes of AS 44.88.300 - 44.88.390 to purchase insurance, which may
7 be pledged for the security of the holders of the bonds. If insurance
8 is pledged as security, whether obtained through the export insurance
9 account or purchased with bond proceeds, a description of the insur-
10 ance shall expressly indicate the limitation of the liability of the
11 authority and that neither the credit nor the taxing power of the
12 state or a political subdivision of the state is available to satisfy
13 obligations with respect to the insurance.

14 * Sec. 39. AS 44.88.156, 44.88.158(c), and secs. 10 and 11, ch. 162,
15 SLA 1984, are repealed.

16 * Sec. 40. This Act takes effect immediately under AS 01.10.070(c).

Original sponsors: Kelly, Kerttula,
Faiks, et al.

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2

CS FOR SENATE BILL NO. 64 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST 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 is amended to read:

10

Sec. 44.88.010. LEGISLATIVE FINDING AND POLICY. (a) The legis-

11

lature finds, determines, and declares that

12

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

14

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

17

(3) the state lacks the basic manufacturing, industrial,
18 export, entrepreneurial, small business, and business enterprises and
19 the other facilities referred to in [(5) OF] this subsection necessary
20 to permit adequate development of its natural resources and the bal-
21 anced growth of its economy;

22

(4) the establishment and expansion of industrial, manu-
23 facturing, export, entrepreneurial, small business, and business
24 enterprises in Alaska and the other facilities referred to in [(5) OF]
25 this subsection are essential to the development of the natural re-
26 sources and the long-term economic growth of the state, and will
27 directly and indirectly alleviate unemployment in the state;

28

(5) the expansion of export trade is vital to the health

29

and growth of the state's economy;

1 (6) many Alaska businesses could benefit from additional
2 financial and technical assistance with respect to the exportation of
3 their products and services;

4 (7) the United States Export-Import Bank has been mandated
5 by the Export-Import Bank Act Amendments of 1983 to provide technical
6 assistance and export financing support to small businesses in coop-
7 eration with state export finance agencies;

8 (8) Alaska-based exporters can be effectively assisted
9 through the establishment, as part of the Alaska Industrial Develop-
10 ment Authority, of an export financing program designed to work with
11 the U.S. Export-Import Bank and other federal, state, and private
12 institutions;

13 (9) the achievement of the goal of full employment, and of
14 establishment and continuing operation and development of industrial,
15 manufacturing, export, entrepreneurial, small business, and business
16 enterprises in the state, including, without limitation, facilities
17 for transportation, facilities for pollution control and waste dis-
18 posal, facilities for the local furnishing of gas, facilities for
19 water, facilities for industrial parks, mass commuting vehicles,
20 facilities for local district heating or cooling, parking facilities,
21 or a storage or training facility relating to a plant or facility,
22 will be accelerated and facilitated by the creation of an instrumen-
23 tality of the state with powers to incur debt, to own and operate
24 facilities, to make and insure loans to finance, and to assist private
25 lenders to make loans to finance, the establishment, operation, and
26 development of industrial, manufacturing, export, entrepreneurial,
27 small business, and business enterprises, including, without limita-
28 tion, facilities for transportation, facilities for pollution control
29 and waste disposal, facilities for the local furnishing of gas,

1 facilities for water, facilities for industrial parks, mass commuting
2 vehicles, facilities for local district heating or cooling, parking
3 facilities, or a storage or training facility relating to a plant or
4 facility;

5 (10) [(6)] it is in the public interest to promote the
6 prosperity and general welfare of all citizens of the state by

7 (A) stimulating commercial and industrial growth and
8 expansion by encouraging an increase of private investment by
9 banks, investment houses, insurance companies, and other finan-
10 cial institutions, including pension and retirement funds, to
11 help satisfy the need for economic expansion;

12 (B) encouraging the production of raw materials and
13 goods for export, the expansion of exports of raw materials and
14 goods, and the rendering of services abroad by residents of the
15 state through the establishment of a program that provides finan-
16 cial assistance in cooperation with federal, state, and private
17 institutions for these purposes in the form provided in this
18 chapter;

19 (C) creating the Alaska Industrial Development Author-
20 ity with the powers necessary to accomplish the objectives stated
21 in this paragraph, including the power to issue taxable and
22 tax-exempt bonds and to acquire ownership interests in projects
23 as provided in this chapter;

24 (11) [(7)] it is in the state's interest to import private
25 capital to create new economic activity which would not otherwise take
26 place in the state.

27 (b) It is declared to be the policy of the state, in the inter-
28 ests of promoting the health, security, and general welfare of all the
29 people of the state, and a public purpose, to increase job

1 opportunities and otherwise to encourage the economic growth of the
2 state, including the development of its natural resources, through the
3 establishment and expansion of manufacturing, industrial, export,
4 entrepreneurial, small business, and business enterprises and the
5 other facilities referred to in (a) [(a)(5)] of this section by creat-
6 ing the Alaska Industrial Development Authority [PUBLIC CORPORATION]
7 with the powers [POWER], duties, and functions [AS] provided in this
8 chapter [AS 44.88.010 - 44.88.220].

