

SB

64

STATE OF ALASKA

DEPARTMENT OF REVENUE

TREASURY DIVISION

STEVE COWPER, GOVERNOR

ELEVENTH FLOOR
STATE OFFICE BUILDING
P.O. BOX 58
JUNEAU, ALASKA 99811-0400
PHONE:

January 30, 1987

The Honorable Tim Kelly
Chairman
Senate Labor and Commerce Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Kelly:

At the request of committee counsel, I am responding to the question of Senator Fahrenkamp as to the effect of revenue bonds issued by independent State agencies on the bond rating of the State of Alaska.

In general, issuance of revenue bonds by independent State agencies does not have an effect on the State's general obligation bond rating. The principal exception is lease-revenue bonds issued by the Alaska State Building Authority. Because the source of revenue for these bonds is the State general fund, the rating agencies count such bonds in the measure of the State's debt burden. State debt burden is one factor in determining the State's credit rating.

A more general caveat to the above rule is that the State's rating will be unaffected so long as there are no payment problems on any agency's revenue bonds. Were there a serious threat of or actual default on any agency's revenue bonds, there might be repercussions on the State's rating depending on the type of bonds, the nature of the problem, and the responses of the State and other parties.

In particular, veterans home mortgage bonds issued by Alaska Housing Finance Corporation have the full faith and credit guarantee of the State behind them. Failure or inability of the State to make good on its legally binding guarantee in the event of default very likely would cause all such guaranteed debt to be counted as part of the State's debt burden and cause a serious downgrade, if not suspension, of the State's credit rating.

Default on other types of State agency debt might be less likely to affect the State's credit. However, similar rating agency responses cannot be ruled out, especially in the case of moral obligation debt. The agencies are quite sensitive to the uses, amounts, and policies governing moral obligation debt.

The Honorable Tim Kelly
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It should also be noted that poor structuring of the issuing agency or the general security features of its bonds as well as evidence of marginal security on any particular bond issue would reflect on the overall debt management of the State as perceived by the rating agencies. Their perception of the State's debt management does modify the general obligation bond rating.

The enclosed material discusses in more detail the types and amounts of State debt and the nature of the State's obligation in each case.

Yours truly,



Milton B. Barker
Deputy Commissioner

MBB/gb
87-16

Enclosure

cc: Royce Weller

DEBT CONDITION

Legal Basis of Issuance

The State Constitution provides that the issuance of State general obligation bonds be subject to authorization by law and ratification by the voters. The same constitutional requirement exists for municipal general obligation debt. Neither the State nor municipalities have any legal limit on the amount of debt that can be issued or debt service that can be paid. Levies for payment of debt service are exempted from limits on municipal property and sales taxes.

Both the State and municipalities are subject to constitutional limits on the purposes of general obligation debt. Except for the State's authorization to issue general obligation debt for veterans housing loans, the State and municipalities may issue such debt only for capital improvements.

The constitution specifically provides that "the restrictions on contracting debt do not apply to debt incurred through the issuance of revenue bonds by a public enterprise or public corporation of the State or a municipality, when the only security is the revenues of the enterprise or the corporation."

The State Bonding Act (Alaska Statutes 37.15) establishes the State Bond Committee, composed of three members: the Commissioner of Commerce and Economic Development (permanent Chairman), the Commissioner of Revenue (Secretary), and the Commissioner of Administration. The State Bond Committee must approve the amount and timing of the sale of State general obligation bonds, Alaska Housing Finance Corporation Veteran's Mortgage Bonds, International Airports Revenue Bonds, and Toll Facility Revenue Bonds.

Types of Debt

The types of debt issued by the State and State agencies can be classified as follows, in order of descending exposure of the State's credit:

- State Debt
- State Supported Debt
- State Guaranteed Debt
- State Moral Obligation Debt
- State Revenue Debt
- State Agency Debt
- State Agency Collateralized Debt

Table XXII details State and State agency debt according to these categories. The nature of these types of debt are:

Table XXII

State of Alaska
Outstanding Debt of the State and State Agencies
(Millions of Dollars)

	Principal Outstanding <u>6-30-86</u>	Principal Outstanding <u>12-31-86</u> ^{1/}
STATE DEBT		
State of Alaska General Obligation Bonds	706.9	660.2
STATE SUPPORTED DEBT		
Alaska State Building Authority Lease Revenue Bonds	40.0	35.7
University of Alaska Debt	21.2	21.9
State Reimbursement of Municipal School Debt Service	704.0	N/A
Certificates of Participation in Rent	<u>51.3</u>	<u>51.8</u>
Total State Supported Debt	817.5	813.4 ^{2/}
STATE GUARANTEED DEBT		
Alaska Housing Finance Corporation State Guaranteed Bonds (Veterans Mortgage Program)	642.4	642.4
STATE MORAL OBLIGATION DEBT		
Alaska Housing Finance Corporation		
Insured Mortgage Bonds	916.5	916.5
Insured Rural Mortgage Bonds	5.6	5.6
Alaska Industrial Development Authority		
Economic Development Bonds	122.2	122.2
Consolidated Bonds	69.6	69.6
Umbrella Bonds	53.4	67.5
Alaska Municipal Bond Bank		
1976 General Resolution General Obligation Bonds	74.9	100.0
1980 General Resolution General Obligation Bonds	8.6	-
Ketchikan Airport Revenue Bond	.4	.4
1982 General Resolution Revenue Bond	9.4	10.9
Alaska Power Authority		
Variable Rate Demand Bonds (Bradley Lake Hydroelectric Project)	<u>267.5</u>	<u>267.5</u>
Total State Moral Obligation Debt	1,528.1	1,560.2
STATE REVENUE DEBT		
International Airports Revenue Bonds	39.9	76.9
STATE AGENCY DEBT		
Alaska Housing Finance Corporation		
Housing Mortgage Bonds	89.2	89.2
State Assisted Mortgage Bonds	709.9	709.9
Home Mortgage Bonds	486.0	486.0
Second Mortgage Bonds	6.4	6.4

Table XXII (continued)

	Principal Outstanding <u>6-30-86</u>	Principal Outstanding <u>12-31-86</u> ^{1/}
Fairbanks North Star Borough Residential Mortgage Bonds	24.7	24.7
Notes Payable to the State of Alaska	23.0	11.2
Commercial Paper	34.0	34.0
Alaska Municipal Bond Bank		
Coastal Energy Reserve Bonds	7.5	7.5
Coastal Energy Loan Bonds	21.6	12.2
Alaska Medical Facility Authority		
First Mortgage Hospital Revenue Bonds	9.5	9.1
Careage North Revenue Bonds	1.9	1.9
Alaska Power Authority		
Notes Payable to State of Alaska	185.1	185.1
Alaska Railroad	9.7	13.1
Alaska State Building Authority		
Nunaka Valley, Marine View, and Section 8 New Construction Debt	18.7	10.4
Wrangell 221(d)(3) Indebtedness	.4	.4
HUD Notes Payable	<u>33.2</u>	<u>N/A</u>
Total State Agency Debt	1,660.8	1,634.3 ^{2/}
STATE AGENCY COLLATERALIZED DEBT		
Alaska Housing Finance Corporation		
Collateralized State Assisted Mortgage Bonds	150.0	150.0
Collateralized Bonds (Veterans Mortgage Program)	547.9	338.1
Collateralized Home Mortgage Bonds	377.4	277.5
Overseas Finance N.V. Guaranteed Bonds	100.0	100.0
FNMA Collateralized Notes	270.7	205.5
Residential Mortgage Bonds	25.0	50.0
Secured Bonds	185.0	265.0
Medium Term Notes	165.0	335.0
Floating Rate Notes	-	125.0
Alaska State Building Authority		
FHA Insured Mortgage Revenue Bonds	<u>34.0</u>	<u>33.7</u>
Total State Agency Collateralized Debt	1855.0	1,879.8
Total State General Obligation Bonds and State Supported Debt	1,524.4	1,473.6
Total State and State Agency Debt	7,250.6	7,267.2 ^{2/}

^{1/} Except for Alaska Housing Finance Corporation for which 11/30/86 principal outstanding is shown.

^{2/} Includes 6-30-86 principal outstanding for bonds for which 12-31-86 principal outstanding is not known.

Sources: 1986 annual reports and financial statements of AHFC, ASHA, Bond Bank, University of Alaska, and AMFA; Whole Earth Catalog, AHFC, November 1986; Other information provided by State agencies directly.

