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STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER
ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY

STEVE COWPER, GOVERNOR

P. O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2500

March 29, 1989

*in m-1
Bill file*

Honorable Peter Goll
Alaska House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representative Goll:

RE: HB 123

At our meeting yesterday, you expressed some concern over provisions of HB 123 which would allow joint ventures between the authority and private industry. The rationale for allowing such joint ventures is to assist private firms in developing Alaskan resources and becoming competitive in the international marketplace. Joint ventures between a governmental entity and a private company are not uncommon, and if structured prudently, can benefit both parties.

An example of such a joint venture proposal could be a coal loading facility designed to handle throughput from several different lease holders. By having the authority assist in the common transportation system from the uplands to tidewater, the lease holders in effect convert a capital cost to an operating cost freeing up their capital to develop their respective coal leases.

Some concern has also been expressed that adequate safeguards are not in place to protect the authority from poor decision making. Anytime we are trying to accomplish something a certain amount of risk is inherent. However, various provisions of statutes set forth restrictions to protect the authority.

The first and one of primary importance is that all debt of the authority must meet a market test. The bond offerings are reviewed by rating analysts and subject to the marketplace in determining their quality. These acts hold up to public scrutiny all the transactions the authority enters into. Secondly, the authority has on retainer investment bankers who carefully analyze each transaction brought before the authority. Additionally, each transaction must, of course, be worked over by staff and then it is presented to the board for their review. The authority has an extremely active board that meets at least once a month.

*Building
a case for
HB 123
to a study*

*1989
sent to
Bill
Sullivan
10/2/89*

When the board considers a transaction, the statutes set forth guidelines the board will use in considering whether or not to enter into a transaction:

1. AS 44.88.173 requires a finance plan be prepared that sets forth all details concerning cost, operational expenses, and sources of funds. This report will be submitted to the Legislature, State Bond Committee, and the Governor.
2. Sec. 44.88.175. Requirements prior to approval of projects.
 - (a) Before entering into an agreement to finance or to develop a proposed project with a cost in excess of \$10,000,000 that is financed under AS 44.88.171, the authority shall obtain the approval of each Regional Resource Advisory Council or municipality in the area in which the proposed project is to be located. Approval under this subsection must be evidenced by a certified copy of a resolution of the council or of the governing body of the municipality.
 - (b) Before approving a project financed under AS 44.88.172 for which bonds must be issued, the authority shall
 - (1) obtain approval under (a) of this section;
 - (2) find, on the basis of all information reasonable to it, that
 - (A) The project and its development under this chapter will be economically advantageous to the state and to the general public welfare and will contribute to the economic growth of the state;
 - (B) the project applicant is financially responsible;
 - (C) the project is economically and financially feasible and able to produce revenue adequate to repay the bonds or loans with which it is financed;
 - (D) increased demand on public facilities that might result from the project will be provided for;
 - (E) the project will provide or retain employment reasonably related to the amount of the financing by the authority, considering the amount of investment per employee for comparable facilities, and other relevant factors;

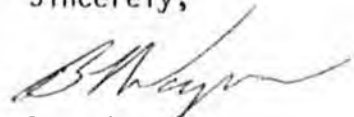
March 29, 1989

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

(G) the project is in compliance with applicable law; and

(H) issuance of the bonds is not expected to adversely affect the ability of the state or any political subdivision of the state to market other bonds (§ 8 ch 162 SLA 1984)

Sincerely,



Bert Wagon
Executive Director

BW/mm/C.144
032989b

cc: Honorable Max Gruenberg
Co-Chair House Judiciary Committee

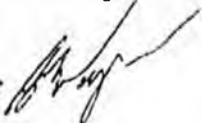


ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY

1577 "C" STREET • SUITE 304 • ANCHORAGE, ALASKA 99501-5177 • (907) 274-1651

M E M O R A N D U M

TO: Board of Directors
Alaska Industrial Development and Export Authority

FROM: Bertram L. Wagon 
Executive Director

DATE: February 27, 1989

SUBJECT: FEDERAL SMALL BUSINESS ADMINISTRATION PROGRAM (SBA)

Attached is a letter which impacts the Federal SBA program nationwide.

The effect of this directive is that the SBA will no longer allow outstanding SBA loans to be refinanced with new SBA loans. Additionally, no refinance which would result in a reduction of exposure of the participant or other lending institution is permitted.

It was requested that a representative from the SBA be at our Board meeting, however, they are in Washington, D.C. discussing this problem and could not attend.

BLW/ss
attachment

SMALL BUSINESS ADMINISTRATION

SBA NOTICE

Col. Train
Free
gan
NOTICE NO. 5000-242

TO: All RA's, ARA's F&I, DD's, and ADD's F&I

2-10-89

EFFECTIVE

SUBJECT: Temporary limitation on use of SBA 7(a) loan proceeds for repayment of debt

The demand for 7(a) loan funds currently exceeds available amounts. In order to ease this shortage, effective immediately, new applications for 7(a) business loan guarantees will be subject to the following restrictions:

- o Outstanding SBA loans will not be refinanced with new SBA loans. If a borrower requires additional funds, the new loan will be so structured by reamortization or otherwise that the existing loan remains outstanding.
- o No reduction in a participant lender's exposure or of the exposure of other lending institutions will be permitted. Accordingly, where a participating lender increases its participation percentage to an extent sufficient to cover at least all of the outstanding debt, SBA will extend its guaranty to that part of the loan which does not include the outstanding debt.

Example: a loan is approved for \$400,000, of which \$50,000 is to pay debt to the participant, \$50,000 to pay debt to another lender, and \$300,000 is for the purchase of machinery and equipment. In this case a 25% participation would be required so that the lender's exposure in the loan will at least

EXPIRES 10/1/89

SBA Form 1353 (3-83)

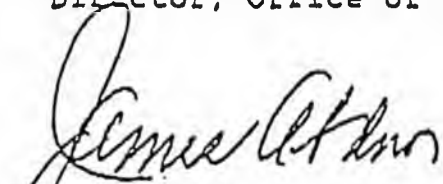
equal the loan amounts used for pre-existing debt payment. An alternative would be to reduce the loan by \$50,000, eliminating payment of the other lender if the participant is unwilling to take more than 15%, and if repayment ability would still exist.

- o Payment of trade payables is not considered debt repayment, but will be treated as working capital. Participating lenders may also continue to make interim advances in anticipation of reimbursement from SBA financing, as provided in SOP 50-10, paragraph 2d.(4).

These debt payment limitations are a temporary constraint to help manage the shortage of funds. In some regions restrictions have already been placed on debt payment. However we must have a consistent national policy. The constraints are effective until further notice.

These restrictions apply to all categories of 7(a) loan guarantees. Development Company (502 and 504) guarantees are not affected.

Any questions should be addressed to Everett Shell, Director, Office of Business Loans (FTS 653-6470)


 James Abdnor
 Administrator

2/16
 PER TELECONF WITH BOTH REGION & CENTRAL OFFICES:

- 1) REFINANCING PROHIBITION ALSO APPLIES TO FOIC
- 2) SBA DIRECT FUNDS (VIETNAM VETERAN LOANS) MAY NOT BE USED TO RETIRE AN OUTSTANDING GP LOAN
- 3) A NEW GP MAY NOT BE USED TO PURCHASE ORRO FROM THE SUBMITTING BANK - OK TO USE A NEW GP TO PURCHASE ANOTHER BANK'S ORRO
- 4) REFINANCING PROHIBITION APPLIES EVEN IF WE HAVE ALREADY RECEIVED A BANK WRITER ADVISING OF INTERIM FINANCING BEING USED TO PAY OFF SBA GP OR BANK DEBT.




ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY

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MEMORANDUM

TO: Board of Directors
Alaska Industrial Development and Export Authority

FROM: Bertram L. Wagnon
Executive Director 

DATE: February 27, 1989

SUBJECT: LOAN GUARANTY PROGRAM CHANGES

The Chair has requested that staff agenda the Loan Guaranty Program for consideration of several changes.

The first change would be to raise the allowable guaranty percentage from 70% to 80%.

The second change would be to amend the language that limits the guaranty to a percent of the loan and set the maximum guaranty at \$1 million irrespective of the loan size.

The third change would allow the Authority to pay pro rata costs of foreclosing and liquidating the collateral. Previously I have advised the Chair that this third change was not necessary in that it could be done by regulation. Counsel has reviewed this and strongly suggests that a statutory change is necessary here as well.

Mr. Jan Sieberts of the National Bank of Alaska appeared before the House Labor & Commerce Committee recommending such changes. Attached as Appendix "A" is a letter from Mr. Siebert's pertaining to this.

The Committee Chair requested that I draft changes for his Committee to consider and this memo is attached as Appendix "B". Appendix "C" is a subsequent memo advising the Committee that a statutory change is required to add a pro rata participation by the Authority in paying liquidation costs.

Loan Guaranty Program Changes

February 27, 1989

Page Two

Recently the SBA has eliminated the use of SBA Guarantees for refinancing of their own debt or that of third parties. This action has created considerable interest in amending the Authority's Loan Guaranty Program.

Of the three changes, the National Bank of Alaska has stated that a pro rata sharing of liquidation costs is the major impediment which is keeping them from participating in the program. I believe the legislature did intend that the loan guaranty would be limited to \$1 million and that in the actual drafting of the bill, language was worded in such a way that the limits reduced the guaranty to a maximum of \$700,000 (70% of \$1 million loan).

The 70% guaranty was inserted by the legislature on the floor of the Senate. Previous versions of the bill had 80%.