9 * Sec. 2. AS 44.88.010 is amended by adding a new subsection to read:

10 (c) It is further declared to be the policy of the state, in the
11 interests of promoting the health, security, and general welfare of
12 all the people of the state, and a public purpose of the state, to
13 accomplish the objectives set out in (b) of this section through the
14 provision of financial support in cooperation with federal, state, and
15 private institutions for the purpose of increasing the export of
16 Alaska goods, entrepreneurial talent, raw materials, and services.

17 * Sec. 3. AS 44.88 is amended by adding a new section to article 1 to
18 read:

19 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY REVOLV-
20 ING FUND. The Alaska Industrial Development Authority revolving fund
21 is established in the authority. The revolving fund consists of
22 appropriations made to the revolving fund by the legislature, money or
23 other assets transferred to the revolving fund by the authority, and
24 unrestricted payments on loans made or purchased by the authority.
25 Amounts deposited in the revolving fund may be pledged to the payment
26 of bonds of the authority or expended for the purposes of the au-
27 thority under this chapter.

28 * Sec. 4. AS 44.88.070 is amended to read:

29 Sec. 44.88.070. PURPOSE OF THE AUTHORITY. The purpose of the

1 authority is to promote, develop, and advance the general prosperity
2 and economic welfare of the people of Alaska, to relieve problems of
3 unemployment, and to create additional employment by

4 (1) providing various means of financing and means of
5 facilitating the financing, in cooperation with federal, state, and
6 private institutions, of industrial, manufacturing, export, entrepre-
7 neurial, small business, and business enterprises and the other facil-
8 ities referred to in AS 44.88.010(a) in [AS 44.88.010(a)(5) WITHIN]
9 the state;

10 (2) [, AND BY] owning and operating the enterprises and
11 other facilities described in AS 44.88.172;

12 (3) fostering the expansion of exports of Alaska goods,
13 services, and raw materials;

14 (4) cooperating and acting in conjunction with other orga-
15 nizations, public and private, the objects of which are the promotion
16 and advancement of export trade activities in the state;

17 (5) establishing a source of funding credit guarantees and
18 insurance, not otherwise available, to support export development;

19 (6) providing and cooperating or participating with feder-
20 al, state, and private institutions to provide actual and potential
21 Alaska exporters, particularly small- and medium-sized exporters, with
22 financial assistance in support of export transactions.

23 * Sec. 5. AS 44.88.080(7) is amended to read:

24 (7) to issue bonds and otherwise to incur indebtedness, in
25 accordance with AS 44.88.090, in order to pay the cost of a project or
26 development projects or in order to provide money for the authority's
27 purposes under this chapter; the authority may also [AND TO] secure
28 payment of the bonds or other indebtedness as provided in this chap-
29 ter;

1 * Sec. 6. AS 44.88.080 is amended by adding new paragraphs to read:

2 (20) to participate with government or private industry in
3 programs for technical assistance, loans, technology, transfer, or
4 other programs related to the exportation of Alaska goods, services,
5 or raw materials with respect to its financing activities;

6 (21) to provide export finance training for office staff and
7 other individuals involved in export finance assistance, including the
8 training sessions that may be provided by the United States Export-
9 Import Bank or other organizations;

10 (22) to coordinate to the maximum extent possible its
11 efforts to promote the export of Alaska goods, services, and raw
12 materials with programs and goals of the United States Export-Import
13 Bank, the International Trade Administration of the United States
14 Department of Commerce, the Foreign Credit Insurance Association, and
15 other private and public programs designed to provide export assis-
16 tance and export-related financing;

17 (23) to guarantee loans related to qualified export trans-
18 actions under regulations adopted by the authority;

19 (24) to provide financing assistance, in cooperation with
20 federal, state, and private institutions, as provided in this chapter
21 for entrepreneurial and small business enterprises.

22 * Sec. 7. AS 44.88.085(a) is amended to read:

23 (a) Except for AS 44.62.310 and 44.62.312 regarding public
24 meetings, and except for AS 44.62.320(a) regarding legislative review
25 of regulations, the provisions of the Administrative Procedure Act
26 regarding the adoption of regulations (AS 44.62.040 - 44.62.320) do
27 not apply to the authority. The authority shall make available to
28 members of the public copies of the regulations adopted under [(b) -
29 (e) OF] this section. Within 45 days after adoption of a regulation

1 under [(b) - (e) OF] this section, the chairman of the authority shall
2 submit the regulation adopted to the chairman of the Administrative
3 Regulation Review Committee under AS 24.20.400 - 24.20.460.

4 * Sec. 8. AS 44.88.085(c) is repealed and reenacted to read:

5 (c) The authority may adopt regulations to carry out the pur-
6 poses of this chapter and shall adopt regulations as provided in (g)
7 and (h) of this section.