Table XXIII

State of Alaska
General Obligation Bonds Authorized and Issued Since Statehood

<u>Fiscal Year</u>	<u>Authorized</u>	<u>Issued</u>	<u>Bonds Outstanding</u>
1959	\$ 0	\$ 0	\$ 2,932,000
1960	0	0	2,902,000
1961	30,500,000	0	2,806,000
1962	0	13,975,000	23,405,000
1963	17,325,000	14,429,000	30,336,000
1964	0	7,865,000	37,614,000
1965	7,000,000	0	36,737,000
1966	0	0	35,535,000
1967	62,585,000	31,585,000	65,872,000
1968	13,185,000	26,000,000	90,094,000
1969	44,700,000	19,000,000	105,333,000
1970	0	32,231,000	133,834,000
1971	146,200,000	69,380,000	195,203,000
1972	0	53,445,000	238,943,000
1973	124,500,000	47,000,000	274,578,000
1974	0	31,000,000	293,114,000
1975	189,575,000	112,300,000	392,508,000
1976	0	82,915,000	462,923,000
1977	200,981,000	80,000,000	530,008,000
1978	0	85,000,000	596,213,000
1979	271,355,000	100,000,000	670,503,000
1980	0	0	631,723,000
1981	289,712,500	125,000,000	701,178,000
1982	0	200,000,000	842,413,000
1983	0	185,000,000	946,183,000
1984	0	78,000,000	924,008,000
1985	0	0	816,148,000
1986	(993,500)	0	706,883,000
TOTAL	\$1,396,625,000	\$1,394,125,000	

Source: Department of Administration, Bonded Debt and Debt Service. Fiscal Years ended June 30, 1984 and June 30, 1971.

Table XXIV

State of Alaska
General Obligation Bonds
Annual Debt Service

<u>Years Ended</u> <u>June 30</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
1987	\$108,380,000	\$ 46,512,046	\$154,892,046
1988	108,685,000	39,220,555	147,905,555
1989	103,727,000	31,784,971	135,511,971
1990	95,560,000	24,746,290	120,306,290
1991	77,499,000	17,983,980	95,482,980
1992	56,149,000	12,052,225	68,201,225
1993	51,363,000	8,325,187	59,688,187
1994	28,398,000	5,531,975	33,929,975
1995	19,096,000	3,987,625	23,083,625
1996	18,610,000	2,864,412	21,474,412
1997	14,865,000	1,800,418	16,665,418
1998	13,380,000	1,008,193	14,388,193
1999	8,640,000	368,931	9,008,931
2000	<u>2,531,000</u>	<u>69,081</u>	<u>2,600,081</u>
Total	\$706,883,000	\$196,255,889	\$903,138,889

Source: Department of Administration, Bonded Debt and Debt Service,
June 30, 1984.

State Debt

State debt consists of State general obligation bonds (GOB's). The full faith, credit, and resources of the State are pledged to the payment of principal and interest on the bonds. \$2,500,000 of authorized GOB's remain unissued. During 1985 the State Bond Committee cancelled \$993,500 of GOB authorizations for bonds which had not been issued.

State-Supported Debt

State-supported debt is debt whose ultimate source of payment is, or may include, appropriations from the State's general fund. However, the debt does not have the full faith and credit of the State pledged to it. It is usually issued by a State agency and may have other revenues pledged to it.

State-supported debt is not considered debt under the Alaska Constitution because the State's payments on the debt obligations, even if they are the subject of a contractual commitment, are subject to annual legislative appropriation. As a result, voter approval of such debt is not required.

State-supported debt includes University of Alaska debt, lease-purchase financing obligations, and the share of municipal GOB's issued for school construction which is reimbursable by the State. Lease purchase financing includes Alaska State Building Authority (ASBA) lease revenue bonds and certificates of participation (CP's) issued by lessors of facilities used by the State.

Some State-supported debt has been authorized by voter referendum in the case of municipal school debt, some by law in the case of the University, some by legislative resolution pursuant to AS 37.05.280 in the case of ASBA, and some issued without specific legislative authorization of the obligation as in the case of CP's.

State Guaranteed Debt

In the 1982 general election voters approved an amendment to Article IX, Section 8 of the Alaska Constitution that permits the State to guarantee unconditionally as a general obligation of the State the payment of principal and interest on revenue bonds issued by Alaska Housing Finance Corporation (AHFC) for the purpose of purchasing mortgage loans for residences of qualifying veterans. This is the only purpose for which State guaranteed bonds may be issued. Because the bonds are general obligations of the State, they must be authorized by law, ratified by the voters, and approved by the State Bond Committee. In the 1982, 1984, and 1986 general elections, and a 1983 special election, voters approved propositions

authorizing \$400 million, \$700 million, \$600 million and \$500 million, respectively, of State guaranteed bonds for veterans mortgages, a total of \$2.2 billion.

The first layer of security for the bondholders is the revenue stream generated by the mortgage loans made from bond sale proceeds. Additional security is provided by individual and mortgage pool insurance and finally by the general obligation pledge of the State to make the required debt service payments in the event that revenues are insufficient.

The State general obligation pledge on veterans mortgage bonds is provided to gain tax-exempt status for the bonds. In addition to the amounts listed in Table XXII as State Guaranteed Bonds, the amounts listed as Collateralized Bonds (Veterans Mortgage Program) in the same table under the heading of State Agency Collateralized Debt are also State guaranteed debt. However, the Collateralized Bonds have other guarantees, as discussed below, that argue against their being counted as State guaranteed debt for the purpose of examining the potential liability to the State.

State Moral Obligation Debt

This type of debt consists of bonds issued by State agencies which are secured, in part, by a reserve fund to which is attached a discretionary replenishment provision. Such a reserve fund is typically called a capital reserve fund. The discretionary replenishment provision typically reads:

The chairman of the authority (or corporation) shall annually, no later than January 1, certify in writing to the governor and the legislature the amount, if any, required to restore the capital reserve fund to the capital reserve fund requirement. The legislature may appropriate to the authority (or corporation) the amount certified by the chairman. Nothing in this section creates a debt or liability of the state.

Alaska's discretionary replenishment provision means that the State may, but is not legally required to, appropriate funds sufficient to restore the capital reserve fund to its required level.

Moral obligation bonds are secured in the first instance by revenues generated from the use of the bond proceeds. The authority to issue moral obligation bonds is contained in the enabling legislation of AHFC, the Alaska Industrial Development Authority (AIDA), the Alaska Municipal Bond Bank, and the Alaska Power Authority (APA). Such authority is not granted to ASBA, The Alaska Medical Facility Authority (AMFA), the Alaska Railroad, or other State agencies.

State Revenue Debt

This type of debt is issued by the State itself but is secured only by revenues derived from the use of bond proceeds. State revenue debt is not a general obligation of the State and does not require voter approval. Such debt is authorized by law and issued by the State Bond Committee for International Airports or toll facilities projects approved by the Commissioner of Transportation and Public Facilities.

State Agency Debt

State agency debt is debt which is secured by revenues generated from the use of bond proceeds or the general assets of the agency issuing the bonds. The debt is not a general obligation of the State nor does the State provide security for the debt in any other manner, i.e., by appropriations, guarantees, or moral obligation pledges.

State Agency Collateralized Debt

State agency collateralized debt pledges, as security for the debt, loans or securities which are 100 percent insured or guaranteed by another party of superior credit standing. This removes any likelihood of the State having to assume responsibility for the debt.

Debt Burden

Table XXV presents the debt service and lease payments to maturity on State debt and State supported debt. The table demonstrates the rapid paydown of outstanding general obligation debt. This is due to State policy for the last decade or so of limiting maturities so that they fall within the prime years of Prudhoe production. For the last three bond issues this has meant maximum maturities of 10 years, with 50 percent paydown in five years.

The table also compares the total State payments to unrestricted revenues. In fiscal year 1988, the year of peak burden, the burden is 21.6 percent of unrestricted revenues (11.2 percent solely for general obligation debt). The burden is projected to fall off rapidly thereafter in tandem with the rapid extinguishment of general obligation debt.

Table XXV

Ratio of Debt Service to Unrestricted Revenues
December 1986
(\$ Millions)