It is significant to note that three changes are being considered: 1) paying of liquidation costs; 2) raising the guaranty to \$1 million; and 3) raising the guaranty percentage to 80%. Remember that this is a program whereby the Authority guarantees a loan made by someone else. It also allows a bank to refinance an existing loan and have a guaranty be provided. While changes appear required if we want the National Bank of Alaska participation, changes 1 and 2 would seem to provide enough and still leave the bank responsible for only 30% of the risk.

BLW/ss
attachment(s)

January 27, 1989

Mr. Wes Coyner
3111 Douglas Highway
Juneau, AK 99801

Re: AIDEA Loan Guaranty Program

Dear Mr. Coyner:

The Alaska Legislature passed the Business Assistance Program Statute last year for implementation through the Alaska Industrial Development and Export Authority. Even though the legislation gave a good framework of a program to deal with, we feel that the regulatory process through which the program has been implemented created a program which is not being used by the banking system for business development. In particular, of the indicated items below, the first represents the major regulatory curtailment of the program while the remaining represent legislative problems. I have attempted to place these in order of importance.

1. Under the regulations the payment of the guaranty is made based on the principal balance at the time of liquidation and does not cover liquidation costs and protective advances in handling the defaulted loan. Our recommendation would be to change the regulations to cover liquidation, carrying costs, and protective advances in the handling of collateral. This is universally the case in participation loans, other government guaranteed programs, and AIDEA's other loan programs. Since AIDEA has the ability to approve a liquidation of collateral plan and is not required to pay the guaranty until such time as liquidation takes place, they could in fact stall the liquidation and the sale of the assets for many years, which would substantially increase or create prohibitive liquidation and protective advance expenses to the banks. We believe that this regulation in itself has destroyed the validity of the program.
2. We believe the guaranty amount should be increased from 70% to 90% to be consistent with the AIDEA umbrella loan program. For instance, under AIDEA's umbrella loan program, AIDEA effectively buys a 90% participation in loans rather than a 70% participation in the guaranteed loan program. The bond holders are providing the capital in the umbrella program as the Alaska banking system would under the guarantee program. It seems logical that they be consistent in their credit exposure from program to program. It should be noted that we understand that AIDEA

Mr. Wes Coyner
January 27, 1989
Page Two

is requesting legislation to reduce their participation amount to 80% in the umbrella loan program. If that is the case, we would think it reasonable to increase the guaranteed amount to 80% to be consistent. As a matter of fact, the federal SBA program will guarantee 90% of some loans with the most common guaranty at 85%.

3. The million dollar cap on the loan should be removed. As an example, a fish processing plant may require a loan of \$2,000,000 and we would like to have the opportunity to request a 35% guaranty from AIDEA. It has been our experience in larger complex projects requiring long-term capital that a variety of participants are brought together with different regulations to make a transaction work. We really think the limitation on a loan of \$1,000,000 was a drafting mistake in the legislation.
4. The loan guaranteed amount should be increased to \$1,000,000 as we believe was the intent of the original lawmakers. The law in its final form limited the amount of the loan to \$1,000,000 with a 70% guaranty or a \$700,000 maximum guaranty. As a matter of fact, since the implementation of the law the federal Small Business Administration's loan guaranty program has increased their guaranty to the amount of \$750,000 from \$500,000. The federal program is excellent, but does not work for all borrowers.

In my opinion, these are the major impediments to the AIDEA Business Assistance Program. Of course, the major fact is that AIDEA is not enthusiastic about implementing the program. Feel free to call upon me for any questions you may have.

Sincerely,

Jan Sieberts
Senior Vice President

lkr

cc: Bob Gray
Dick Hall

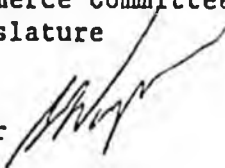


ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY

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M E M O R A N D U M

TO: The Honorable Members
House Labor & Commerce Committee
Alaska State Legislature

FROM: Bertram L. Wagnon 
Executive Director

DATE: February 21, 1989

SUBJECT: Loan Guaranty Program

At the hearing on House Bill 123 held this Saturday, it was requested that draft amendments to the Loan Guaranty Program be prepared for the committee's review.

The first change suggested at the hearing was that the percentage of allowable guaranty be increased from 70% to 80%. To effect this change, following is suggested language. AS 44.88.535(b) is amended to read:

"(b) The authority may provide a guarantee from the fund for up to [70] 80 percent of a loan that qualifies under AS 44.88.500 - 44.88.599. The ratio of the guarantee to the outstanding principal of the loan may not increase over the term of the loan."

The committee should be aware that this was changed from 80% to 70% on the floor of the legislature last session.

The second change involves the dollar limit on the guaranty. As currently written, the guaranty limit is expressed in terms of a loan of not more than \$1,000,000. It is the Author's opinion that Mr. Sieberts of the National Bank of Alaska is correct in that the legislature's intent was to limit the guaranty to a maximum of \$1 million irrespective of the loan size. To accommodate such changes the following language is suggested. AS 44.88.545 is amended to read:

Sec. 44.88.545. Limitations of Guarantees with respect to borrowers. The Authority may not provide a guarantee

(1) [a loan] of more than \$1,000,000

(2) [loans] to an individual borrower that cumulatively exceed \$1,000,000 of guaranteed indebtedness.

The net effect of such changes are that the maximum guaranteed transaction by the Authority would be \$1 million per loan regardless of the size of the loan and also that no borrower could have more than \$1 million of Authority guaranteed indebtedness.

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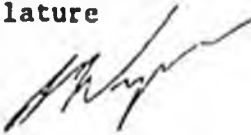


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M E M O R A N D U M

TO: The Honorable Members
House Labor & Commerce Committee
Alaska State Legislature

FROM: Bertram L. Wagnon 
Executive Director

DATE: February 22, 1989

SUBJECT: House Bill 123

At the teleconference Committee meeting on Saturday, considerable discussion was held concerning the Authority's Loan Guaranty Program and changes to that program suggested by Mr. Jan Sieberts of the National Bank of Alaska.

Language concerning the percentage of guaranty and language to allow a guaranty up to \$1 million was submitted for your consideration. Additionally, I advised the Committee that the third significant point of Mr. Sieberts, dealing with paying a pro rata share of liquidation assets could be handled by regulation and no statute change was necessary. After reviewing the existing law and conferring with counsel, I regret to inform you that counsel has strongly suggested that if it is the Committee's desire to make such a change, that the following amendment be inserted.

AS 44.88.560 is amended by adding a new paragraph to read:

(7) use money in this fund to pay expenses relating to the liquidation of collateral securing loans guaranteed by this fund to the extent the Authority considers it in its best interest to do so.

House Labor & Commerce Committee
February 22, 1989
Page Two

The Committee may wish to consider that in Mr. Sieberts testimony, he indicated that the greatest impediment to his bank's participation was the limitation on not paying liquidation costs of loans on a pro rata basis and if this were changed, his bank would participate in the program. Given that and as this is a Guaranty Program whereby the State through AIDEA will assume 70% of the risk, consideration should be given to perhaps leaving the banks at least 30% at risk. If the changes are made to raise the limit to \$1 million and pay pro rata costs of liquidation, having the banks maintain a 30% interest in the transaction could be very prudent.

BLW/ss

SBA NOTICE

Col. Train
Jan

NOTICE NO. 5000-242

TO: All RA's, ARA's F&I, DD's, and ADD's F&I

2-10-89

EFFECTIVE

SUBJECT: Temporary limitation on use of SBA 7(a) loan proceeds for repayment of debt

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EXPIRES 10/1/89

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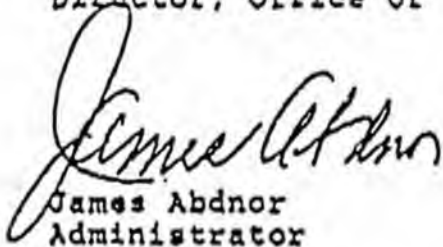
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Any questions should be addressed to Everett Shell, Director, Office of Business Loans (FTS 653-6470)


James Abdnor
Administrator

- 2/16
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ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY

1577 "C" STREET • SUITE 304 • ANCHORAGE, ALASKA 99501-5177 • (907) 274-1651

March 1, 1989

The Honorable Dave Donley, Chairman
House Labor & Commerce Committee
And The Honorable Members
House Labor & Commerce Committee
P.O. Box V
Juneau, Alaska 99811

Dear Representative Donley:

On Monday, February 27, 1989, the Authority Board Members conducted a meeting. The primary purpose being consideration of amendments to the Loan Guaranty Program.

The Board felt that two of the changes under discussion held merit and that statutory changes were appropriate in those two cases. Those dealt with raising the limit of the guaranty to \$1 million regardless of the loan size and providing for a sharing of liquidation costs on a pro rata basis in the event of a default. The third dealt with raising the guaranty from 70% to 80%, the directors felt that this was not an appropriate change.

Obviously your Committee has the power to make any statutory change they feel is appropriate. However, it seemed appropriate to have the Authority's rationale made available to the Committee during its deliberative process.

In considering the changes, the raising of the guaranty to \$1 million was what was contemplated by the original drafters of the legislation. In considering a pro rata sharing of liquidation costs, the National Bank of Alaska has stated that if that change was made, they would participate in the program.

House Labor & Commerce Committee
March 1, 1989
Page Two

The third change, which was rejected by the Authority Board, would have raised the amount of the Authority's guaranty on a bank loan from 70% to 80%. The Board felt that given the two approved changes and the fact that the largest bank in the State would participate in the program with the two changes, that raising the guaranty percentage to 80% was not prudent. One major ingredient to maintaining integrity within the program is to keep the participants at risk for a substantial enough share of the exposure to avoid the dumping of substandard loans on the State. In effect, a guaranty program is a risk transfer mechanism and the Board felt having the banks maintain a 30% exposure was the prudent course of action.