8 * Sec. 9. AS 44.88.085(d) is amended to read:

9 (d) Except as provided in (e) of this section, at least 15 days
10 before the adoption, amendment, or repeal of a regulation [ON A SUB-
11 JECT SPECIFIED IN (c) OF THIS SECTION], the authority shall give
12 public notice of the proposed action by publishing the notice in at
13 least three newspapers of general circulation in the state and by
14 mailing a copy of the notice to every person who has filed a request
15 for notice of proposed regulations with the authority. The public
16 notice must include a statement of the time, place, and nature of the
17 proceedings for the adoption, amendment, or repeal of the regulation
18 and must include an informative summary of the subject of the proposed
19 action. On the date and at the time and place designated in the
20 notice, the authority shall give each interested person or an autho-
21 rized representative of the person, or both, the opportunity to pre-
22 sent statements, arguments, or contentions orally or in writing and
23 shall give members of the public an opportunity to present oral state-
24 ments, arguments, or contentions for a total period of at least one
25 hour. The authority shall consider all relevant matter presented to
26 it before taking the proposed action on the regulation. At a hearing
27 under this subsection, the authority may continue or postpone the
28 hearing to a time and place determined by the authority and announced
29 at the hearing before taking the action to continue or postpone the

1 hearing. A regulation adopted, amended, or repealed by the authority
2 may vary from the informative summary specified in this subsection if
3 the subject matter of the action taken on the regulation remains the
4 same and if the original notice of the proposed action was written so
5 as to assure that members of the public are reasonably notified of the
6 subject matter of the proposed action in order for them to determine
7 whether their interests could be affected by the authority's proposed
8 action on that subject.

9 * Sec. 10. AS 44.88.085(e) is amended to read:

10 (e) The adoption, amendment, or repeal of a regulation [ON A
11 SUBJECT SPECIFIED IN (c) OF THIS SECTION] may be made as an emergency
12 regulation if, in the order of adoption, the authority states the
13 facts constituting the emergency and makes a finding that the adoption
14 of the regulation is necessary for the immediate preservation of the
15 orderly operation of the authority's [LOAN AND BONDING] programs. The
16 requirements of (d) of this section do not apply to the initial adop-
17 tion of an emergency regulation [COVERING A SUBJECT SPECIFIED IN (c)
18 OF THIS SECTION]; however, upon adoption of an emergency regulation
19 under this subsection, the authority shall, within 10 days after that
20 adoption, publish notice of the adoption in accordance with the notice
21 procedures specified in (d) of this section. An emergency regulation
22 adopted under this subsection may not remain in effect for more than
23 120 days unless, before the expiration of that period, the authority
24 adopts that regulation as a permanent regulation in accordance with
25 the procedures specified in (d) of this section.

26 * Sec. 11. AS 44.88.085(f) is amended to read:

27 (f) A regulation adopted under [(b) - (e) OF] this section takes
28 effect immediately upon its adoption by the authority or at another
29 [SUCH OTHER] time [AS] specified by the authority in its order of

1 adoption.

2 * Sec. 12. AS 44.88.085 is amended by adding new subsections to read:

3 (g) The authority shall adopt regulations necessary for the
4 following purposes in connection with its programs for the financing
5 of projects under AS 44.88.155 - 44.88.159:

6 (1) determination of borrower eligibility;

7 (2) loan guidelines and terms including, but not limited
8 to, maximum loan amounts and required loan-to-value ratios, but ex-
9 cluding loan interest rates;

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

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

15 (h) The authority shall adopt regulations necessary for the
16 following purposes in connection with its program for encouraging the
17 exportation of Alaska goods, services, and raw materials under AS 44.-
18 88.300 - 44.88.390:

19 (1) establishing criteria for the eligibility of exporters
20 and export transactions for the loan guarantees provided in AS 44.88.-
21 300;

22 (2) setting out the minimum equity interest a borrower must
23 have in the borrower's business to qualify for a loan guarantee under
24 AS 44.88.300 - 44.88.390;

25 (3) adoption of collateral or security requirements to
26 ensure the full repayment of loan guarantees and solvency of an insur-
27 ance program established under AS 44.88.300 - 44.88.390;

28 (4) providing guidelines for extension of a loan guarantee
29 under AS 44.88.300 - 44.88.390;

1 (5) setting out the maximum aggregate amount of guaranteed
2 financing available to an exporter and the maximum amount of guaran-
3 teed financing available for a transaction eligible for guaranteed
4 financing;

5 (6) establishing the limits on the interest that may be
6 charged for guaranteed financings, the maximum fees that a participat-
7 ing financial institution may charge for making a loan that will be
8 guaranteed under AS 44.88.300 - 44.88.390, and the terms of and proce-
9 dures for repayment of a guaranteed financing; and

10 (7) establishing procedures for making a claim on the
11 guarantee or insurance in the event of a default.