Fiscal Year	(1)	(2)	(3)		(4)	(5)		(6)	(7)				
	Unrestricted Revenue	State GOB's	%	UA	%	ASBA	%	Certificates of Participation	%	School Debt	%	Total Debt Service	%
77	874.3	41.9	4.8%	1.5	.2%	9.9	1.1%	0	0	9.0	1.0%	62.3	7.1%
78	764.9	50.0	6.5	1.7	.2	10.1	1.3	0	0	11.4	1.5	73.2	9.6
79	1133.0	60.0	5.3	1.7	.2	10.1	.9	0	0	22.3	2.0	94.1	8.3
80	2501.2	75.1	3.0	1.8	.1	10.1	.4	0	0	24.1	1.0	111.1	4.4
81	3718.2	97.6	2.6	2.2	.1	10.0	.3	0	0	38.4	1.0	148.2	4.0
82	4108.4	97.5	2.4	2.3	.1	10.0	.2	0	0	38.3	.9	148.1	3.6
83	3631.0	143.6	4.0	2.3	.1	9.9	.3	0	0	36.2	1.0	192.0	5.3
84	3390.1	166.3	4.9	2.0	.1	9.9	.3	0	0	91.2	2.7	269.4	7.9
85	3260.0	169.5	5.2	2.0	.1	9.9	.3	.8	0	92.8	2.8	275.0	8.4
86	3075.5	163.2	5.3	1.8	.1	9.9	.3	.5	.1	105.3	3.4	270.7	9.1
87	1399.2	154.9	11.1	1.8	.1	6.5	.5	4.7	.2	132.5	9.5	370.4	21.5
88	1325.1	147.9	11.2	1.7	.1	6.5	.5	4.9	.4	125.4	9.5	286.4	21.6
89	1374.0	135.5	9.9	1.8	.1	6.5	.5	6.0	.4	121.5	8.8	271.3	19.7
90	1398.0	120.3	8.6	1.7	.1	6.5	.5	6.0	.4	114.6	8.2	249.1	17.8
91	1359.0	95.5	7.0	1.7	.1	6.5	.5	6.0	.4	101.2	7.4	210.9	15.5
92	1348.9	68.2	5.1	1.7	.1	6.5	.5	6.0	.5	99.7	7.4	182.1	13.5
93	1333.8	59.7	4.5	1.7	.1	5.9	.4	6.0	.5	90.8	6.8	164.0	12.3
94	1286.8	33.9	2.6	1.5	.1	3.1	.2	6.0	.5	77.1	6.0	121.5	9.5
95	1241.2	23.1	1.9	1.5	.1	1.5	.1	6.0	.5	53.4	4.3	85.4	6.9
96	1191.4	21.5	1.8	1.5	.1	0	0	6.0	.5	41.7	3.5	70.7	5.9
97	1178.4	16.7	1.4	1.5	.1	0	0	6.0	.5	31.3	2.7	55.5	4.7
98	1143.2	14.4	1.3	1.5	.1	0	0	6.0	.5	30.2	2.6	52.1	4.6
99	1097.8	9.0	.8	1.5	.1	0	0	6.0	.5	29.6	2.7	46.1	4.2
00	1062.5	2.6	.2	1.5	.1	0	0	5.2	.6	20.8	2.0	30.1	2.8
01	1045.0	0	0	1.0	.1	0	0	5.2	.5	17.7	1.7	23.8	2.3
02	1019.6	0	0	.4	0	0	0	5.2	.5	5.0	.5	10.6	1.0
03	1003.8	0	0	.3	0	0	0	5.2	.5	1.3	.1	6.8	.7
04	996.9	0	0	.2	0	0	0	5.2	.5	1.3	.1	6.7	.7
05	988.5	0	0	.1	0	0	0	5.2	.5	1.3	.1	6.6	.7

(1) December 1986 Department of Revenue revenue estimates, 30th percentile.

(3) University of Alaska bonds.

(4) ASBA lease revenue bonds.

(6) Includes State reimbursement of municipal school debt issued through December 1, 1986. Issuance of municipal school debt in the amount of \$303.4 million was authorized by voters during 1985. Of that amount \$175.8 million has been issued.

Larry Dinneen, Chair
Industrial Policy and
International Trade
Committee
Resource Development Council

Testimony Before the 1987 Alaska State Senate
Labor and Commerce Committee

Senate Bill 64
January 26, 1987

I. INTRODUCTION

- A. Background, RDC IFIT Committee; chair four years and extensive involvement, both public and private sector, with issues and programs involving Alaskan resource development as well as resource marketing.
- B. Personal involvement with developing this legislation.
- C. RDC Committee 4-point program:
 - 1) Legislation providing a source of capital and aid in developing Alaskan exports. Export development authority with financing powers: Bill 64 achieves this through extension of mission of AIDA.
 - 2) Foreign trade zones to expedite and enlarge impact of Export Development Authority activities.
 - 3) Inventory, preparation, and expediting of Alaskan resources for ready sale to foreign buyers.
 - 4) Education agenda to prepare Alaskans to "know the customer":
 - a. Link university, business, government resources
 - b. Language studies; culture studies
 - c. Trade missions
 - d. Sister cities

II. BROAD ECONOMIC GOALS OF THIS LEGISLATION:

- A. Increase employment
- B. Attract local, domestic, and foreign investment capital
- C. Diversify, expand, and stabilize Alaska's economic base.
- D. Open up, provide access to international markets for small

and medium-sized businesses as well as large firms.

E. Stimulate sound entrepreneurship.

III. RATIONALE

A. Alaska's unemployment rate, seasonal employment; lowered employment projections

B. Alaska lacks financial, administrative infrastructure to permit development of natural resources and other avenues to diversify economy.

C. Lacks capital infrastructure for industry, manufacturing, other value added enterprises.

D. Need to increase customers, markets for AK business, products, resources.

1. If we're going to expand our economy and resource markets, we must export. ALASKA'S INTERNAL MARKET IS WEAK, THE DOMESTIC MARKET IS POORLY POSITIONED; INTERNATIONAL MARKETS ARE OUR BEST POTENTIAL CUSTOMERS.
2. Exports are natural for Alaska because we're closer to Far East than to domestic.
3. U.S. international trade has grown 500% during the time the GNP has grown 300%; exports/imports growing faster than economy.

E. Stats show immediate needs:

1. Alaska leading U.S. fish exporter. We need to capitalize on this.
2. Exports account for 1/3 of employment in Alaskan manufacturing industries.
Nationally, \$40,000 of new exports = a new job.
3. Alaska exports \$1 billion/yr.; \$600 million are manufactured goods
4. YET, very small % of Alaskan firms export in view of enormous difficulties--psychological, logistical, financial.
5. Only five firms account for 50% of Alaskan exports.
6. YET, 500 Alaskan firms have registered interest in exporting their products.
7. Alaskan exporters now have to get almost all financing from private sources. In Washington state, 67% of exports financed from public sources.

F. Alaskan financial institutions under-capitalized; insufficient to finance economic expansion.

G. Need to increase and multiply private investment capital in Alaska by banks, investment houses, insurance

companies, retirement funds, other components of financial community through participation provisions of this legislation.

H. Financing exports this way becoming normal in states developing their economies.

1. According to consultant's report, '86 to DEC, Alaska currently in a position where it must upgrade its international trade capabilities or lose business to better organized states.
2. We lack tools our competition has: Washington, with \$65 billion in exports, finances 67% from public sources.
3. Seven states in '86 enacted export development authority legislation: Connecticut, Iowa, Nevada, Oklahoma, Pennsylvania, Texas, Wisconsin, California. CA opened offices in Nevada.

(more examples from other states, Export Development Authority matrix and summarize)

I. This legislation resolves some of the most insurmountable difficulties, meets the greatest need for small and medium-sized businesses:

1. Every part of transaction foreign: strange, fear of what happens to goods, delays, difficulty of obtaining cost-effective financing for export activities, procedures, insurance, etc.
2. Small and medium-sized firms ignorant of federal export financing programs.
3. AIDA as export development authority takes care of both 1. and 2.;
4. also addresses insurance needs and provides affordably through FCIA --commercial and political risk

J. Talk about FCIA; explain.

1. Alaskan raw materials and commodities eligible for FCIA insurance.
2. FCIA takes care of credit analysis on buyer; assumes cost.

K. Opens door to capital infusion by EXIM Bank, major U.S. agency bank for financing export activities and facilitating financial participation. EXIM Bank

has used loan, guarantee, and insurance programs to support more than \$160 billion in U.S. exports.

L. Use AIDA for the Authority, because Alaska can use existing agency power to avoid front-end cost of creating new agency @ \$1-1.5 million--through simple amendment of AIDA powers.

M. Use AIDA, because AIDA has bonding authority.

N. Use AIDA, because AIDA has good reputation in domestic financial community; can attract EXIM Bank to speed and expedite export activity; can open doors, has human resources and expertise in-house.

O. Far East is developing into largest export market in the world. Alaska ideally situated.

P. Integrating with Alaskan Foreign Trade Zones: can implement and channel business through FTZs; conversely, FTZs will stimulate business for export development authority.

IV. CONCLUSION

The time to create and implement an export development authority is now. Using AIDA is most efficient in terms of cost, use of leveraging power, talent, potential.

Is part of a comprehensive four-point program to grow our economy and realize our potential.

This legislation is the result of careful and considered study, and combines the best of what Alaska has to offer with the best of programs in other states.

STATES THAT HAVE PROPOSED/PENDING LEGISLATION FOR EXPORT FINANCE PROGRAMS

States	Current Feasibility Study	Prohibited by State Constitution	<u>Legislation</u>			Type of Authority	Level	<u>Funding</u> Source	<u>Program Characteristics</u>			
			Proposed/ Pending	Passed	Operational				Export Finance Counseling	Pre-shipment/ Post-shipment Guarantees	Fixed-rate Funding	Credit Insurance
Alaska	x		x			A	100.0 M Bonds	x (5)	x (5)	x (5)	x (5)	
Arkansas			x			A	50.0 M Bonds	x (5)	x (5)	x (5)	x (5)	
Connecticut	x		x (3)			A						
Oklahoma			x			A	(3)					
Pennsylvania			x			B	(3)	x		x (5)		

A Creation of a new Authority.