If I can be of any assistance to the Committee or answer any questions, please let me know.

Sincerely,



Bertram L. Wagnon
Executive Director

BLW/ss
attachment



CC
282123

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 27, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill authorizing the Alaska Industrial Development and Export Authority (AIDEA) to finance development enterprises.

The most significant provisions of this bill relate to AIDEA's ability to finance resource development projects that AIDEA intends to own or operate (such as the Red Dog Mine project). In this regard, the bill would permit AIDEA to issue up to \$25,000,000 of its bonds for such a project without requiring passage of a law approving the project. It would also permit AIDEA to transfer amounts among its various accounts to provide more financing flexibility. (Although the provisions [proposed AS 44.88.095(b) and (f)] requiring legislative approval before certain bonds exceeding specified amounts may be issued raise a constitutional question under the separation-of-powers doctrine, I know of the legislature's concern about bond issuance and I believe that it might be helpful to set out this procedure in the statutes, as a courtesy to the legislature.)

Another significant provision would require originating financial institutions to retain a higher percentage of a loan before it may sell it to AIDEA. Under existing law, a financial institution must retain 10 percent of a loan. AS 44.88.155(d). Under this bill, the originating financial institution must retain 20 percent of the loan. By increasing this requirement along with the amount that AIDEA can invest in or loan on projects, it is hoped that financial institutions will carefully select the projects for which they will extend credit.

This bill will allow AIDEA to gather together all funds and accounts established by law and administer them as a part of the revolving fund of the authority. AIDEA would be given the power to transfer freely between accounts within the

development fund so that it has the flexibility to adapt to the appropriate structure of a financing proposal presented to it for financing. AIDEA would be given the power to create separate accounts necessary to guarantee repayment of a bond issue if that action becomes necessary to make the bonds marketable.

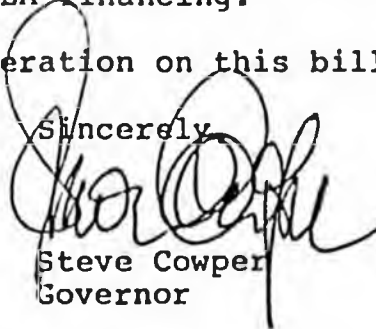
The bill also amends a provision in existing law which represents to investors in AIDEA bonds that the state might step in and make bond payments if the authority is unable to do so. This section acknowledges the state's moral obligation to back AIDEA's revenue bonds if the authority becomes insolvent. The bill would change this moral obligation representation to apply only to bonds issued on or before January 1, 1989.

The bill would expressly confer on AIDEA the power to share ownership of projects with private enterprises by either forming a partnership, joint venture, or other form of cooperative ownership agreement.

The bill would also amend the provision in existing law that prohibits AIDEA from purchasing loans from financial institutions that experience a two percent or greater delinquency rate on loans made by the institution. The bill would allow AIDEA to set the target delinquency rate by regulation. By adopting this technique, AIDEA will be given the flexibility to adjust the delinquency rate to reflect existing economic conditions. The inflexible rule in effect under existing law sets the rate too low to allow the majority of banks in the state to qualify for AIDEA financing.

I urge your favorable consideration on this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name and title.

Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: AIDEA
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Commerce & Econ. Dev.
BRU: AIDEA
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Existing staffing and budget of the Authority will be utilized to implement legislation. The primary focus of the Authority will shift from commercial/service sector financing to primary basic industries.

Prepared by: Bert Wagon, Executive Director Phone: 279-1651
Division: Alaska Industrial development & Export Authority Date: 1/25/1989
Approved by Commissioner: Larry Mercurieff, Commissioner Date: 1/26/89
Agency: Dept. of Commerce & Economic Development

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
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STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P. O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2500

ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY

April 13, 1989

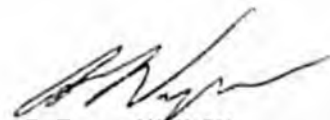
Honorable Peter Goll
Honorable Max Gruenburg
Members of the House Judiciary Committee
P.O. Box Y
Juneau, AK 99811

RE: CSHB 123

Several members of the committee have expressed concerns over the lack of legislative control with the passage of HB 123. In an effort to allow passage of the bill in the short time which remains it is suggested that the bill be amended lowering the \$25 million floor on legislative approval.

Current law provides for a 10 million ceiling after which legislative approval will be required.

A change such as proposed would allow several very important projects to progress and yet require that the individual projects themselves be subject to approval by the Legislature.



BERTRAM WAGNON, EXECUTIVE DIRECTOR

BL/cw9688c
41389a



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-586-5373

Y. Phipps - 4-24-89
73-89

GENERAL CONCERNS WITH HB 123 / SB 249 -- AIDEA

The Alaska Environmental Lobby has the following concerns regarding the proposed changes to the AIDEA statutes:

1. Analysis of the social and environmental impacts of a proposed project, including public review and comment based on that analysis, is not required.
2. A local hearing is required only if the project exceeds \$10,000,000.
3. No legislative approval is required on projects under \$25,000,000.

Requirements for public review and comment based on the analysis of economic, social, and environmental concerns need not be a stumbling block to economic development. These provisions would pave the way for resource development which is compatible with the community and the environment, based on informed decision-making. This would help ensure that future funds will not be spent for mitigating environmental damage and that environmental degradation will not impact existing industry within the area.

We believe that the proposed \$25,000,000 threshold for legislative approval is too high. Projects much smaller than that may involve major public policy decisions. We support the maintenance of the existing \$10,000,000 cap.

We appreciate your consideration of these issues.

Alan Phipps 4-24-89



ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY

1577 "C" STREET • SUITE 304 • ANCHORAGE, ALASKA 99501-5177 • (907) 274-1651

MEMORANDUM

RECEIVED APR - 4 1989

TO: The Honorable Peter Goll
House of Representatives, Alaska State Legislature

FROM: Bertram L. Wagnon
Executive Director *B. Wagnon*

DATE: April 3, 1989

SUBJECT: House Bill 123

Per our phone conversation I have attempted to set out below an explanation of the two areas of concern you mentioned on Thursday.

1. Public access to bonds issued by the Authority.

The debt issued by the Authority in the form of its bonds are sold through underwriting syndicates lead by a senior underwriter, Goldman Sachs & Company and Prudential Bache Securities. Efforts have been made to make these securities available to Alaskans by including brokerage houses that have offices in Alaska in the underwriting group. Dean Witter, Paine Webber and Merrill Lynch have all participated in our selling groups and all three have offices located in Anchorage. Due to the structure of our financings, about 2/3 of the volume is taken down by institutional buyers with the balance being sold to the retail market. This split between buyers changes over time with changes in the economy and lately continual changes in federal taxation policy. For example the 1986 tax code change made our bonds subject to A.M.T (the Alternative Minimum Tax) which in time will most likely cause fewer insurance companies to be buyers. All reasonable efforts are made to have our bonds available to the Alaska public at the initial public offering.

For background information, I have attached official statements from several of our past transactions for your review.

Honorable Peter Goll
April 3, 1989
Page Two

2. How loans are participated in by AIDEA.

The Authority functions as a participant to banks who make loans to Alaskan residents. An individual needing to obtain funds for a business would approach a bank of their choice.

The bank would evaluate the proposal and if satisfied with the credit aspects, would then forward the package to the Authority for its review. If the Authority concurs with the bank, the Authority will issue a commitment letter to the bank and once the bank has closed the loan, purchase its participation (usually 80%). The rationale for having the bank originate the transaction is to keep the private banking sector involved in making both money available to Alaska business as well as performing the credit analysis.

As you mentioned on smaller loans, some banks may not find it cost effective to go through the participation process and undoubtedly some smaller customers are not being served. Two avenues exist to address the particular needs of the very small loan.

The Federal SBA operates a program that many banks take advantage of. This program allows the banks to make a loan to a small business and have SBA guaranty up to 85% of the loan amount. This transfer of risk from the bank to the SBA often will entice a bank to make loans it otherwise could not.

A second alternative is the Authority's own Guaranty program (amendments to this program are contained in Sections 15, 16 & 17 of CSHB123 to make the program more acceptable to banks) operated by the Authority. This program operates similar to the SBA program and its intent is to once again entice banks to make loans to credit worthy businesses.

BLW/ss
attachment(s)



ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY

1577 "C" STREET • SUITE 304 • ANCHORAGE, ALASKA 99501-5177 • (907) 274-1651

TELECOPY

done
(S)

TO: The Honorable Peter Coll
House of Representatives
Alaska State Legislature

FROM: Bertram L. Wagnon, Executive Director
Alaska Industrial Development & Export Authority

SUBJECT: House Bill 123

DATE: April 3, 1989

TIME SENT: 9:56 a



THIS FORM PLUS 2 PAGES. PHONE CONTACT IF NOT RECEIVED PROPERLY IS (907) 274-1651. ATTENTION: Sharron.

THANK YOU.