12 * Sec. 13. AS 44.88.090(a) is amended to read:

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

16 (1) exclusively from the income and receipts or other money
17 derived from the project or development project financed with the
18 proceeds of the bonds or derived from the exporter or exporting trans-
19 action financed, guaranteed, or insured with the proceeds of the
20 bonds; [,]

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

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

27 * Sec. 14. AS 44.88.090(e) is repealed and reenacted to read:

28 (e) Before issuing bonds, the authority shall provide for con-
29 sideration at least sufficient, in the judgment of the authority, to

1 pay the principal of and interest on the bonds as they become due and
2 to create and maintain the reserves for the payments that the authori-
3 ty considers necessary or desirable, and to meet all obligations in
4 connection with the lease or agreement and all costs necessary to
5 service the bonds, unless the lease or agreement provides that the
6 obligations are to be met or costs are to be paid by a party other
7 than the authority. If the bonds are being issued to finance a
8 project or projects under AS 44.88.155 - 44.88.159, then the con-
9 sideration shall be provided by lease or other agreement regarding the
10 project or projects. If the bonds are being issued to finance a
11 development project or development projects under AS 44.88.172 -
12 44.88.177, then the consideration shall be provided by lease or other
13 agreement regarding the development project or development projects.
14 If the bonds are being issued to provide money to finance, guarantee,
15 or insure an exporting transaction under AS 44.88.300 - 44.88.390,
16 then the consideration shall be provided by agreement with the ex-
17 porter.

18 * Sec. 15. AS 44.88.090(g) is amended to read:

19 (g) The authority may not

20 (1) issue bonds, other than refunding bonds, in any 12-
21 month period beginning after June 30, 1982, in an amount that exceeds
22 the amount of bonds authorized to be issued during the preceding
23 12-month period, unless a different amount is authorized by the legis-
24 lature; or

25 (2) issue revenue bonds other than refunding bonds for a
26 project under AS 44.88.155 - 44.88.159, for a development project
27 under AS 44.88.172 - 44.88.177, or to provide money to finance,
28 guarantee, or insure an exporting transaction under AS 44.88.300 -
29 44.88.390, [THIS CHAPTER] in an amount greater than \$50,000,000 during

1 any 12-month period beginning after June 30, 1981, unless the issuance
2 is included separately in the estimates required in the report of the
3 authority under AS 44.88.210(b) and unless the legislature, by law,
4 approves the issuance.

5 * Sec. 16. AS 44.88.090(h) is amended to read:

6 (h) The authority may combine, for the purposes of a single
7 offering, bonds financing more than one project or development project
8 under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, and bonds
9 issued to provide money to finance, guarantee, or insure an exporting
10 transaction under AS 44.88.300 - 44.88.390 [AS 44.88.010 - 44.88.220].

11 * Sec. 17. AS 44.88.100 is amended to read:

12 Sec. 44.88.100. TRUST INDENTURES AND TRUST AGREEMENTS. In the
13 discretion of the authority, an issue of bonds may be secured by a
14 trust indenture or trust agreement between the authority and a corpo-
15 rate trustee (which may be a trust company, bank, or national banking
16 association, with corporate trust powers, located inside or outside
17 the state) or by a secured loan agreement or other instrument or under
18 a resolution giving powers to a corporate trustee (hereinafter in this
19 section referred to as "trust agreement") by means of which the auth-
20 ority may:

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

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

1 (B) the fixing and collection of rents or other con-
2 sideration for, and the other terms to be incorporated in, a
3 lease or contract of sale of a project or development project
4 financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177,
5 or of a facility that is part of an exporting transaction fi-
6 nanced, guaranteed, or insured under AS 44.88.300 - 44.88.390;

7 (C) the assignment by the authority of its rights in
8 the lease or contract of sale of a project or development project
9 financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177,
10 or of a facility that is part of an exporting transaction fi-
11 nanced, guaranteed, or insured under AS 44.88.300 - 44.88.390 or
12 in a mortgage or other security interest created with respect to
13 a project or development project financed under AS 44.88.155 -
14 44.88.159 or 44.88.172 - 44.88.177, or with respect to a facility
15 that is part of an exporting transaction financed, guaranteed, or
16 insured under AS 44.88.300 - 44.88.390 to a trustee for the
17 benefit of the bondholders;

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

20 (E) the vesting in a trustee of rights, powers,
21 duties, funds or property in trust for the benefit of bond-
22 holders, including, without limitation, the right to enforce
23 payment, performance and all other rights of the authority or of
24 the bondholders [,] under a lease, contract of sale, mortgage,
25 security agreement, or trust agreement with respect to a project
26 or development project financed under AS 44.88.155 - 44.88.159 or
27 44.88.172 - 44.88.177, or with respect to a facility that is part
28 of an exporting transaction financed, guaranteed, or insured
29 under AS 44.88.300 - 44.88.390 by mandamus or other proceeding or

1 by taking possession of by agent or otherwise and operating a
2 project or facility and collecting rents or other consideration
3 and applying the same in accordance with the trust agreement;

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

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

10 * Sec. 18. AS 44.88.105(f) is amended to read:

11 (f) The authority may not establish a capital reserve fund to
12 secure an issue of bonds in an amount in excess of \$1,000,000 unless
13 at least 20 percent of the principal amount of the loan for the proj-
14 ect or development project being financed under AS 44.88.155 -
15 44.88.159 or 44.88.172 - 44.88.177, or of the loan to finance, guaran-
16 tee, or insure an exporting transaction under AS 44.88.300 - 44.88.390
17 is retained by a federal or state chartered financial institution or
18 the Alaska Commercial Fishing and Agriculture Bank.