B Expansion of power of an existing agency or Authority.

(3) Information regarding specifics of legislation not received.

(5) Not operational; see state for specifics.

4

STATES THAT HAVE PASSED LEGISLATION FOR EXPORT FINANCE PROGRAMS

States	Current Feasibility Study	Prohibited by State Constitution	Legislation		Operational	Type of Authority	Level	Funding Source	Program Characteristics			
			Proposed/Pending	Passed					Export Finance Counseling	Pre-shipment/Post-shipment Guarantees	Fixed-rate Funding	Credit Insurance
California			09-30-84	1985		A	2.0 M	Appropriation	x	x		x
Colorado			04- -84	1984		B	-0-	(2)	x			x
Illinois			11- -83	1985		A	100.0 M	Bonds	x	x (5)	x	x
Indiana			03- -83	1983		B		(2)		x		
Louisiana			1979	07-01-85		A	Unlimited	Commercial Paper			x	
Maryland			1985	1985		A		(2)	x			x
Michigan			1985	(5)		A	10.0 M	Bonds	x	x (5)	x (5)	x (5)
Minnesota			1983	03- -84		A	2.0 M	Appropriation	x	x		x
Mississippi			06- -84	(5)		A	1.0 M	Earmarked Funds	x	x (5)		
Missouri			1984	12-06-85		B	1.6 M	Appropriation		x (5)		x
Nevada			06-11-85	(5)		B	50.0 M	Bonds			x (5)	
Ohio			1983	(5)		A	100.0 M	Commercial Paper	x		x (5, 7)	
South Carolina			06- -83	06- -85		A		(3)	x	x (5)	x (5)	x (5)
Tennessee			05- -83			A	(2)	Bonds	x	x (5)	x (5)	x (5)
Texas			05-24-85	1985		A	(2)	Bonds	x		x (5)	
Utah			1981	(8)								
Washington			1983	1983		A	(2)	(3)	x			
West Virginia			1985	(5)		A	50.0 M	Bonds	x	x (5)	x (5)	x (5)
Wisconsin (a)			1983	(5)		B	50.0 M	Bonds			x (5)	
Wisconsin (b)			1985	1985		B	1.2 M	Appropriation			x (9)	x

A Creation of a new Authority.

B Expansion of power of an existing agency or Authority.

(2) No money appropriated or designated.

(3) Information regarding specifics of legislation not received.

(5) Not operational; see state for specifics.

(7) The Export Bank of Ohio will operate essentially the same as the U.S. Exim Bank.

(8) Utah's export finance program is currently dormant due to an I.R.S. ruling that the bonds would not be eligible for federal tax exemption.

(9) Wisconsin's loan program is for export development only; see Wisconsin for specifics.

SURVEY OF ALL STATES INVOLVEMENT IN EXPORT FINANCE ASSISTANCE

States	Current Feasibility Study	Prohibited by State Constitution	Legislation			Type of Authority	Level	Funding Source	Program Characteristics			
			Proposed/ Pending	Passed	Operational				Export Finance Counseling	Pre-shipment/ Post-shipment Guarantees	Fixed-rate Funding	Credit Insurance
Alabama	x	x	(1)									
Alaska	x		x			A	100.0 M	Bonds	x (5)	x (5)	x (5)	x (5)
Arizona			(1)									
Arkansas			x			A	50.0 M	Bonds	x (5)	x (5)	x (5)	x (5)
California				09-30-84	1985	A	2.0 M	Appropriation	x	x		x
Colorado				04- -84	1984	B	-0-	(2)	x			x
Connecticut	x		x (3)			A						
Delaware	x											
Florida		x							x			
Georgia (4)												
Hawaii	x											
Idaho (4)												
Illinois				11- -83	1985	A	100.0 M	Bonds	x	x (5)	x	x
Indiana				03- -83	1983	B		(2)		x		
Iowa			(1)									
Kansas		x										
Kentucky (4)												
Louisiana				1979	07-01-85	A	Unlimited	Commercial Paper			x	
Maine (4)												
Maryland				1985	1985	A		(2)	x			x
Massachusetts	x											x
Michigan				1985	(5)	A	10.0 M	Bonds	x	x (5)	x (5)	x (5)
Minnesota				1983	03- -84	A	2.0 M	Appropriation	x	x		x
Mississippi				06- -84	(5)	A	1.0 M	Earmarked Funds	x	x (5)		
Missouri				1984	12-06-85	B	1.6 M	Appropriation		x (5)		x
Montana (4)												
Nebraska			(1)									
Nevada				06-11-85	(5)	B	50.0 M	Bonds			x (5)	
New Hampshire (4)												
New Jersey									x			
New Mexico (4)												
New York			(1)						x			
North Carolina (4)												
North Dakota (6)						B				x (6)		

States	Current Feasibility Study	Prohibited by State Constitution	Legislation			Type of Authority	Level	Funding Source	Program Characteristics				
			Proposed/Pending	Passed	Operational				Export Finance Counseling	Pre-shipment/Post-shipment Guarantees	Fixed-rate Funding	Credit Insurance	
Ohio				1983	(5)	A	100.0 M	Commercial Paper	x			x (5, 7)	
Oklahoma			x			A		(3)					
Oregon	x												
Pennsylvania			x			B		(3)		x		x (5)	
Rhode Island	x									x			
South Carolina				06- -83	06- -85	A		(3)		x	x (5)	x (5)	x (5)
South Dakota			(1)							x			
Tennessee				05- -83		A	(2)	Bonds		x	x (5)	x (5)	x (5)
Texas				05-24-85	1985	A	(2)	Bonds		x		x (5)	
Utah				1981	(8)								
Vermont	x												
Virginia	x												
Washington				1983	1983	A	(2)	(3)		x			
West Virginia				1985	(5)	A	50.0 M	Bonds		x	x (5)	x (5)	x (5)
Wisconsin (a)				1983	(5)	B	50.0 M	Bonds				x (5)	
Wisconsin (b)				1985	1985	B	1.2 M	Appropriation				x (9)	x
Wyoming	(4)												

A Creation of a new Authority.

B Expansion of power of an existing agency or Authority.

(1) Legislation rejected or tabled.

(2) No money appropriated or designated.

(3) Information regarding specifics of legislation not received.

(4) Limited or no interest in a state-assisted export program.

(5) Not operational; see state for specifics.

(6) No specific program; however, the Bank of North Dakota does participate in export financing activities.

(7) The Export Bank of Ohio will operate essentially the same as the U.S. Exim Bank.

(8) Utah's export finance program is currently dormant due to an I.R.S. ruling that the bonds would not be eligible for federal tax exemption.

(9) Wisconsin's loan program is for export development only; see Wisconsin for specifics.

LAW OFFICES

WOHLFORTH & FLINT

A PROFESSIONAL CORPORATION

900 WEST 5TH AVENUE, SUITE 600

ANCHORAGE, ALASKA 99501-2086

ERIC E. WOHLFORTH
ROBERT B. FLINT
PETER ARGETSINGER
ROBERT M. JOHNSON
KENNETH E. VASSAR
THOMAS F. KLINKNER
ROGER A. LUBOVICH
BRADLEY E. MEYEN
JANICE COLEMAN GRAHAM*

* ADMITTED IN NEW YORK ONLY

TELEPHONE
(907) 276-6401

TELECOPIER
(907) 276-5093

OF COUNSEL
RICHARD W. GARNETT III

February 1, 1987

TO: Tony Smith, Commissioner
Department of Commerce and Economic Development

Bert Wagnon, Executive Director
Alaska Industrial Development Authority

FROM: Kenneth E. Vassar
Wohlforth & Flint

RE: AIDA Draft Legislation
Entrepreneurial and small business/exports

This memorandum analyzes on a section-by-section basis draft legislation entitled "An Act relating to the Alaska Industrial Development Authority; enabling the Alaska Industrial Development Authority to guarantee loans for export transactions; and providing for an effective date." In this memorandum I will refer to the 41 sections of the draft as "bill sections"; references to statutory sections, either in existence or as proposed by the draft, will be in the form of "statutory section" or "section 44.88.____".

At the outset, it may be helpful to keep in mind that the draft was intended to accomplish three objectives: (1) to create an export financing program in the Alaska Industrial Development Authority (hereafter "AIDA"); (2) to emphasize entrepreneurial and small business enterprises in the AIDA statutes; and (3) to reorganize AIDA's statutes.

Bill section 1 amends the statutory section setting forth findings and policy. It inserts the words "export, entrepreneurial, small business" before the words "business enterprises" to give emphasis to these types of enterprises as the target of AIDA's financing assistance. It also inserts four new paragraphs (on page 2 of the bill) of findings relating to the need for greater export business in Alaska. On pages 2 and 3, bill section 1 specifies port facilities,

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docks, and wharves as being among the types of projects which merit encouragement. On pages 3 and 4, there is stated the concept of cooperating with federal, state and private institutions in connection specifically with the export provisions, and it is also clearly stated that the issuance by AIDA of taxable, as well as tax-exempt, bonds for the purposes set forth elsewhere in the statutory section amended by bill section 1 is a public purpose.