NOTE: Original Memorandum with attachments will be hand delivered on Tuesday, April 4, 1989

THE FOLLOWING DOCUMENT HAS
NOT BEEN FILMED BUT IS
AVAILABLE IN THE ORIGINAL
FILE

NEW ISSUE

\$14,540,000

**Alaska Industrial Development and Export Authority
Taxable Umbrella Bonds I, Series 1987
(Taxable Medium Term Notes)**

Dated: Date of Delivery

Due: April 1, as shown below

The Bonds will be issuable in fully registerable form in denominations of \$5,000 or any whole multiple thereof. Principal of the Bonds is payable on April 1 of the years set forth below upon presentation and surrender thereof at the principal office of the Trustee, Rainier National Bank, Seattle, Washington. Interest on the Bonds is payable on April 1 and October 1 of each year, commencing October 1, 1987 by check or draft mailed to the registered owners thereof on the record date, which is the fifteenth day of the calendar month next preceding each interest payment date.

The Bonds are not subject to redemption prior to maturity.

Interest on the Bonds is includible in gross income of the recipient for United States income tax purposes.

Payment of the principal of, and 205 days' interest on, the Bonds is secured by an irrevocable direct pay Letter of Credit issued by

The Sumitomo Bank, Limited, Seattle Branch

The Bonds constitute general obligations of the Authority, and the full faith and credit of the Authority is pledged to the payment of the principal of and interest on the Bonds. The Bonds are further secured by the Taxable Umbrella Bond Capital Reserve Fund and the moneys, properties, assets and revenues described herein. The Authority does not have the power to levy taxes for any purpose. The Bonds do not constitute an indebtedness or liability of the State of Alaska and do not directly, indirectly or contingently obligate the State of Alaska to apply money from, or levy or pledge, any form of taxation whatever to the payment of the Bonds.

<u>Maturity (April 1)</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Maturity (April 1)</u>	<u>Amount</u>	<u>Interest Rate</u>
1988	\$ 230,000	7½%	1993	\$1,625,000	9.20%
1989	575,000	8.10	1994	1,710,000	9¾
1990	1,425,000	8.45	1995	1,340,000	9½
1991	1,500,000	8.80	1996	1,350,000	9.60
1992	1,550,000	9	1997	3,235,000	9.65

	<u>Public Offering Price</u>	<u>Underwriting Discount</u>	<u>Proceeds to the Authority (1)</u>
Per Bond	100%	1.20%	98.80%
Total	\$14,540,000	\$174,480	\$14,356,520

(1) Before deduction of expenses payable by the Authority.

The Series 1987 Bonds are offered by the undersigned, subject to the receipt and acceptance thereof and the right to reject any order in whole or in part. It is expected that delivery of the Series 1987 Bonds will be made at the office of Goldman, Sachs & Co., 85 Broad Street, New York, New York, on or about August 6, 1987.

Goldman, Sachs & Co. Prudential-Bache Capital Funding

July 28, 1987.

THE FOLLOWING DOCUMENT HAS
NOT BEEN FILMED BUT IS
AVAILABLE IN THE ORIGINAL
FILE

NOT A NEW ISSUE

In the opinion of Bond Counsel, subject to the limitations herein, interest on the Bonds is exempt from Federal income taxes under existing statutes, regulations, court decisions and rulings, except that no opinion is expressed as to the exemption from such taxes of interest on any Bond for any period during which such Bond is held by a person who, within the meaning of Section 103(b) of the Internal Revenue Code of 1954, as amended, is a substantial user of the facilities with respect to which the proceeds of the Bonds were used, or a related person. In the opinion of Bond Counsel, conversion of the interest rate on the Bonds will not cause the Bonds to be considered as having been issued after December 31, 1985 under the provisions of H.R. 3838 as passed by the U.S. House of Representatives on December 17, 1985. In the opinion of Bond Counsel, such interest is also exempt from taxation by the State except for inheritance, estate and bank franchise taxes and taxes on transfers by or in anticipation of death. See "Tax Exemption" herein.

\$11,000,000
Alaska Industrial Development Authority
Variable Demand/Fixed Rate Bonds

1984 Series A and 1984 Series B
Conversion to Fixed Interest Rates

Date of Issue: October 30, 1984

Date of Conversion to Fixed Interest Rates: March 14, 1986

Due: April 1, 2004

The Bonds were issued by the Alaska Industrial Development Authority (the "Authority") on October 30, 1984 as \$12,200,000 Variable Demand/Fixed Rate Bonds, 1984 Series A and 1984 Series B, bearing a variable interest rate and subject to conversion at any time to fixed interest rates at the option of the Authority. The Authority has exercised its option to convert the interest rate on the Bonds to fixed interest rates effective March 14, 1986. The Bonds were tendered for payment on the date of conversion and are being remarketed by the Underwriters.

The Bonds are issuable only in registered form in denominations of \$5,000 or any integral multiple thereof. Principal of, and premium, if any, will be payable at the main office of La Salle National Bank, Chicago, Illinois, as Trustee. Upon conversion of the interest rate on the Bonds to fixed interest rates, the Bonds will bear interest from March 14, 1986 payable on October 1, 1986 and semiannually thereafter on April 1 and October 1 by check or draft mailed to the registered owners thereof. The Bonds are subject to certain mandatory and optional provisions for redemption prior to maturity as described herein under the caption "Redemption Provisions."

The Bonds were issued by the Authority to finance the purchase of participations in qualified loans in the State of Alaska, as more fully described herein. The Authority is a public instrumentality of the State of Alaska in the Department of Commerce and Economic Development but with a separate and independent legal existence.

The Bonds constitute general obligations of the Authority, and the full faith and credit of the Authority is pledged to the payment of the principal of, redemption premium, if any, and interest on the Bonds. The Bonds are further secured by the Fixed Rate Capital Reserve Fund and the monies, properties, assets and revenues described herein. The Authority does not have the power to levy taxes for any purpose. The Bonds do not constitute an indebtedness or liability of the State of Alaska and do not directly, indirectly or contingently obligate the State to apply money from, or levy or pledge, any form of taxation whatever to the payment of the Bonds.

\$4,115,000 7½% 1984 Series A Term Bonds due April 1, 2004 @ 100%

\$6,885,000 7.70% 1984 Series B Term Bonds due April 1, 2004 @ 100%

The Bonds are offered when, as and if received by the Underwriters and subject to the approving legal opinion of Wohlforth & Flint, Bond Counsel, Anchorage, Alaska, as to validity and the exemption of interest thereon from Federal income taxation. Certain legal matters will be passed upon for the Underwriters by Preston, Thorgrimson, Ellis & Holman, Seattle, Washington. It is expected the Bonds in definitive form will be available for delivery in New York, New York on or about March 14, 1986.

Goldman, Sachs & Co.

Prudential-Bache
Securities

John Nuveen & Co.
Incorporated

February 26, 1986

THE FOLLOWING DOCUMENT HAS
NOT BEEN FILMED BUT IS
AVAILABLE IN THE ORIGINAL
FILE

NEW ISSUE

In the opinion of Bond Counsel, interest on the 1987A Bonds is exempt from Federal income taxes other than the alternative minimum tax and is exempt from taxation by the State except for net income tax of certain corporations, inheritance and estate taxes, and taxes on transfers by or in contemplation of death. See "Tax Exemption" herein.

\$103,250,000



Alaska Industrial Development Authority

**DeLong Mountain Transportation Project
Revenue Bonds, Series 1987A**

Dated: February 1, 1987

Due: April 1, as shown below

The 1987A Bonds will be issued as fully registered bonds and, when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"). DTC will act as securities depository of the 1987A Bonds. Individual purchases of interests in the 1987A Bonds will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple thereof. Purchasers of such interests will not receive certificates representing their interest in the 1987A Bonds. Principal and interest are payable directly to DTC by Rainier National Bank, Seattle, Washington, as Trustee for the 1987A Bonds. Principal is payable on the dates set forth below. Interest is payable semiannually on April 1 and October 1, commencing on October 1, 1987 (eight months' interest). Upon receipt of payments of principal and interest, DTC will in turn remit such principal and interest to the DTC Participants (as such term is herein defined) for subsequent disbursement to the purchasers of interests in the 1987A Bonds, as described herein. The 1987A Bonds will be subject to redemption prior to maturity as set forth herein.

The Authority is issuing the 1987A Bonds as part of the financing for the DeLong Mountain Transportation Project, under the DeLong Mountain Transportation Project Revenue Bond Resolution (as supplemented, the "Resolution"). The 1987A Bonds are payable solely from certain revenues of the Authority pledged by the Resolution and from certain funds and accounts held by the Trustee under the Resolution.

THE 1987A BONDS ARE NOT OBLIGATIONS OF THE STATE OF ALASKA AND ARE NOT GENERAL OBLIGATIONS OF THE AUTHORITY. NEITHER THE STATE NOR THE AUTHORITY HAS PLEDGED ITS FULL FAITH AND CREDIT TO THE 1987A BONDS.

The payment of the principal of (whether at maturity or upon mandatory sinking fund redemption, but not upon acceleration or optional redemption, as described herein) and interest on the 1987A Bonds will be unconditionally guaranteed under a municipal bond guaranty insurance policy to be issued by the



MUNICIPAL BOND INVESTORS ASSURANCE CORPORATION

<u>Maturity</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Maturity</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Maturity</u>	<u>Amount</u>	<u>Interest Rate</u>
1992	\$1,800,000	5.40%	1995	\$1,885,000	6 %	1999	\$2,395,000	6½ %
1993	1,685,000	5.60	1996	2,000,000	6.10	2000	2,550,000	6.60
1994	1,780,000	5.80	1997	2,120,000	6¼	2001	2,720,000	6.70
			1998	2,250,000	6.40			

(Price of all 1987A Bonds shown above: 100%)

\$52,485,000 7.20% 1987A Term Bonds due April 1, 2013 @100%

\$23,760,000 7.30% 1987A Term Bonds due April 1, 2017 @100%

(Accrued interest from February 1, 1987 to be added)

The 1987A Bonds are offered when, as and if received by the Underwriters and subject to the approving legal opinion of Brillard, Spahr, Andrews & Ingersoll, Bond Counsel, Washington, D.C., as to validity and the exemption of interest thereon from Federal income taxation. Certain legal matters will be passed upon for the Underwriters by Wohlforth, Flint & Gruening, Anchorage, Alaska. It is expected the 1987A Bonds in definitive form will be available for delivery to DTC on or about March 18, 1987.