19 * Sec. 19. AS 44.88.130 is amended to read:

20 Sec. 44.88.130. PLEDGE OF THE STATE. The state pledges to and
21 agrees with the holders of bonds issued under this chapter and with
22 the federal agency that lends [WHICH LOANS] or contributes funds in
23 respect to a project or development project financed under AS 44.88.-
24 155 - 44.88.159 or 44.88.172 - 44.88.177, or in respect to an export-
25 ing transaction financed, guaranteed, or insured under AS 44.88.300 -
26 44.88.390 [,] that the state will not limit or alter the rights and
27 powers vested in the authority by this chapter to fulfill the terms of
28 a contract made by the authority with the holders or federal agency
29 and that the state will not [, OR] in any way impair the rights and

1 remedies of the holders until the bonds, together with the interest on
2 them with interest on unpaid installments of interest, and all costs
3 and expenses in connection with an action or proceeding by or on
4 behalf of the holders [,] are fully met and discharged. The authority
5 is authorized to include this pledge and agreement of the state,
6 insofar as it refers to holders of bonds of the authority, in a con-
7 tract with the holders [,] and, insofar as it relates to a federal
8 agency, in a contract with the federal agency.

9 * Sec. 20. AS 44.88.140 is amended to read:

10 Sec. 44.88.140. EXEMPTION FROM TAXATION. (a) The real and
11 personal property of the authority and its assets, income, and re-
12 cepts are declared to be the property of a political subdivision of
13 the state and, together with any project or development project fi-
14 nanced under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, [THIS
15 CHAPTER] and a leasehold interest created in a project or development
16 project financed [APPLICANT OR OTHER PERSON] under AS 44.88.155 -
17 44.88.159 or 44.88.172 - 44.88.177 [THIS CHAPTER], devoted to an
18 essential public and governmental function and purpose, and the
19 property, assets, income, receipts, project, development project, and
20 leasehold interests shall be exempt from all taxes and special assess-
21 ments of the state or a political subdivision of the state, including,
22 without limitation, all boroughs, cities, municipalities, school
23 districts, public utility districts and other taxing units. All bonds
24 of the authority are declared to be issued by a political subdivision
25 of the state and for an essential public and governmental purpose and
26 to be a public instrumentality, and the bonds, and the interest on
27 them, the income from them and the transfer of the bonds, and all
28 assets, income and receipts pledged to pay or secure the payments
29 [PAYMENT] of the bonds, or interest on them, shall at all times be

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

10 (b) The authority may enter into agreements with an applicant or
11 [A] proposed [PROJECT] applicant under this chapter [OR PROJECT APPLI-
12 CANT] providing for payments, computed on a formula basis or otherwise
13 [.] in lieu of taxes, which the authority may consider appropriate.
14 The agreement may provide that the payments be made to the political
15 subdivision of the state in which a project or development project is
16 or is to be located or to any other taxing unit of the state includ-
17 ing, without limitation, a borough, city, municipality, school dis-
18 trict or public utility district, the area of which is coterminous in
19 whole or in part with that of the political subdivision.

20 * Sec. 21. AS 44.88.155(a) is amended to read:

21 Sec. 44.88.155. ENTERPRISE DEVELOPMENT ACCOUNT [FUND]. (a) The
22 enterprise development account [FUND] is established in the revolving
23 fund [AUTHORITY]. The enterprise development account [FUND] is a
24 trust fund for the uses and purposes of this chapter [AS 44.88.010 -
25 44.88.220]. The enterprise development account [FUND] consists of
26 money or assets appropriated or transferred to the authority and other
27 money or assets deposited in it by the authority.

28 * Sec. 22. AS 44.88.155(b) is amended to read:

29 (b) The authority may establish in the enterprise development

1 account [FUND] a small enterprise loan account, a loan insurance
2 account, and other accounts it considers appropriate.

3 * Sec. 23. AS 44.88.155(c) is amended to read:

4 (c) Money and other assets of the enterprise development account
5 [FUND] may be used to secure bonds of the authority issued to finance
6 the purchase of loans for projects [,] and shall be held and invested
7 by the authority in the types of investments described in AS 37.10.-
8 070(a) and AS 39.35.110(a)(9) and (14) or shall be used to purchase
9 loans for projects [AS DEFINED IN AS 44.88.220].

10 * Sec. 24. AS 44.88.155(d) is amended to read:

11 (d) A loan purchased in whole or in part by the authority with
12 assets of the enterprise development account or with proceeds of bonds
13 secured by assets of the enterprise development account, other than a
14 loan which is financed with the proceeds of bonds of the authority and
15 secured only by a project applicant or a project,

16 (1) may not exceed

17 (A) \$10,000,000; or

18 (B) \$500,000 if the loan is purchased under AS 44.88.-

19 158;

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

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

27 (4) shall contain complete amortization provisions satis-
28 factory to the authority requiring periodic payments by the borrower;

29 (5) shall be in the form and contain the terms and

1 provisions with respect to insurance, repairs, alterations, payment of
2 taxes and assessments, default reserves, delinquency charges, default
3 remedies, acceleration of maturity, secondary liens, and other matters
4 the authority prescribes;

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

9 (7) may not be made unless

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

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

15 (8) must be

16 (A) at least partially guaranteed by the United States
17 or an agency or instrumentality of the United States, subject to
18 the provisions of AS 44.88.158; [OR]

19 (B) financed from the proceeds of bonds; or

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

22 * Sec. 25. AS 44.88.155(e) is amended to read:

23 (e) The authority may adopt regulations for the administration
24 of the enterprise development account including [FUND WHICH MAY IN-
25 CLUDE], without limitation, provisions for fees and agreements re-
26 lating to application, loan commitment, servicing, and origination of
27 loans by other lenders.