Bill section 2 creates a new statutory section. 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 bill 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.

Bill section 3 relates to the statement of AIDA's purposes and contains provisions substantially similar to those described with respect to bill section 1.

Bill sections 4 and 5 amend AIDA's general powers by inserting language to clarify that bond issuance includes the general power to incur debt (bill section 4) and by adding new powers relating to financing and assisting export transactions.

Bill sections 6 - 11 amend AIDA's administrative procedure statutory section. Bill sections 6 - 10 contain technical, clean-up matters to reflect the addition of the new export financing provisions. Bill section 11 (beginning on page 9 of the bill) creates a new subsection (h) to section 44.88.085. Subsection (h) directs AIDA to adopt regulations for export financing establishing criteria for eligibility of exporters under the program, setting forth equity and collateral requirements, and other similar matters. Also in bill section 11 there appears a new subsection (g), but this is simply a new location for the provisions in existing law which direct AIDA to adopt regulations for its existing programs.

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Bill sections 12 - 15 amend AIDA's statutory section pertaining to the issuance of bonds. Generally speaking, these bill sections are simply intended to set forth clearly that the bond issuance powers also extend to the issuance of bonds for AIDA's export financing program. Bill section 13 is of some interest because it sets forth for the first time in the bill the new organization of the AIDA statutes. Thus, there is, in the underlined language in that bill section, a reference to the financing of projects (a defined term in AIDA's statutes) under AS 44.88.170 - 44.88.200, a reference to the financing of development projects (a defined term in the legislation) under AS 44.88.220 - 44.88.270, and a reference to financing exporting transactions under AS 44.88.300 - 44.88.390.

Bill sections 16 - 18 amend the statutory section authorizing AIDA to enter into agreements with trustees. Again, the changes are intended to extend the powers of AIDA under the present law to include the export financing program. The changes here also reflect the new organization of the AIDA statutes.

Bill sections 19 - 21 amend various other financing statutes, such as AIDA's capital reserve fund statutory section, to include export financings and reflect the new organization of the statutes.

Bill sections 22 - 28 amend the statutory section which created the enterprise development fund. The bill sections turn the "fund" into an "account" within the revolving fund created in bill section 2 (as discussed earlier in this memorandum). In addition, the amendments clarify that this account applies only to the financing of "projects" under AS 44.88.170 - 44.88.200. Accordingly, the financing of development projects and exporting transactions is not subject to the limitations set forth in this statutory section.

Bill sections 29 - 32 takes the loan insurance account out of the enterprise development fund and puts it in the revolving fund. This account is also limited in application to the financing of projects under AS 44.88.170 - 44.88.200.

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Bill sections 33 and 34 amend the small enterprise loan account by introducing the phrase "entrepreneurial and small business enterprise" in place of small enterprise. In bill section 40, subsection (c) of the statutory section amended by bill sections 33 and 34 is repealed. This repealer cleans up some outdated language and facilitates the financing of entrepreneurial and small business enterprises.

Bill section 35 amends the statutory section which sets a formula for how AIDA must determine interest rates on loans it purchases. The amendment makes it clear that this applies only to projects purchased under AS 44.88.170 - 44.88.200.

Bill section 36 makes the same changes with respect to the economic development fund as bill sections 22 - 28 makes with respect to the enterprise development fund; that is, it turns it into an account of the revolving fund and it makes it clear that it applies only to the financing of "development projects". The economic development fund (account) is the source of financing for the projects that AIDA expects to own or operate. The new statutory section 44.88.220, as amended by bill section 36, would include language in subsection (b) which (1) prohibits the pledge of assets in the enterprise development account 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. Bill section 40 repeals the requirement for legislative approval of each project financed from the economic development account; however, the bill retains the requirement elsewhere for legislative approval of any project over \$50,000,000 in size.

Bill section 37 adds new provisions relating to export assistance. In essence, AIDA would work with financial institutions to determine which exporting transactions qualify for assistance. To qualify, the transaction would have to have some significant contact with or benefit to the State of Alaska as determined by regulations of AIDA. For those that qualify, AIDA would guarantee a portion of a loan made to

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finance the transaction. The guarantee would be secured by an export insurance account into which AIDA would deposit bond proceeds issued for the purpose as well as other amounts appropriated to AIDA. AIDA would be required to keep sensitive information about the transaction or the exporter involved in the transaction confidential.

Bill section 38 adds new definitions for "development project" and "revolving fund".

Bill section 39 directs the revisor of statutes to undertake a reorganization of AIDA's statutes.

Bill section 40 repeals certain statutory sections, including subsection (c) of the small business account statutory section (as discussed above with respect to bill section 33) and sections 10 and 11, chapter 162, SLA 1984 (as discussed above with respect to bill section 36). It also repeals the AIDA multifamily statutory section. Providing financing for multifamily residential facilities is a function already performed by the Alaska State Building Authority under AS 18.55; the Alaska Housing Finance Corporation also has the authority under AS 18.56 to finance up to four-plexes if they are owner-occupied. These are more appropriate sources of financing for apartment buildings than the AIDA programs, which are intended to provide assistance for businesses and industry.

Bill section 41 provides effective dates. Bill sections 1 - 38 must take effect after bill section 39, because bill section 1 - 38 refer to section numbers as they will be in effect after the changes mandated by bill section 39.

CONCLUSION

It is the intent and expectation that reorganization of the AIDA statutes in the manner described will strengthen and stabilize the Alaska economy by encouraging infrastructure development for long-term revenue producing projects and promoting the development of export transactions in the state while preserving the traditional AIDA financing functions.

..DRAFT

Original Sponsor:

IN THE

BY

_____ BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

*Section 1. AS 44.88.010 is amended to read:

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, export, entrepreneurial, small business 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, export, entrepreneurial, small business 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 expansion of export trade is vital to the overall health and growth of Alaska's economy;

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

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

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

(9) the achievement of the goal of full employment, and of establishment and continuing operation and development of industrial, manufacturing, export, entrepreneurial, small business and business enterprises in the state, including, without limitation, facilities for transportation, facilities for pollution control and waste disposal, facilities for the local furnishing of gas, facilities for water, facilities for industrial parks, mass commuting vehicles, facilities for local 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, export, ~~entrepreneurial, small business~~ and business enterprises, including, without limitation, facilities for transportation, facilities for pollution control and waste disposal, facilities for the local furnishing of gas, facilities for water, 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;

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

(A) 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;

(B) ~~encouraging the production of raw materials and goods for export, the expansion of exports of raw materials goods and the rendering of services abroad by residents of Alaska through the establishment of a program which provides financial assistance in cooperation with federal, state and private institutions for these purposes in the form provided in this chapter;~~

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

(1)(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, ~~export, entrepreneurial, small~~ business and business enterprises and the other facilities referred to in (a) [(a)(5)] of this section by creating the Alaska Industrial Development Authority (PUBLIC CORPORATION) with the powers (POWER), duties and functions (AS) provided in this chapter (AS 44.88.010 - 44.88.2201.

(c) ~~It is further 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 of the state, to accomplish the objectives set forth in (b) of this section through the provision of financial support in cooperation with federal, state and private institutions for the purpose of increasing the export of Alaska goods, entrepreneurial talent, raw materials and services~~

* Sec. 2. AS 44.88 is amended by adding a new section to read:

Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT

AUTHORITY REVOLVING FUND. The Alaska industrial development authority revolving fund is established in the authority. The revolving fund consists of appropriations made to the revolving fund by the legislature, money or other assets transferred to the revolving fund by the authority and unrestricted payments on loans made or purchased by the authority. Amounts deposited in the revolving fund may be pledged to the payment of bonds of the authority and otherwise shall be expended for the purposes of the authority as set forth in this chapter.

* Sec. 3. AS 44.88.070 is amended to read:

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

(1) providing various means of financing and means of facilitating the financing, in cooperation with federal, state and private institutions, of industrial, manufacturing, export, entrepreneurial, small business and business enterprises and the other facilities referred to in AS 44.88.010(a) (AS 44.88.010(a)(5)) within the state;

(2) [, AND BY] owning and operating the enterprises and other facilities described in AS 44.88.220;

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

(4) cooperating and acting in conjunction with other organizations, public and private, the objects of which are the promotion and advancement of export trade activities in Alaska;

(5) establishing a source of funding credit guarantees and insurance to support export development not

otherwise available

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

* Sec. 4. AS 44.88.080(7) is amended to read:

(7) to issue bonds and otherwise to incur indebtedness, in accordance with AS 44.88.090, to pay the cost of a project or development projects or to provide money for its purposes under this chapter and to secure payment of the bonds as provided in this chapter;

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

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

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

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

(23) to guarantee loans related to qualified export transactions pursuant to regulations adopted by the authority;

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

* Sec. 6. AS 44.88.085(a) is amended to read:

(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.