Goldman, Sachs & Co.

Prudential-Bache Capital Funding

Dated: February 25, 1987

DATE	PAGE	ACTION
04/11/85 (S)	766	READ THE FIRST TIME - REFERRAL(S)
05/01/85 (S)	992	SA RPT CS 3DP INR NEW TITLE
05/01/85 (S)	992	FISCAL NOTE 58034
05/01/85 (S)	993	LETTER OF INTENT WITH SA REPORT
02/18/86 (S)	1858	FIN RPT CS 4DP 24R
02/18/86 (S)	1858	FISCAL NOTE 58051
02/19/86 (S)	1874	NEW TITLE OFFERED 2/19
02/25/86 (S)	1929	RULES TO CALENDAR 2/26
02/26/86 (S)	1930	READ THE SECOND TIME
02/26/86 (S)	1930	FIN CS ADOPTED UNAN CONSENT
02/26/86 (S)	1930	(S) ADOPTED SA LETTER OF INTENT
02/26/86 (S)	1931	HELD IN SECOND READING TO 2/27
02/27/86 (S)	1942	AM TO AM NO 1 ADOPTED UNAN CONSENT
02/27/86 (S)	1942	AM NO 1 AS AMENDED ADOPTED UNAN CONSENT
02/27/86 (S)	1943	AM NO 2 ADOPTED UNAN CONSENT
02/27/86 (S)	1943	ADVANCED TO THIRD READING UNAN CONSENT
02/27/86 (S)	1943	READ THE THIRD TIME CSSB 278 FIN AM
02/27/86 (S)	1943	PASSED Y17 N2 X1
02/27/86 (S)	1946	TRANSMITTED TO (H)
03/03/86 (H)	2263	READ THE FIRST TIME - REFERRAL(S)
05/05/86 (H)	3087	SA RPT HCS(SA) 5DP INR
05/05/86 (H)	3087	LETTER OF INTENT WITH SA REPORT
05/11/86 (H)	3381	JUD RPT HC(JUD) 4DP 3NR
05/12/86 (H)	3437	FIN RPT HCS(FIN) 2DP 6NR
05/12/86 (H)	3437	FISCAL NOTE HSE SUPPL 136
05/12/86 (H)	3437	RULES TO 2ND SUPPLEMENTAL CALENDAR 5/12
05/12/86 (H)	3472	READ THE SECOND TIME
05/12/86 (H)	3472	FIN HCS ADOPTED UNAN CONSENT
05/12/86 (H)	3473	ADVANCED TO THIRD READING UNAN CONSENT
05/12/86 (H)	3473	READ THE THIRD TIME HCS CSSB 278(FIN)
05/12/86 (H)	3473	PASSED Y23 N13 A2
05/12/86 (H)	3473	(H) ADOPTED HSE SA LETTER OF INTENT
05/12/86 (H)	3527	TRANSMITTED TO (S) AS AMENDED
05/12/86 (S)	2930	CONCUR AM OF (H) Y18 N1 A1
05/20/86 (S)	2960	1:40 PM 5/20/86 TRANSMITTED TO GOVERNOR
06/01/86 (S)	2977	SIGNED INTO LAW CHAPTER 60 SLA 86
06/03/86 (S)		EFFECTIVE DATE OF LAW 9/1/86

SB 279
CSSB 279 FIN

AN ACT TRANSFERRING AND APPROPRIATING CERTAIN LOANS TO THE ECONOMIC DEVELOPMENT FUND AND THE COMMERCIAL FISHING REVOLVING LOAN FUND, TRANSFERRING AND APPROPRIATING MONEY TO THE ECONOMIC DEVELOPMENT FUND; AND PROVIDING FOR EFFECTIVE DATES.

PRIME SPONSOR: RESOURCES COMMITTEE
CO-SPONSORS:

CURRENT STATUS: CHAPTER 67 SLA 85

DATE	PAGE	ACTION
04/11/85 (S)	766	READ THE FIRST TIME - REFERRAL(S)
04/29/85 (S)	962	RES RPT CS 4DP 1DNP INR NEW TITLE
05/01/85 (S)	993	FIN RPT CS 3DP 3NR NEW TITLE
05/01/85 (S)	993	FISCAL NOTE SENATE SUPPLEMENT 34
05/06/85 (S)	1069	RLS RPT CALENDAR TODAY
05/06/85 (S)	1070	READ THE SECOND TIME
05/06/85 (S)	1071	FIN CS ADOPTED UNAN CONSENT NEW TITLE
05/06/85 (S)	1072	ADVANCED TO THIRD READING UNAN CONSENT
05/06/85 (S)	1072	READ THE THIRD TIME CSSB 279 FIN
05/06/85 (S)	1072	PASSED Y20 N-
05/06/85 (S)	1073	EFFECTIVE DATES SAME AS PASSAGE
05/06/85 (S)	1074	FERGUSON NOTICE OF RECONSIDERATION
05/06/85 (S)	1074	RECONSIDERATION TAKEN UP UNAN CONSENT
05/06/85 (S)	1075	PASSED ON RECONSIDERATION Y19 N1

DATE	PAGE	ACTION
05/06/85 (S)	1075	EFFECTIVE DATES SAME AS PASSAGE
05/06/85 (S)	1094	TRANSMITTED TO (H)
05/06/85 (H)	1363	READ THE FIRST TIME - REFERRAL(S)
05/07/85 (H)	1386	FIN RPT 8DP 3NR
05/08/85 (H)	1428	RLS TO CALENDAR 5/8/85
05/08/85 (H)	1428	READ THE SECOND TIME
05/08/85 (H)	1428	ADVANCED TO THIRD READING UNAN CONSENT
05/08/85 (H)	1429	READ THE THIRD TIME CSSB 279(FIN)
05/08/85 (H)	1429	PASSED Y32 N5 X1 A2
05/08/85 (H)	1429	EFFECTIVE DATES SAME AS PASSAGE
05/08/85 (H)	1429	RINGSTAD NOTICE OF RECONSIDERATION
05/08/85 (H)	1425	RECON TAKEN UP SAME DAY UNAN CONSENT
05/08/85 (H)	1430	PASSED ON RECONSIDERATION Y32 N5 X1 A2
05/08/85 (H)	1430	EFFECTIVE DATES SAME AS PASSAGE
05/09/85 (H)	1430	RETURNED TO (S)
05/10/85 (S)	1221	9:30 AM 5/10/85 TRANSMITTED TO GOVERNOR
05/31/85 (S)	1364	SIGNED INTO LAW CHAPTER 67 SLA 85
06/06/85 (S)		EFFECTIVE DATE OF LAW SEE CHAPTER

SB 280

CSSB 280 FIN AM

AN ACT RELATING TO THE AUTHORIZATION OF BONDS OR NOTES FOR THE DELONG MOUNTAIN TRANSPORTATION PROJECT, ESTABLISHING CONDITIONS UNDER WHICH THE BONDS OR NOTES MAY BE ISSUED; AND PROVIDING FOR AN EFFECTIVE DATE.

PRIME SPONSOR: RESOURCES COMMITTEE
CO-SPONSORS:

CURRENT STATUS: CHAPTER 68 SLA 85

DATE	PAGE	ACTION
04/11/85 (S)	767	READ THE FIRST TIME - REFERRAL(S)
04/29/85 (S)	963	RES RPT CS 4DP 1DNP INR
05/01/85 (S)	993	FIN RPT CS 4DP 2NR
05/06/85 (S)	1069	RLS RPT CALENDAR TODAY
05/06/85 (S)	1073	READ THE SECOND TIME
05/06/85 (S)	1073	FIN CS ADOPTED UNAN CONSENT
05/06/85 (S)	1073	AM NO 1 ADOPTED UNAN CONSENT
05/06/85 (S)	1073	AM NO 2 ADOPTED UNAN CONSENT
05/06/85 (S)	1074	AM NO 3 ADOPTED UNAN CONSENT
05/06/85 (S)	1074	ADVANCED TO THIRD READING UNAN CONSENT
05/06/85 (S)	1074	READ THE THIRD TIME CSSB 280 FIN AM
05/06/85 (S)	1074	PASSED Y19 N1
05/06/85 (S)	1074	EFFECTIVE DATE SAME AS PASSAGE
05/06/85 (S)	1075	FERGUSON NOTICE OF RECONSIDERATION
05/06/85 (S)	1075	RECONSIDERATION TAKEN UP UNAN CONSENT
05/06/85 (S)	1076	PASSED ON RECONSIDERATION Y19 N1
05/06/85 (S)	1076	EFFECTIVE DATE SAME AS PASSAGE
05/06/85 (S)	1094	TRANSMITTED TO (H)
05/06/85 (H)	1363	READ THE FIRST TIME - REFERRAL(S)
05/07/85 (H)	1387	FIN RPT 7DP 4NR
05/07/85 (H)	1387	ZERO FISCAL NOTE
05/08/85 (H)		RLS TO CALENDAR 5/8/85
05/08/85 (H)	1430	READ THE SECOND TIME
05/08/85 (H)	1430	ADVANCED TO THIRD READING UNAN CONSENT
05/08/85 (H)	1431	READ THE THIRD TIME CSSB 280(FIN) AM
05/08/85 (H)	1431	PASSED Y32 N7 X1
05/08/85 (H)	1431	EFFECTIVE DATE SAME AS PASSAGE
05/08/85 (H)	1431	CLOCKSIN NOTICE OF RECONSIDERATION
05/08/85 (H)	1431	RECON TAKEN UP SAME DAY UNAN CONSENT
05/08/85 (H)	1432	PASSED ON RECONSIDERATION Y32 N7 X1
05/08/85 (H)	1432	EFFECTIVE DATE SAME AS PASSAGE
05/09/85 (H)	1432	RETURNED TO (S)
05/10/85 (S)	1221	9:30 AM 5/10/85 TRANSMITTED TO GOVERNOR
05/31/85 (S)	1365	SIGNED INTO LAW CHAPTER 68 SLA 85
06/06/85 (S)		EFFECTIVE DATE OF LAW 7/1/85

HB 217

CS FOR HOUSE BILL NO. 217 (JUD) by the Judiciary Committee, entitled:

"An Act relating to interest rates on judgments and decrees, interest rates on agreements subject to the provisions of AS 06 and AS 45, and certain interest rate preemptions by the federal government; and providing for an effective date."