28 * Sec. 26. AS 44.88.155(f) is amended to read:

29 (f) The authority may enter into agreements as to the use of the

1 money in the enterprise development account [FUND], including without
2 limitation, trust or custody arrangements with banks or trust com-
3 panies. It may also pledge, assign, or grant the agreement, interests
4 under an agreement, or interests in the enterprise development account
5 [FUND] as may be necessary or appropriate to provide for payment and
6 security for bonds of the authority issued to finance the purchase by
7 the authority of loans for projects.

8 * Sec. 27. AS 44.88.155 is amended by adding a new subsection to read:

9 (h) The provisions of this section apply only with respect to
10 loans purchased or made by the authority for projects under AS 44.88.-
11 155 - 44.88.159.

12 * Sec. 28. AS 44.88.157(a) is amended to read:

13 (a) The loan insurance account is established in the revolving
14 fund. The purpose of the loan insurance account is to provide insur-
15 ance of mortgage loans and other loans made or purchased by the au-
16 thority under AS 44.88.155, or made by others and approved for insur-
17 ance by the authority, for a project. The authority may enter into
18 agreements as to the use of money in the loan insurance account and
19 may pledge, assign, or grant interests in the loan insurance account
20 as provided in this section. The authority may adopt regulations and
21 enter into agreements with respect to the exercise of any power or
22 approval relating to the loan insurance account under this section,
23 including, without limitation, agreements as to the use of money in
24 the loan insurance account, agreements with respect to the terms and
25 conditions upon which payments from the loan insurance account will be
26 made with respect to a loan insured under this section, agreements as
27 to separate subaccounts in the loan insurance account for different
28 categories of loans or as to loans made by the authority or any other
29 person, and agreements regarding the payment of and security for bonds

1 issued by the authority. An agreement, the rights of the authority
2 under an agreement, or payments received or to be received under an
3 agreement may be pledged or assigned by the authority for the benefit
4 of the holders of bonds issued by the authority.

5 * Sec. 29. AS 44.88.157(b) is amended to read:

6 (b) The authority may, upon application of a borrower or pro-
7 posed borrower, insure and make advance commitments to insure loan
8 repayments required under the terms of a loan made by it or by another
9 lender with respect to a project, upon the terms and conditions the
10 authority prescribes. To be eligible for insurance under this section
11 [AS 44.88.010 - 44.88.220], a loan for a project

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

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

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

20 (4) shall contain complete amortization provisions satis-
21 factory to the authority requiring periodic payments by the borrower;
22 and

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

28 * Sec. 30. AS 44.88.157(k) is amended to read:

29 (k) A loan may not be insured under this section [FROM A LOAN

1 INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOPMENT FUND] if the loan
2 is for a project the cost of which exceeds \$10,000,000.

3 * Sec. 31. AS 44.88.157(1) is amended to read:

4 (1) A loan in excess of \$1,000,000 may not be insured under this
5 section [FROM A LOAN INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOP-
6 MENT FUND] unless at least 20 percent of the principal amount of the
7 loan is retained by a federal or state chartered financial institution
8 or the Alaska Commercial Fishing and Agriculture Bank.

9 * Sec. 32. AS 44.88.158(a) is amended to read:

10 Sec. 44.88.158. ENTREPRENEURIAL AND SMALL BUSINESS ENTERPRISE
11 LOAN ACCOUNT. (a) An entrepreneurial and [A] small business enter-
12 prise loan account is established in the revolving [ENTERPRISE DE-
13 VELOPMENT] fund. The account may be composed of money or assets
14 appropriated or transferred to the authority, interest on investments
15 and loans of the entrepreneurial and small business enterprise loan
16 account, the unpledged income of the revolving [ENTERPRISE DEVELOP-
17 MENT] fund, and other money or assets deposited in it by the authori-
18 ty.

19 * Sec. 33. AS 44.88.158(b) is amended to read:

20 (b) The authority may use money in the entrepreneurial and small
21 business enterprise loan account to purchase or participate in the
22 purchase of loans to entrepreneurial and small business enterprises
23 and to purchase the guaranteed portion of a loan made by a private
24 financial institution after June 30, 1981, to an entrepreneurial or
25 [A] small business enterprise to pay the cost of a project or ex-
26 porting transaction [, AS DEFINED IN AS 44.88.220], if the loan is
27 guaranteed by the United States or an agency or instrumentality of the
28 United States, including, but not limited to, the Small Business
29 Administration, the National Marine Fisheries Service, and the Farmers

1 Home Administration.

2 * Sec. 34. AS 44.88.159 is amended by adding a new subsection to read:

3 (d) The provisions of this section apply only to loans financed
4 under AS 44.88.155 - 44.88.159.