* Sec. 7. AS 44.88.085(c) is repealed and re-enacted to read:

(c) The authority may adopt regulations to carry out the purposes of this chapter and shall adopt regulations as provided in (g) and (h) of this section.

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

(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.

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

(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.

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

(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.

* Sec. 11. AS 44.88.085 is amended by adding new subsections to read:

(g) The authority shall adopt regulations necessary for the following purposes in connection with its programs for the financing of projects under AS 44.88.170 - 44.88.200:

- (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.

(h) The authority shall adopt regulations necessary for the following purposes in connection with its program for encouraging the exportation of Alaska goods, services and raw materials under AS 44.88.300 - 44.88.390:

(1) establishing criteria for the eligibility of exporters and export transactions for the loan guarantees provided in AS 44.88.300;

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

(3) adoption of collateral or security requirements to ensure the full repayment of loan guarantees and solvency of any insurance program established under AS 44.88.300 - 44.88.390;

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

(5) setting forth the maximum aggregate amount of guaranteed financing available to any exporter and the maximum amount of guaranteed financing available for any transaction eligible for guaranteed financing;

(6) establishing the limits on the interest which may be charged for guaranteed financings, the maximum fees which a participating financial institution may charge for making a loan which will be guaranteed under AS 44.88.300 - 44.88.390, and the terms of and procedures for repayment of a guaranteed financing;

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

* Sec. 12. AS 44.88.090(a) is amended to read:

(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 or development project financed with the proceeds of the bonds or derived from the exporter or exporting transaction financed, guaranteed or insured with the proceeds of the bonds, (2) exclusively from the income and receipts or other money derived from designated projects or development projects or other sources whether or not they are financed, insured or guaranteed 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.

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

(e) Before the issuance of any bonds, the authority shall make provision by lease or other agreement regarding the project or projects, if the bonds are being issued to finance a project or projects under AS 44.88.170 - 44.88.200, or by lease or other agreement regarding the development project or development projects, if the bonds are being issued to finance a development project or development projects under AS 44.88.220 - 44.88.270, or by agreement with the exporter, if the bonds are being issued to provide money to finance, guarantee or insure an exporting transaction under AS 44.88.300 - 44.88.390, for (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.

* Sec. 14. AS 44.88.090(g)(2) is amended to read:

(2) issue revenue bonds other than refunding bonds for a project under AS 44.88.170 - 44.88.200 or for a development project under AS 44.88.220 - 44.88.270 or to provide money to finance, guarantee or insure an exporting transaction under AS 44.88.300 - 44.88.390 [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.

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

(h) The authority may combine, for the purposes of a single offering, bonds financing more than one project or development project under AS 44.88.170 - 44.88.200 and bonds issued to provide money to finance, guarantee or insure an exporting transaction under AS 44.88.300 - 44.88.390 [AS 44.88.010 - 44.88.220].

* Sec. 16. AS 44.88.100(1)(B) is amended to read:

(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 or development project financed under AS 44.88.170 - 44.88.270 or of a facility which is part of an exporting transaction financed, guaranteed or insured under AS 44.88.300 - 44.88.390;

* Sec. 17. AS 44.88.100(1)(C) is amended to read:

(C) the assignment by the authority of its rights in the lease or contract of sale of a project or development project financed under AS 44.88.170 - 44.88.200 or

of a facility which is part of an exporting transaction financed, guaranteed or insured under AS 44.88.300 - 44.88.390 or in a mortgage or other security interest created with respect to a project or development project financed under AS 44.88.170 - 44.88.270 or with respect to a facility which is part of an exporting transaction financed, guaranteed or insured under AS 44.88.300 - 44.88.390 to a trustee for the benefit of the bondholders;

* Sec. 18. AS 44.88.100(1)(E) is amended to read:

(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 or development project financed under AS 44.88.170 - 44.88.270 or with respect to a facility which is part of an exporting transaction financed, guaranteed or insured under AS 44.88.300 - 44.88.390 by mandamus or other proceeding or by taking possession of by agent or otherwise and operating the project or facility and collecting rents or other consideration and applying the same in accordance with the trust agreement;

* Sec. 19. AS 44.88.105(f) is amended to read:

(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 being financed under AS 44.88.170 - 44.88.270 or of the loan to finance, guarantee or insure an exporting transaction under AS 44.88.300 - 44.88.390 is retained by a federal or state chartered financial institution or the Alaska Commercial Fishing and Agriculture Bank.

* Sec. 20. AS 44.88.130 is amended to read:

Sec. 44.88.130. PLEDGE OF STATE. The state pledges to and agrees with the holders of the bonds issued under this chapter and with the federal agency which loans or contributes funds in respect to a project or development project financed under AS 44.88.170 - 44.88.270 or in respect to an exporting transaction financed, guaranteed or insured under AS 44.88.300 - 44.88.390(,) 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 and that the state will not(, 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.

* Sec. 21. AS 44.88.140 is amended to read:

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 or development project financed under this chapter and a leasehold interest created in a project or development project financed [APPLICANT OR OTHER PERSON] under this chapter, devoted to an essential public and governmental function and purpose, and the property, assets, income, receipts, project, development 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 payments 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, ~~development project~~ or lease whether or not financed under this chapter.

(b) The authority may enter into agreements with an ~~applicant or proposed applicant under this chapter~~ (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 or development 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.

* Sec. 22. AS 44.88.170(a) is amended by to read:

Sec. 44.88.170. ENTERPRISE DEVELOPMENT ACCOUNT [FUND]. (a) The enterprise development account [FUND] is established within the revolving fund [IN THE AUTHORITY]. The enterprise development account is a trust fund for the uses and purposes of this chapter [AS 44.88.010 - 44.88.220]. The enterprise development account [FUND] consists of money or assets appropriated or transferred to the authority and other money or assets deposited in it by the authority.

* Sec. 23. AS 44.88.170(b) is amended to read:

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

* Sec. 24. AS 44.88.170(c) is amended to read:

(c) Money and other assets of the enterprise development account [FUND] may be used to secure bonds of the authority issued to finance the purchase of loans for projects as defined in AS 44.88.200(1) 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 44.88.900.

* Sec. 25. AS 44.88.170(d) is amended to read:

(d) A loan purchased in whole or in part by the authority with assets of the enterprise development account or with proceeds of bonds secured by assets of the enterprise development account, 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 44.88.190;

(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;

(B) 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 44.88.190; or

(B) financed from the proceeds of bonds; or

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

* Sec. 26. AS 44.88.170(e) is amended to read:

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

* Sec. 27. AS 44.88.170(f) is amended to read:

(f) The authority may enter into agreements as to the use of the money in the enterprise development account (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 account (FUND) as may be necessary or appropriate to provide for payment and security for bonds of the authority issued to finance the purchase by the authority of loans for projects as defined in AS 44.88.900.

* Sec. 28. AS 44.88.170 is amended by adding a new subsection to read:

(h) The provisions of this section apply only with respect to loans purchased or made by the authority under AS 44.88.170 - 44.88.200 for projects as defined in AS 44.88.900.

* Sec. 29. AS 44.88.180(a) is amended to read:

(a) The loan insurance account is established within the revolving fund. The purpose of the loan insurance account

is to provide insurance of mortgage loans and other loans made or purchased by the authority under AS 44.88.170, or made by others and approved for insurance by the authority, for a project. The authority may enter into agreements as to the use of money in the loan insurance account and may pledge, assign, or grant interests in the loan insurance account as provided in this section. The authority may adopt regulations and enter into agreements with respect to the exercise of any power or approval relating to the loan insurance account under this section, including, without limitation, agreements as to the use of money in the loan insurance account, agreements with respect to the terms and conditions upon which payments from the loan insurance account will be made with respect to a loan insured under this section, agreements as to separate subaccounts in the loan insurance account for different categories of loans or as to loans made by the authority or any other person, and agreements regarding the payment of and security for bonds issued by the authority. An agreement, the rights of the authority under an agreement, or payments received or to be received under an agreement may be pledged or assigned by the authority for the benefit of the holders of bonds issued by the authority.

* Sec. 30. AS 44.88.180(b) is amended to read:

(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 this section (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.

* Sec. 31. AS 44.88.180(k) is amended to read:

(k) A loan may not be insured under this section [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.

* Sec. 32. AS 44.88.180(1) is amended to read:

(1) A loan in excess of \$1,000,000 may not be insured under this section [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.

* Sec. 33. AS 44.88.190(a) is amended to read:

Sec. 44.88.190. ENTREPRENEURIAL AND SMALL BUSINESS ENTERPRISE LOAN ACCOUNT. (a) An entrepreneurial and small business enterprise loan account is established in the revolving (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 entrepreneurial and small business enterprise loan account, the unpledged income of the revolving (ENTERPRISE DEVELOPMENT) fund, and other money or assets deposited in it by the authority.