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

COMMUNICATIONS

Posted April 29:

Notice of proposed changes in the regulations of the Department of Health and Social Services and the Department of Environmental Conservation, dealing with standards and requirements for X-rays, lasers and other radiation sources in the State of Alaska

STANDING COMMITTEE REPORTS

SB 279

The Resources Committee considered SENATE BILL NO. 279 (special appropriation to the economic development fund of Alaska Industrial Development Authority, transferring and appropriating certain loans to the economic development fund and the commercial fishing revolving loan fund; efd) and recommended it be replaced with

CS FOR SENATE BILL NO. 279 (RES), entitled:

"An Act transferring and appropriating certain loans to the economic development fund and the commercial fishing revolving loan fund; and providing for an effective date."

with a majority do pass. The report was signed by Senator Sturgulewski, Chairman and concurred in by Senators Coghill, Fahrenkamp and Zharoff. Senator Halford signed "do not pass". Senator Eliasson signed "no recommendation".

SENATE BILL NO. 279 was referred to the Finance Committee.

SB 280

The Resources Committee authorized the transportation bonds or replaced with

CS FOR SB

with a majority Sturgulewski, Zharoff and Fahrenkamp and Senator Eliasson

SENATE BILL NO.

SJR 22

The Resources Committee recommended SJR 22 (support for surimi by the committee recommended by Senator Sturgulewski, Fahrenkamp, Coghill, Fahrenkamp and Zharoff)

SENATE JOINT COMMITTEE.

HB 267

The Resources Committee recommended (RES) an (levy park facilities)

SENATE CS

with a majority Sturgulewski, Fahrenkamp and Zharoff and Senator Eliasson

It is the intent of the committee to use overnight use of the facilities a night for

CS FOR HOUSE BILL NO. 267 by the Finance Committee.

May 1, 1985

993

SB 278 cont'd"Letter of Intent
CSSB 278 (SA)

The driver license compact will enable the State of Alaska to exchange drivers' license records with twenty nine other member states.

It is the intent of the Senate State Affairs Committee that the increased fee schedule for drivers' licenses and permits cover the cost for implementing the driver license compact."

SENATE BILL NO. 278 was referred to the Finance Committee.

SB 279

The Finance Committee considered SENATE BILL NO. 279 (special appropriation to the economic development fund of Alaska Industrial Development Authority, transferring and appropriating certain loans to the economic development fund and the commercial fishing revolving loan fund; efd) and recommended it be replaced with

CS FOR SENATE BILL NO. 279 (FIN)

Senator Faiks, Co-Chairman, and Senators Sackett and Ferguson signed "do pass". Senators Kerttula, Paul Fischer and Eliason signed "no recommendation".

Department of Revenue and Department of Commerce and Economic Development fiscal notes appear in Supplement No. 34.

SENATE BILL NO. 279 was referred to the Rules Committee.

SB 280

The Finance Committee considered SENATE BILL NO. 280 (authorization of bonds or notes for the DeLong Mountain transportation project, establishing conditions under which the bonds or notes may be issued; efd) and recommended it be replaced with

CS FOR SENATE BILL NO. 280 (FIN)

with a majority do pass. The report was signed by Senator Faiks, Co-Chairman and concurred in by Senators Sackett, Paul Fischer and Ferguson. Senators Kerttula and Eliason signed "no recommendation".

HOUSE OF REPRESENTATIVES
 SENATE JOURNAL
 MAY 1, 1985

May 6, 1985

May 6, 1985

SB 279 cont'd

UNFINISHED BUSINESS

SENATE BILLS IN THIRD READING

CS FOR SENATE BILL NO. 279 (FIN) was before the Senate on re-
consideration.

The question to be reconsidered is: "Shall CS FOR SENATE BILL NO. 279 (FIN) (transferring and appropriating certain loans to the economic development fund and the commercial fishing revolving loan fund, transferring and appropriating money to the economic development fund; efd) pass the Senate?" The roll was taken with the following result:

CS SB 279 FIN RECON

Yeas: 19 Abood, Bennett, Coghill, DeVries,
Eliason, Fahrenkamp, Faiks,
Ferguson, Fischer Paul,
Fischer Vic, Halford, Josephson,
Kelly, Kerttula, Ray, Sackett,
Sturgulewski, Zharoff, Ziegler

Nays: 1 Rodey

and so, CS FOR SENATE BILL NO. 279 (FIN) passed the Senate on reconsideration.

Senator Halford moved and asked unanimous consent that the vote on the passage of the bill be considered the vote on the effective date clauses, Secs. 8 and 9. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 279 (FIN) was referred to the Secretary for engrossment.

SB 280

Senator Ferguson gave notice of reconsideration on CS FOR SENATE BILL NO. 280 (FIN) am (authorization of bonds or notes for the DeLong Mountain transportation project, establishing conditions under which the bonds or notes may be issued; efd) and moved and asked unanimous consent that it be taken up at this time. Without objection, it was so ordered.

SENATE BILLS IN THIRD READING

CS FOR SENATE BILL NO. 280 (FIN) am was before the Senate on reconsideration.

CSSCR 3(HESB)

(background checks on school district employees and contract workers who come into contact with children) and reports it back as follows: Gruenberg (Co-Chairman), Taylor, Hurley and Hanley recommend do pass.

CSSCR 3(HESB) was referred to the Judiciary Committee.

CSSB 51(Fin)

The Finance Committee has considered COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 51 (Finance) (state aid for school construction; effective date), recommends it be replaced with HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 51 (Finance) (same title) and reports it back as follows: Szymanski, Larson, Pourchot, Cotten, Frank and Rieger recommend do pass. Adams (Chairman), Duncan, Ringstad, Binkley and Uehling have no recommendation.

A new fiscal note was attached and appears in House Journal Supplement No. 66.

CSSB 51(Fin) was referred to the Rules Committee for placement on the calendar.

CSSB 74(Judiam)

The State Affairs Committee has considered COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 74 (Judiciary) amended (driving while intoxicated; effective date) and reports it back as follows: Hurley (Chairman), M.M. Miller and Boucher have no recommendation. Jenkins, Cato, Navarre and Collins recommend do pass.

CSSB 74(Judiam) was referred to the Judiciary Committee.

CSSB 279(Fin)

The Finance Committee has considered COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 279 (Finance) (transferring and appropriating certain loans to the economic development fund and the commercial fishing revolving loan fund, transferring and appropriating money to the economic development fund; effective date) and reports it back as follows: Adams (Chairman), Ringstad, Duncan, Binkley, Uehling, Cotten, Frank and Rieger recommend do pass. Szymanski, Larson and Pourchot have no recommendation.

CSSB 279(Fin) was referred to the Rules Committee for placement on the calendar.

CSSB 280(Fin)am

The Finance Committee has considered COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 280 (Finance) (state aid for school construction; effective date) and reports it back as follows: Adams (Chairman), Ringstad, Duncan, Binkley, Uehling, Cotten, Frank and Rieger recommend do pass. Szymanski, Larson and Pourchot have no recommendation.

A new zero fiscal note was attached and appears in House Journal Supplement No. 66.

CSSB 280(Fin)am was referred to the Rules Committee for placement on the calendar.

HCR 27

The State Affairs Committee has considered RESOLUTION NO. 27 (Department of Administration; information regarding the Department of Administration; effective date) and reports it back as follows: Collins, Cato and Navarre recommend do pass. Adams (Chairman), Duncan, Binkley, Uehling, Cotten, Frank and Rieger have no recommendation.

HCR 27 was referred to the Rules Committee for placement on the calendar.

HB 393

The Finance Committee has considered COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 393 (Finance) (rights of physical education; effective date) and reports it back as follows: Adams (Chairman), Ringstad, Duncan, Binkley, Uehling, Cotten, Frank and Rieger recommend do pass. Szymanski, Larson and Pourchot have no recommendation.

HB 393 was referred to the Rules Committee for placement on the calendar.

REJ

CSSB 78(Fin)

The House Special Committee has considered COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 78 (Finance) (making miscellaneous appropriations; effective date), and reports it back as follows: Sund (Chairman), Cotten and Frank recommend do pass. Adams (Chairman), Ringstad, Duncan, Binkley, Uehling, Cotten, Frank and Rieger have no recommendation.

CSSB 78(Fin) was referred to the Rules Committee for placement on the calendar.