5 * Sec. 35. AS 44.88.172 is amended to read:

6 Sec. 44.88.172. ECONOMIC DEVELOPMENT ACCOUNT [FUND]. (a) The
7 economic development account [FUND] is established in the revolving
8 fund [AUTHORITY]. The account [FUND] consists of money or assets
9 appropriated, loaned, or transferred to the authority, and other money
10 or assets deposited in the account [FUND] by the authority. The
11 account [FUND] may [ONLY] be used only to finance, acquire, manage,
12 and operate development projects that the authority intends to own and
13 operate. The term "operate" includes operation directly by the au-
14 thority, or by an agent of the authority.

15 (b) If a development project is financed or developed through
16 use of the assets of the economic development account [FUND], the
17 authority may not pledge or use [OTHER] assets of the enterprise de-
18 velopment account established in AS 44.88.155 [AUTHORITY] to assist in
19 the financing, development, or operation of the development project.
20 However, whether or not the authority uses the economic development
21 account [FUND], it may issue bonds to finance a development project
22 and may secure the bonds with a mortgage, pledge, or assignment of the
23 development project or of revenues, money, or agreements attributable
24 to the development project or the bonds. Financing assistance pro-
25 vided with respect to a development project under this section shall,
26 to the maximum extent reasonable under the circumstances, be made in
27 the form of a loan to the project [AS PROVIDED IN SEC. 10 OF THIS
28 ACT].

29 * Sec. 36. AS 44.88.190 is amended by adding a new subsection to read:

1 (c) A loan purchased or financed by the authority in whole or in
2 part is exempt from the provisions of AS 45.45.010. A guarantee
3 extended under AS 44.88.300 or insurance provided under AS 44.88.390
4 does not constitute insurance for the purposes of AS 21.03.010.

5 * Sec. 37. AS 44.88.220 is amended by adding new paragraphs to read:

6 (13) "development project" means a plant or facility used or
7 intended for use in connection with making, processing, preparing, or
8 producing goods, products, or substances, or in connection with de-
9 veloping or utilizing a natural resource, or extracting, smelting,
10 transporting, converting, assembling, or producing minerals, raw
11 materials, chemicals, compounds, alloys, fibers, commodities and
12 materials, products, or substances;

13 (14) "entrepreneurial enterprise" means an enterprise in
14 which one or more individuals have an ownership interest in an innova-
15 tive venture or ventures;

16 (15) "revolving fund" means the Alaska Industrial Develop-
17 ment Authority revolving fund created in AS 44.88.060.

18 * Sec. 38. AS 44.88 is amended by adding new sections to read:

19 ARTICLE 5. EXPORT ASSISTANCE.

20 Sec. 44.88.300. GUARANTEED FUNDING FOR EXPORT TRANSACTIONS. The
21 authority may provide guaranteed funding, through a participating
22 banking organization, for an export transaction that the authority
23 determines is eligible under AS 44.88.310.

24 Sec. 44.88.310. ELIGIBILITY OF EXPORT TRANSACTIONS. An export-
25 ing contract is a transaction eligible for guaranteed funding under
26 AS 44.88.300 - 44.88.390 if, in the judgment of the authority, it will
27 create or maintain employment in the state and it

28 (1) promotes the sale abroad of raw materials extracted in
29 the state, or goods whose final stage of production occurs in the

1 state, that constitutes 25 percent or more of the contract price;

2 (2) provides for the rendering of services abroad by a
3 business located in the state if 25 percent or more of the contract
4 price consists of wages or other payments made to persons normally
5 residing in the state;

6 (3) promotes the sale abroad of raw materials or goods
7 distributed by a business located in the state if

8 (A) 25 percent or more of the contract price consists
9 of wages or other payments made to persons or businesses normally
10 residing or located in the state; or

11 (B) the business has a significant relationship with
12 the state based upon

13 (i) the amount of capital investments it has that
14 are located in the state;

15 (ii) the number of state residents employed by the
16 business;

17 (iii) the amount of business transacted in the
18 state; or

19 (iv) a combination of (i) - (iii); or

20 (4) provides both for the sale abroad of raw materials
21 extracted in the state or goods whose final stage of production occurs
22 in the state, and for the rendering of services abroad by state resi-
23 dents, the aggregate value of which is 25 percent or more of the
24 contract price.

25 Sec. 44.88.320. LIMITATIONS ON GUARANTEES. (a) The authority
26 may not guarantee more than 90 percent of a loan under AS 44.88.300.

27 (b) The authority may not guarantee a loan under AS 44.88.300
28 unless the authority finds that the guarantee is reasonably necessary
29 to stimulate or facilitate the making of a loan for an eligible

1 exporting transaction.

2 Sec. 44.88.330. CREDIT OF EXPORTER. Before the authority may
3 guarantee a loan under AS 44.88.300, the participating financial
4 institution shall investigate the credit or sources of credit avail-
5 able to the exporter to determine the economic benefits to be derived
6 from the guarantee, the prospects of repayment, and other factors
7 necessary to determine that the guaranteed funding is consistent with
8 the purposes of AS 44.88.300 - 44.88.390.