* Sec. 34. AS 44.88.190(b) is amended to read:

(b) The authority may use money in the entrepreneurial and small business enterprise loan account to purchase or participate in the purchase of loans to entrepreneurial and small business enterprises and to purchase the guaranteed portion of a loan made by a private financial institution after June 30, 1981, to an entrepreneurial or small business enterprise to pay the cost of a project, as defined in AS 44.88.200, or exporting transaction (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.

* Sec. 35. AS 44.88.200 is amended by adding a new subsection to read:

(d) The provisions of this section apply only to loans financed under AS 44.88.170 - 44.88.200.

* Sec. 36. AS 44.88.220 is amended to read:

Sec. 44.88.220. ECONOMIC DEVELOPMENT ACCOUNT (FUND). (a) The economic development account (FUND) is established in the revolving fund (AUTHORITY). The account

[FUND] consists of money or assets appropriated, loaned, or transferred to the authority, and other money or assets deposited in the account [FUND] by the authority. The account [FUND] may only be used to finance, acquire, manage, and operate development 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 development project is financed or developed through use of the assets of the economic development account [FUND], the authority may not pledge or use [OTHER] assets of the enterprise development account created in AS 44.88.170 [AUTHORITY] to assist in the financing, development, or operation of the development project. However, whether or not the authority uses the economic development account [FUND], it may issue bonds to finance a development project and may secure the bonds with a mortgage, pledge, or assignment of the development project or of revenues, money, or agreements attributable to the development project or the bonds. Financing assistance provided with respect to a development project under this section shall, to the maximum extent reasonable under the circumstances, be made in the form of a loan to the project (AS PROVIDED IN SEC. 10 OF THIS ACT).

* Sec. 37. AS 44.88 is amended by adding new sections to read:

Article 6. Export Assistance.

Sec. 44.88.300. GUARANTEED FUNDING FOR EXPORT TRANSACTIONS. The authority may provide guaranteed funding, through a participating banking organization, for an export transaction the authority determines to be eligible under AS 44.88.310.

Sec. 44.88.310. ELIGIBILITY OF EXPORT TRANSACTIONS.

An exporting contract is a transaction eligible for guaranteed funding under AS 44.88.300 - 44.88.390 if, in the judgment of the authority, it will create or maintain employment in Alaska and it

(1) promotes the sale abroad of raw materials extracted in Alaska or goods whose final stage of production occurs in Alaska and which constitute a percentage of the contract price required by regulation of the authority;

(2) provides for the rendering of services abroad by a business located in Alaska if a percentage of the contract price required by regulation of the authority consists of wages or other payments made to persons normally residing in Alaska;

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

(A) a percentage of the contract price required by regulation of the authority consists of wages or other payments made to persons or businesses normally residing or located in Alaska; or

(B) the business has a significant relationship with Alaska based upon

(i) the amount of capital investments it has which are located in Alaska;

(ii) the number of residents of Alaska who are employed by the business;

(iii) the amount of business transacted in Alaska; or

(iv) any combination of the above; or

(4) provides both for the sale abroad of raw materials extracted in Alaska or goods whose final stage of production occurs in Alaska and for the rendering of services

abroad by residents of Alaska, the aggregate value of which is a percentage of the contract price required by regulation of the authority.

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

(b) The authority may not guarantee a loan under AS 44.88.300 unless the authority finds that the guarantee is reasonably necessary to stimulate or facilitate the making of a loan for an eligible exporting transaction.

Sec. 44.88.330. CREDIT OF EXPORTER. Before the authority may guarantee a loan under AS 44.88.300, the participating financial institution shall investigate the credit or sources of credit available to the exporter to determine the economic benefits to be derived from the guarantee, the prospects of repayment, and other factors necessary to determine that the guaranteed funding is consistent with the purposes of AS 44.88.300 - 44.88.390.

Sec. 44.88.340. CONFIDENTIALITY OF INFORMATION. Information submitted to or compiled by the authority regarding the identity, background, finances, marketing plans, trade secrets or other commercially sensitive affairs of the exporter is confidential, unless the exporter consents to its disclosure.

Sec. 44.88.350. FEES CHARGED. The authority shall by regulation establish fees to be charged a participating financial institution for providing a guarantee under AS 44.88.300. The fees shall be sufficient to cover the costs of administering the guarantee program under AS 44.88.300 - 44.88.390 and any premium the authority pays for insuring its risks.

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

Sec. 44.88.370. GUARANTEE NOT A GENERAL OBLIGATION OF THE STATE. A guarantee under AS 44.88.300 does not constitute a general obligation of the State of Alaska.

Sec. 44.88.380. PERSONAL LIABILITY. No officer, employee, or agent of the authority shall be personally liable on a contract or agreement entered into with respect to a guarantee under AS 44.88.300 or for any damage or injury resulting from the performance of their duties under AS 44.88.300 - 44.88.390.

Sec. 44.88.390. EXPORT INSURANCE ACCOUNT. (a) There is established in the revolving fund an export insurance account. The export insurance account consists of money appropriated to it by the legislature and other money and assets, which may include bond proceeds, deposited in it by the authority. The export insurance account shall be held as security for the holders of bonds issued by the authority for the purposes of AS 44.88.300 - 44.88.390. The authority may enter into trust agreements with respect to the use of money in the export insurance account, including the use of that money to discharge any guarantee obligation of the authority. The trust agreements may contain provisions and limitations as to the investment and disbursement of money in the export insurance

account, the payment of expenses of the export insurance account, the appointment, resignation and discharge of trustees, the delegation of enforcement and collection powers under the insurance agreements to the trustee, the duties of the trustees, amendments of the trust agreements and other lawful provisions and limitations as the authority consider appropriate. The trust agreements may pledge premiums and other moneys which may be deposited in the export insurance account. The pledge shall be valid and binding from the time when the pledge is made. The premiums and other moneys so pledged and thereafter received by the export insurance account or by the trustees in its behalf shall immediately be subject to the lien of such pledge, and such pledge shall be valid and binding as against all parties having claims of any kind against the export insurance account, irrespective of whether such parties have notice thereof.

(b) The authority may also use proceeds of bonds issued for the purposes of AS 44.88.300 - 44.88.390 to purchase insurance, which may be pledged for the security of the holders of the bonds. In any case in which insurance is pledged as security, whether obtained through the export insurance account or purchased with bond proceeds, any description of such insurance shall expressly indicate the limitation of the liability of the authority and that neither the credit nor the taxing power of the state or any political subdivision thereof is available to satisfy any obligations with respect thereto.

* Sec. 38 AS 44.88.440 is amended by adding a new subsection to read:

(c) A loan purchased or financed by the authority in whole or in part is exempt from the provisions of AS 45.45.010. A guarantee extended under AS 44.88.300 or insurance provided

AS 44.88.390 shall not constitute insurance for the purposes of AS 21.03.010.

* Sec. 39. AS 44.88.900 is amended by adding a new paragraph to read:

(13) "development project" means a plant or facility used or intended for use in connection with making, processing, preparing, or producing in any manner, goods, products or substances of any kind or nature or in connection with developing or utilizing a natural resource, or extracting, smelting, transporting, converting, assembling or producing in any manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and materials, products or substances of any kind or nature.

(14) "revolving fund" means the Alaska Industrial Development Authority Revolving Fund created in AS 44.88.060.

* Sec. 40. The revisor of statutes in the Legislative Affairs Agency shall renumber the following statutes in the following manner by June 30, 1987: AS 44.88.155 shall become AS 44.88.170; AS 44.88.157 shall become AS 44.88.180; AS 44.88.158 shall become AS 44.88.190; AS 44.88.159 shall become AS 44.88.200; AS 44.88.160 shall become AS 44.88.400; AS 44.88.165 shall become AS 44.88.410; AS 44.88.170 shall become AS 44.88.420; AS 44.88.172 shall become AS 44.88.220; AS 44.88.173 shall become AS 44.88.230; AS 44.88.174 shall become AS 44.88.240; AS 44.88.175 shall become AS 44.88.250; AS 44.88.176 shall become AS 44.88.260; AS 44.88.177 shall become AS 44.88.270; AS 44.88.180 shall become AS 44.88.430; AS 44.88.190 shall become AS 44.88.440; AS 44.88.200 shall become AS 44.88.450; AS 44.88.205 shall become AS 44.88.460; AS 44.88.210 shall become AS 44.88.470; AS 44.88.212 shall become AS 44.88.480; and AS 44.88.220 shall become AS 44.88.900. If the

revisor of statutes in the Legislative Affairs Agency does not renumber the statutes as provided in the preceding sentence, those statutes shall be considered to be and treated for all purposes as being so renumbered on and after June 30, 1987, nevertheless. After renumbering the statutes as provided above, the revisor of statutes in the Legislative Affairs Agency shall establish Articles within AS 44.88 as follows: Article 1. "Creation and Organization" shall include AS 44.88.010 - 44.88.060; Article 2. "Purpose and Powers" shall include AS 44.88.070 - 44.88.085; Article 3. "Financial Provisions" shall include AS 44.88.090 - 44.88.150; Article 4. "Project Financings" shall include AS 44.88.170 - 44.88.200; Article 5. "Development Financings" shall include AS 44.88.220 - 44.88.270; Article 6. "Export Assistance" shall include AS 44.88.300 - 44.88.390; and Article 7. "General Provisions" shall include AS 44.88.400 - 44.88.900.