May 8, 1985

May 8, 1985

CSSB 279(Fin)

CSSB 279(Fin) was read the third time.

Representative Martin rose to a point of order stating that debate was straying from the bill.

The Speaker asked members to confine their remarks to the bill before the House.

Representative Pourchot requested to abstain from voting due to a conflict of interest. Objection was noted, therefore Representative Pourchot was required to vote.

The question being: "Shall CSSB 279(Fin) pass the House?"
The roll was taken with the following result:

CSSB 279(FIN)

Yeas:	32	Adams, Binkley, Boucher, Cato, Collins, Cotten, Duncan, Frank, Fuller, Furnace, Gruenberg, Grussendorf, Hanley, Herrmann, Jenkins, Larson, Martin, Miller, M.M., Miller, M.W., Navarro, Pearce, Pignalberi, Pourchot, Rieger, Ringstad, Shultz, Sund, Szyranski, Taylor, Thompson, Uehling, Wallis
Nays:	5	Clocksln, Davis, Marrou, Pettyjohn, Phillips
Excused:	1	Koponen
Absent:	2	Goll, Hurley

And so, CSSB 279(Fin) passed the House.

Representative Clocksin moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clauses. There being no objection, it was so ordered.

Representative Ringstad gave notice of reconsideration of his vote on CSSB 279(Fin) and moved and asked unanimous consent that the reconsideration be taken up at this time.

Representative Clocksin objected and withdrew his objection.

and asked unanimous consent of the bill be considered the clause. There being no

to the Chief Clerk for

asked unanimous consent 5:30 p.m. There being no 5:31 p.m.

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DATE BILLS

BILL NO. 279 (Finance)
certain loans to the
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effective date) was read
Committee report (page:

asked unanimous consent
engrossed, advanced to
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was advanced.

CSSB 279(Fin)

Representative Cotten objected and withdrew his objection. There being no further objection, it was so ordered.

CSSB 279(Fin) was read the third time.

The question to be reconsidered: "Shall CSSB 279(Fin) pass the House?" The roll was taken with the following result:

CSSB 279(FIN) RECONSIDERATION

Yeas:	32	Adams, Binkley, Boucher, Cato, Collins, Cotten, Duncan, Frank, Fuller, Furnace, Gruenberg, Brussendorf, Hanley, Herrmann, Jenkins, Larson, Martin, Miller, M.M., Miller, M.W., Navarre, Pearce, Pignalberi, Pourchot, Rieger, Ringstad, Shultz, Sund, Szymanski, Taylor, Thompson, Uehling, Wallis
Nays:	5	Clocksln, Davis, Marrou, Pettyjohn, Phillips
Excused:	1	Koponen
Absent:	2	Goll, Hurley

And so, CSSB 279(Fin) passed the House on reconsideration.

Representative Clocksln moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clauses. There being no objection, it was so ordered.

CSSB 279(Fin) was signed by the Speaker and the Chief Clerk and returned to the Senate.

CSSB 280(Fin)am

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 280 (Finance amended (authorization of bonds or notes for the Deer Mountain transportation project, establishing conditions under which the bonds or notes may be issued; and providing for an effective date) was read the second time with Finance Committee report (page 1387).

Representative Clocksln moved and asked unanimous consent that CSSB 280(Fin)am be considered engrossed, advanced third reading and placed on final passage. There being no objection, it was so ordered.

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CSSB 280(FIN)Am

Yeas:

Nays:

Excused:

Absent:

And so, CSSB 280(

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(8) "revenues" means all fees, charges, money, profits, payments of principal of or interest on municipal bonds and other investments, gifts, grants, contributions, appropriations and all other income derived or to be derived by the bond bank authority under this chapter. (§ 1 ch 79 SLA 1975; am § 2 ch 48 SLA 1978; am §§ 1, 2 ch 23 SLA 1980; am §§ 78, 79, 88 ch 74 SLA 1985; am § 4 ch 118 SLA 1988)

Effect of amendments. — The 1985 amendment in paragraph (3) in subparagraph (A) substituted "that" for "which" and "29 45 590" for "AS 29 53 410" and in subparagraph (D) inserted "AS 29 47 440 or former" and made a minor punctuation change, and repealed paragraph (4), which defined "municipality"

The 1988 amendment, effective June 8, 1988, in paragraph (3), substituted "that" for "which" in the introductory language, deleted "or" at the end of subparagraphs (A)-(C), added "or" at the end of subparagraph (D), and added subparagraph (E)

Chapter 88. Alaska Industrial Development Authority.

Article

1. Creation and Organization (§§ 44.88.010, 44.88.060)
2. Purpose and Powers (§§ 44.88.070 — 44.88.085)
3. Financial Provisions (§§ 44.88.090 — 44.88.105, 44.88.130, 44.88.140, 44.88.155 — 44.88.159)
4. General Administrative Provisions (§§ 44.88.172, 44.88.190, 44.88.212)
5. Export assistance (§§ 44.88.300 — 44.88.390)
6. Small business economic development revolving loan fund (§§ 44.88.400 — 44.88.430)
- 6A. Business Assistance Program (§§ 44.88.500 — 44.88.599)
7. General Provisions (§ 44.88.900)

Article 1. Creation and Organization.

Section

10. Legislative finding and policy
60. Alaska Industrial Development and Export Authority revolving fund

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, small business, and business enterprises and the other facilities referred to in 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, small business, and business enterprises in Alaska and the other facilities referred to in this subsection are essential to the devel-

opment 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 health and growth of the state'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, 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, 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) 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 and raw materials and goods, and the rendering of services abroad by residents of the state through the establishment of a program that provides financial assistance in coop-

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eriation with federal, state, and private institutions for these purposes in the form provided in this chapter;

(C) creating the Alaska Industrial Development and Export 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;

(11) 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, small business, and business enterprises and the other facilities referred to in (a) of this section by creating the Alaska Industrial Development and Export Authority with the powers, duties, and functions as provided in this chapter.

(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 out 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, talent, raw materials, and services. (§ 1 ch 64 SLA 1967; am § 1 ch 64 SLA 1977; am §§ 44 — 48 ch 106 SLA 1980; am § 28 ch 115 SLA 1981; am § 3 ch 162 SLA 1984; am §§ 1, 2 ch 42 SLA 1987)

Effect of amendments. — The 1987 amendment in subsection (a) inserted "export, small business" in paragraph (3), in paragraph (4), and twice in paragraph (9), designated former paragraphs (5)-(7) as present paragraphs (9)-(11), added present paragraphs (5)-(8), in paragraph (10) inserted subparagraph designations and added the language of subparagraphs (B)

and (C); in subsection (b) inserted "export, small business" and substituted "(a)" for "(a)(5)," "Alaska Industrial Development Export Authority" for "public corporation" and "the powers, duties, and functions provided in this chapter" for "power, duties and functions as provided in AS 44.88.010 — 44.88.220", and added subsection (c).

Sec. 44.88.060. Alaska Industrial Development and Export Authority revolving fund. The Alaska Industrial Development and Export 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 or expended

for the purposes of the authority under this chapter. (§ 3 ch 42 SLA 1987)

Article 2. Purpose and Powers.

Section

70. Purpose of the authority

80. Powers of the authority

Section

85. Administrative procedure

Sec. 44.88.070. Purpose of the authority. The purpose of the authority is to promote, develop, and advance the general prosperity and economic welfare of the people of Alaska, to relieve problems of unemployment, and to create additional employment by

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

(2) owning and operating the enterprises and other facilities described in AS 44.88.172;

(3) fostering the expansion of exports of Alaska 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 the state;

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

(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. (§ 1 ch 64 SLA 1967; am § 54 ch 106 SLA 1980; am § 31 ch 115 SLA 1981; am § 4 ch 162 SLA 1984; am § 4 ch 42 SLA 1987)

Effect of amendments. — The 1987 amendment inserted paragraph designations, in paragraph 1) inserted "in cooperation with federal, state, and private institutions" and "export, small business" and substituted "AS 44.88.010(a) in" for

"AS 44.88.010(a)(5) within," added "described in AS 44.88.172" at the end of paragraph (2), added the language of paragraphs (3)-(6), and made other minor word and punctuation changes.

Sec. 44.88.080. Powers of the authority. In furtherance of its corporate purposes, the authority has the following powers in addition to its other powers:

(1) to sue and be sued;

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

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

ch 42 SLA

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

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

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

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

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

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

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

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

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

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

(14) to acquire, manage, and operate projects as the authority considers necessary or appropriate to serve a public purpose;

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

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

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

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

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

(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 under regulations adopted by the authority;

(24) to provide financing assistance, in cooperation with federal, state, and private institutions, as provided in this chapter for small business enterprises. (§ 1 ch 64 SLA 1967; am §§ 55 — 59 ch 106 SLA 1980; am §§ 32, 33 ch 115 SLA 1981; am § 5 ch 162 SLA 1984; am §§ 5, 6 ch 42 SLA 1987)

Effect of amendments. — The 1987 amendment substituted the present language of paragraph (7) for "to issue bonds, in accordance with AS 44.88.090, to pay

the cost of a project and to secure payment of the bonds as provided in this chapter" and added paragraphs (20)-(24).

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

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Effect of amendments. — The 1987 amendment deleted "(b) — (e)" preceding "this section" in the second and last sentences of subsection (a), rewrote subsection (c), deleted "on a subject specified in (c) of this section" following "repeal of a regulation" in the first sentence of subsection (d), in subsection (e) in the first sentence deleted "on a subject specified in (c) of this section" following "repeal of a regu-

lation" and "loan and bonding" preceding "programs," and in the second sentence deleted "covering a subject specified in (c) of this section" following "emergency regulation", in subsection (f) deleted "(b) — (e) of preceding "this section" and substituted "another time specified" for "such other time as specified", and added subsections (g) and (h).