9 Sec. 44.83.340. CONFIDENTIALITY OF INFORMATION. Information
10 submitted to or compiled by the authority regarding the identity,
11 background, finances, marketing plans, trade secrets, or other commer-
12 cially sensitive affairs of the exporter is confidential, unless the
13 exporter consents to its disclosure.

14 Sec. 44.88.350. FEES CHARGED. The authority shall, by regula-
15 tion, establish fees to be charged to a participating financial insti-
16 tution for providing a guarantee under AS 44.88.300. The fees must be
17 sufficient to cover the costs of administering the guarantee program
18 under AS 44.88.300 - 44.88.390 and any premium the authority pays for
19 insuring its risks.

20 Sec. 44.88.360. EFFECT OF GUARANTEE. (a) A guarantee under
21 AS 44.88.300 shall guarantee against political or commercial loss, in
22 whole or in part, of principal and interest on an eligible export
23 transaction. The guarantee may include, without limitation, insurance
24 against loss up to a stated amount. A guarantee under AS 44.88.300
25 may not be terminated, canceled, or revoked, except under its terms.
26 A guarantee held by a participating financial institution is presumed
27 to be valid.

28 (b) In this section, "political loss" means a loss incurred as a
29 result of a political risk insured under an export credit insurance

1 umbrella policy, or a comparable policy or agreement, issued by the
2 Export-Import Bank of the United States.

3 Sec. 44.88.370. GUARANTEE NOT A GENERAL OBLIGATION OF THE STATE.
4 A guarantee under AS 44.88.300 is not a general obligation of the
5 state.

6 Sec. 44.88.380. PERSONAL LIABILITY. An officer, employee, or
7 agent of the authority may not be held personally liable on a contract
8 or agreement entered into with respect to a guarantee under AS 44.88.-
9 300, or for damage or injury resulting from the performance of duties
10 under AS 44.88.300 - 44.88.390.

11 Sec. 44.88.390. EXPORT INSURANCE ACCOUNT. (a) The export
12 insurance account is established in the revolving fund. The account
13 consists of money appropriated to it by the legislature and other
14 money and assets, including bond proceeds, deposited in it by the
15 authority. The account shall be held as security for the holders of
16 bonds issued by the authority for the purposes of AS 44.88.300 -
17 44.88.390. The authority may enter into trust agreements with respect
18 to the use of money in the account, including the use of that money to
19 discharge a guarantee obligation of the authority. The trust agree-
20 ments may contain provisions and limitations concerning the investment
21 and disbursement of money in the account, the payment of expenses of
22 the account, the appointment, resignation and discharge of trustees,
23 the delegation of enforcement and collection powers under the insur-
24 ance agreements to the trustee, the duties of the trustees, amendments
25 of the trust agreements, and other lawful provisions and limitations
26 the authority considers appropriate. The trust agreements may pledge
27 premiums and other money that may be deposited in the account. The
28 pledge shall be valid and binding from the time the pledge is made.
29 The premiums and other money pledged and thereafter received by the

1 account, or by the trustees in its behalf, shall immediately be sub-
2 ject to the lien of the pledge. The pledge shall be valid and binding
3 against parties having claims against the account, irrespective of
4 whether the parties have notice of the pledge.

5 (b) The authority may use proceeds of bonds issued for the
6 purposes of AS 44.88.300 - 44.88.390 to purchase insurance, which may
7 be pledged for the security of the holders of the bonds. If insurance
8 is pledged as security, whether obtained through the export insurance
9 account or purchased with bond proceeds, a description of the insur-
10 ance shall expressly indicate the limitation of the liability of the
11 authority and that neither the credit nor the taxing power of the
12 state or a political subdivision of the state is available to satisfy
13 obligations with respect to the insurance.

14 * Sec. 39. AS 44.88.156, 44.88.158(c), and secs. 10 and 11, ch. 162,
15 SLA 1984, are repealed.

16 * Sec. 40. This Act takes effect immediately under AS 01.10.070(c).

SENATE COMMITTEE REPORT

FURTHER: FINANCE

2/12/87

DATE TURNED INTO OFFICE 3/5/87

Mr. President:

INTERNATIONAL TRADE Committee considered SB 64

~~relating to~~ export enterprises under the Alaska Industrial Development Authority

and recommended:

replace with CS FOR SBO4 (INT)) same title
 or adopt ~~Full~~ CS FOR ~~SB 64~~) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

~~new~~ new updated or previous
NO LDCs zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]
[Signature]

Chairman signature and recommendation

Committee Backup Attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 1-21-87 ^{UNUC} 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

International Trade

FURTHER: FINANCE

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

1/19/87

DATE TURNED INTO OFFICE _____

Mr. President:

LABOR & COMMERCE

Committee considered SB 64

relating to export enterprises under the Alaska Industrial Development Authority.

and recommended:

replace with CS SB64 (L+C) same title
 do pass new title

attached amendment(s) and

and majority
 do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact - program receipts only

MEMBERS SIGNING DO PASS

Jahrenkamp
Mike Zyman

OTHER RECOMMENDATIONS

Rejection no rec.

Tim Kelly - Do Pass
Chairman signature and recommendation

Committee Backup Attached