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

* Sec. 42. Sections 39 and 40 of this Act take effect immediately in accordance with AS 01.10.070(c). Sections 1 - 39 of this Act take effect on July 1, 1987.

5-0377B
Hein
2/6/87

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 deriv.d 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. ENTREPRENURIAL 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 DEVFLOP-
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

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Home Administration.

- * Sec. 34. AS 44.88.159 is amended by adding a new subsection to read:
 - (d) The provisions of this section apply only to loans financed under AS 44.88.155 - 44.88.159.
- * Sec. 35. AS 44.88.172 is amended to read:

Sec. 44.88.172. ECONOMIC DEVELOPMENT ACCOUNT [FUND]. (a) The economic development account [FUND] is established in the revolving fund [AUTHORITY]. The account [FUND] consists of money or assets appropriated, loaned, or transferred to the authority, and other money or assets deposited in the account [FUND] by the authority. The account [FUND] may [ONLY] be used only to finance, acquire, manage, and operate development 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 development project is financed or developed through use of the assets of the economic development account [FUND], the authority may not pledge or use [OTHER] assets of the enterprise development account established in AS 44.88.155 [AUTHORITY] to assist in the financing, development, or operation of the development project. However, whether or not the authority uses the economic development account [FUND], it may issue bonds to finance a development project and may secure the bonds with a mortgage, pledge, or assignment of the development project or of revenues, money, or agreements attributable to the development project or the bonds. Financing assistance provided with respect to a development project under this section shall, to the maximum extent reasonable under the circumstances, be made in the form of a loan to the project [AS PROVIDED IN SEC. 10 OF THIS ACT].

- * 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) "revolving fund" means the Alaska Industrial Develop-
14 ment Authority revolving fund created in AS 44.88.060.

15 * Sec. 38. AS 44.88 is amended by adding new sections to read:

16 ARTICLE 5. EXPORT ASSISTANCE.

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

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

25 (1) promotes the sale abroad of raw materials extracted in
26 the state, or goods whose final stage of production occurs in the
27 state, that constitute a percentage of the contract price required by
28 regulation of the authority;

29 (2) provides for the rendering of services abroad by a

1 business located in the state if a percentage of the contract price
2 required by regulation of the authority consists of wages or other
3 payments made to persons normally residing in the state;

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

6 (A) a percentage of the contract price required by
7 regulation of the authority consists of wages or other payments
8 made to persons or businesses normally residing or located in the
9 state; or

10 (B) the business has a significant relationship with
11 the state based upon

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

14 (ii) the number of state residents employed by the
15 business;

16 (iii) the amount of business transacted in the
17 state; or

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

19 (4) provides both for the sale abroad of raw materials
20 extracted in the state or goods whose final stage of production occurs
21 in the state, and for the rendering of services abroad by state resi-
22 dents, the aggregate value of which is a percentage of the contract
23 price required by regulation of the authority.

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

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

1 Sec. 44.88.330. CREDIT OF EXPORTER. Before the authority may
2 guarantee a loan under AS 44.88.300, the participating financial
3 institution shall investigate the credit or sources of credit avail-
4 able to the exporter to determine the economic benefits to be derived
5 from the guarantee, the prospects of repayment, and other factors
6 necessary to determine that the guaranteed funding is consistent with
7 the purposes of AS 44.88.300 - 44.88.390.

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

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

19 Sec. 44.88.360. EFFECT OF GUARANTEE. A guarantee under AS 44.-
20 88.300 shall guarantee against political or commercial loss, in whole
21 or in part, of principal and interest on an eligible export trans-
22 action. The guarantee may include, without limitation, insurance
23 against loss up to a stated amount. A guarantee under AS 44.88.300
24 may not be terminated, canceled, or revoked, except under its terms.
25 A guarantee held by a participating financial institution is presumed
26 to be valid.

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

1 Sec. 44.88.380. PERSONAL LIABILITY. An officer, employee, or
2 agent of the authority may not be held personally liable on a contract
3 or agreement entered into with respect to a guarantee under AS 44.88.-
4 300, or for damage or injury resulting from the performance of duties
5 under AS 44.88.300 - 44.88.390.

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

29 (b) The authority may use proceeds of bonds issued for the

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purposes of AS 44.88.300 - 44.88.390 to purchase insurance, which may be pledged for the security of the holders of the bonds. If insurance is pledged as security, whether obtained through the export insurance account or purchased with bond proceeds, a description of the insurance shall expressly indicate the limitation of the liability of the authority and that neither the credit nor the taxing power of the state or a political subdivision of the state is available to satisfy obligations with respect to the insurance.

* Sec. 39. This Act takes effect immediately under AS 01.10.070(c).

5-0377B
Hein
2/11/87

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. AC 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 high-risk 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).
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Senator Rick Wehling

February 13, 1987

To: State of Alaska
Senate Committee for Labor and Commerce

Mr. Chairman, Members of the Committee:

Please find attached copies of my oral testimony which was made on Monday February 9, 1987 via the legislative telecommunication system.

To supplement that testimony, I will further state that while I applaud the efforts of the legislature to increase Alaskan business participation in the export markets, I see this proposed legislation as merely a gesture that duplicates existing facilities. As a very simple indication you might call the State Department of Commerce, as I did, and ask for the total value of exports from Alaska. You will discover that the Alaska Department of Commerce does not have this number but will refer you to the U.S. Department of Commerce where one can obtain some numbers.

If you take the value of total exports and subtract the numbers for natural resources, including oil and gas, urea, ammonia, fisheries, timber and metal you will find practically no manufactured products being exported. There are good sound economic and business reasons for the failure of Alaskan businesses to participate in export business. Manufactured products, by their nature, require higher labor costs as a per cent of total costs than natural resource extraction. We are all aware that the costs of labor and of doing business in Alaska are among the highest in the U.S. and the world. State governments can in fact do a great deal to create environments which will stimulate and encourage private enterprises. Long-term consistency in the State's policy on taxation and simplification of bureaucratic procedures regarding insurance, specifically product liability and worker's compensation can reduce costs and make Alaska more competitive. Small businesses in particular suffer from the burden of reporting to federal, state and local governments on all aspects of their business. The costs of filing reports and retaining resident experts on these myriad subjects are oppressive.

I would encourage you to recognize that business does much better with less government than with more and that organizing a venture for profit still remains a valid objective in our society.

Sincerely yours,

Wilson A Gay
Wilson A Gay
2531 Curlew Circle
Anchorage, AK 99515

Mr. Chairman, members of the committee:

My name is Wilson A. Gay. I reside at 2531 Curlew Circle, Anchorage, AK and am a resident of the State of Alaska. I represent myself and am not employed by or under contract to another party. For background information, I have been employed by the Dow Chemical Co. for 30 years, retiring as Treasurer of the Corporation in June of 1986. The last 25 years of my career at Dow were spent in finance both international and domestic. Dow Chemical is one of the world's leading firms in international trade and derives nearly 50% of its almost \$12 billion in sales from markets outside the U.S. It was necessary to develop a financial strategy to facilitate this business. Export credit and guarantees were a part of this strategy. In this regard relationships with EX-IM Bank and the Foreign Credit Ins. Association were in my hands.

As to the proposed legislation, I will only address the export credit or guarantee section of the bill.

1. If this legislation is adopted, once again there will be duplication of effort at the State and Federal levels with the resulting increase in costs to U.S. taxpayers. In my years of working with EX-IM Bank and FCIA I found the staff to be expert and always willing to work with the manufacturer on viable export related plans. Additionally commercial banks have always offered the facilities to provide for these various Federal programs. Should the State of Alaska thru AIDA embark on similar programs there will be costs of training and maintaining staff for programs which will realize infrequent use.

2. Under the export guarantee section it will prove both costly and cumbersome should AIDA become a direct guarantor since obtaining information on the credit of the buyer can be very difficult.

3. Section 44-98-360 mentions political risk guarantees and provides no further definition. I can assure you that political risk insurance can become a nightmare for both the insurer and insured. While there has been legal language developed which gives definition to revolution, insurrection rebellion, expropriation, and inconvertibility, the interpretation becomes very complicated when it is subjected to the laws of two nations. I will point out that in extreme situations, solutions to the question of political risk guarantees have only been settled by nation-to-nation negotiation. This is not a legal area in which AIDA or the State of Alaska should participate.

It would seem to me that an intelligent program of communication and cooperation with EX-IM and FCIA and the holding of a series of promotional seminars which would explain these agencies' functions to the Alaska business and financial community would serve to identify prospective users of these services. Such an approach would be extremely low-cost when compared to the prospective expense of a new organization and could quickly identify immediate areas of application for these export credit services.

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