Article 3. Financial Provisions.

Section	Section
90 Bonds of the authority	155 Enterprise development account
100 Trust indentures and trust agreements	156 [Repealed]
105 Capital reserve funds and capital reserve fund requirement	157 Loan insurance and loan insurance account
130 Pledge of the state	158 Small business enterprise loan account
140 Exemption from taxation	159 Interest rates

Sec. 44.88.090. Bonds of the authority. (a) Subject to (g) of this section, the authority may borrow money and may issue bonds, including but not limited to bonds on which the principal and interest are payable

(1) exclusively from the income and receipts or other money derived from the project 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.

(b) Bonds shall be authorized by resolution of the authority, and be dated and shall mature as the resolution may provide, except that a bond may not mature more than 40 years from the date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption which the resolution or a subsequent resolution may provide.

(c) All bonds, regardless of form or character, shall be negotiable instruments for all the purposes of AS 45.01 — AS 45.09 (Uniform Commercial Code).

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

(e) Before issuing bonds, the authority shall provide for consideration 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 for the payments that the authority considers necessary or desirable, and to meet all obligations in connection with the lease or 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. If the bonds are being issued to finance a project or projects under AS 44.88.155 — 44.88.159, then the consideration shall be provided by lease or other agreement regarding the project or projects. If the bonds are being issued to finance a development project or development projects under AS 44.88.172 — 44.88.177, then the consideration shall be provided by lease or other agreement regarding the development project or development projects. 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, then the consideration shall be provided by agreement with the exporter.

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

(g) The authority may not

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

(2) issue revenue bonds other than refunding bonds for a project under AS 44.88.155 — 44.88.159, for a development project under AS 44.88.172 — 44.88.177, or to provide money to finance, guarantee, or insure an exporting transaction under AS 44.88.300 — 44.88.390, in an amount greater than \$50,000,000 during any 12-month period beginning after June 30, 1981, unless the issuance is included separately in the estimates required in the report of the authority under AS 44.88.210(b) and unless the legislature, by law, approves the issuance.

(h) The authority may combine, for the purposes of a single offering, bonds financing more than one project or development project under AS 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, and bonds issued to provide money to finance, guarantee, or insure an exporting transaction under AS 44.88.300 — 44.88.390.

(i) After January 1, 1990, the authority may not issue bonds, other than refunding bonds, without securing the prior approval of the legislature. (1 ch 64 SLA 1967; am §§ 60, 61 ch 106 SLA 1980; am § 35

This language is in Sec 7 of bill introduced (a) & (b) except \$50,000,000 is deleted with the new limit.

ch 115 SLA 1981; am §§ 13 — 16 ch 42 SLA 1987; am § 1 ch 162 SLA 1988)

Effect of amendments. — The 1987 amendment in subsection (a) in paragraph (1) inserted "or development project" and "or derived from the exporter or exporting transaction financed, guaranteed, or insured with the proceeds of the bonds," in paragraph (2) inserted "or development projects or other sources" and "insured, or guaranteed," and made minor punctuation changes, rewrote subsection

(c), in subsection (g)(2) substituted the language beginning "AS 44.88.155" and ending "44.88.390" for "this chapter", and in subsection (h) substituted the language beginning "or development" and ending "44.88.390" for "AS 44.88.010 — 44.88.220."

The 1988 amendment, effective June 17, 1988, added subsection (i)

Sec. 44.88.100. Trust indentures and trust agreements. In the discretion of the authority, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee (which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee (hereinafter in this section referred to as "trust agreement") by means of which the authority may:

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

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

(B) the fixing and collection of rents or other consideration for, and the other terms to be incorporated in a lease or contract of sale of a project or development project financed under AS 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, or of a facility that is part of an exporting transaction financed, guaranteed, or insured under AS 44.88.300 — 44.88.390;

(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 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, or of a facility that 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 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, or with respect to a facility that 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 bondholders;

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

(E) the vesting in a trustee of rights, powers, duties, funds or property in trust for the benefit of bondholders, including, without limitation, the right to enforce payment, performance and all other rights of the authority or of the bondholders under a lease, contract of sale, mortgage, security agreement, or trust agreement with respect to a project or development project financed under AS 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, or with respect to a facility is a 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 a project or facility and collecting rents or other consideration and applying the same in accordance with the trust agreement;

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

(3) provide for any other matters of like or different character which in any way affect the security or protection of the bonds. (§ 1 ch 64 SLA 1967; am § 17 ch 42 SLA 1987)

Effect of amendments. — The 1987 amendment in paragraph (1) in subparagraph (B) added the language beginning "or development project," in subparagraph (C) inserted in two places the language beginning "or development project" and ending "44 88 390," and in subparagraph (E) inserted the language beginning "or development project" and ending "44 88 390" and inserted "or facility."

Sec. 44.88.105. Capital reserve funds and capital reserve fund requirement. (a) For the purpose of securing one or more issues of its bonds, the authority may establish one or more special funds, called "capital reserve funds", and shall pay into those capital reserve funds the proceeds of the sale of its bonds and other money which may be made available to the authority from other sources for the purposes of the capital reserve funds. A capital reserve fund may be established only if the authority determines that the establishment of the fund would enhance the marketability of the bonds, and if those costs of a project, as defined in AS 44 88.900, which are to be financed with the proceeds of the bonds, do not exceed \$10,000,000. Money in a capital reserve fund, except as provided in this section, may be used as required only for (1) the payment of the principal of, and interest on, bonds or of the sinking fund payments with respect to those bonds; (2) the purchase or redemption of the bonds; or (3) the payment of a redemption premium required to be paid when the bonds are redeemed before maturity. However, money in a capital reserve fund may not be withdrawn if the withdrawal would reduce the amount in the capital reserve fund to less than the capital reserve requirement, except for the purpose of making payment, when due, of principal, interest, redemption premiums on the bonds, and sinking fund payments when other money of the authority is not available for the

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payments. Income or interest earned by, or increment to, a capital reserve fund, from the investment of all or part of the fund, may be transferred by the authority to other funds or accounts of the authority if the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

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

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

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

(e) 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 or development project being financed under AS 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, 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.

(f) The authority may establish reserve funds, other than capital reserve funds, to secure one or more issues of its bonds. The authority may deposit in a reserve fund established under this subsection the proceeds of sale of its bonds and other money which may be made available from any other source. A reserve fund established under this subsection must comply with (a) — (c) of this section. The authority may allow a reserve fund established under this subsection to be depleted without complying with (d) of this section.

(g) Notwithstanding any other provision of this section, the authority may waive or modify the requirements of (a) of this section establishing maximum costs of \$10,000,000 for a project and the requirements of (e) of this section as it considers appropriate and prudent in order to finance a project if the authority intends to own the project.

However, if the authority intends to lease or otherwise permit the state to use or occupy a majority of the project, the authority may only establish a reserve fund under (f) of this section to secure bonds issued to finance a project.

(h) In this section, "capital reserve fund requirement" means the amount required to be on deposit in the capital reserve fund as of the date of computation as determined by resolution of the authority. (§ 62 ch 106 SLA 1980; am §§ 36, 37 ch 115 SLA 1981; am § 6 ch 162 SLA 1984; am § 18 ch 42 SLA 1987)

Revisor's notes. — Reorganized in 1987 to place the definition at the end of the section.

Effect of amendments. — The 1987

amendment added the language beginning "or development project" and ending "44.88.390" in subsection (e).

Sec. 44.88.130. Pledge of the state. The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency that lends or contributes funds in respect to a project or development project financed under AS 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, 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 in any way impair the rights and remedies of the holders until the bonds, together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders are fully met and discharged. The authority is authorized to include this pledge and agreement of the state insofar as it refers to holders of bonds of the authority, in a contract with the holders and, insofar as it relates to a federal agency, in a contract with the federal agency. (§ 1 ch 64 SLA 1967; am § 19 ch 42 SLA 1987)

Effect of amendments. — The 1987 amendment in the first sentence substituted "that lends" for "which loans" and inserted the language beginning "or de-

velopment project" and ending "44.88.390" and inserted "and that the state will not" and made other minor word and punctuation changes.

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 AS 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, and a leasehold interest created in a project or development project financed under AS 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, devoted to an essential public and governmental function and purpose, and the property, assets, income, receipts, project, development project, and leasehold

Sec. 44.88.155. Enterprise development account. (a) The enterprise development account is established in the revolving fund. The enterprise development account is a trust fund for the uses and purposes of this chapter. The enterprise development account consists of money or assets appropriated or transferred to the authority and other money or assets deposited in it by the authority.

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

(c) Money and other assets of the enterprise development account may be used to secure bonds of the authority issued to finance the purchase of loans for projects and shall be held and invested by the authority in accordance with AS 37.10.071 or shall be used to purchase loans for projects.

(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 44.88.158;

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

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

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

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

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

(7) may not be made unless

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

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

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

(B) financed from the proceeds of bonds; or

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

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

(f) The authority may enter into agreements as to the use of the money in the enterprise development account, 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 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.

(g) Notwithstanding any other provision of this section, the author-ity may waive or modify the requirements of this section as it con-siders appropriate and prudent in order to finance a project if the authority intends to own the project.

(h) The provisions of this section apply only with respect to loans purchased or made by the authority for projects under AS 44.88.155 — 44.88.159. (§ 65 ch 106 SLA 1980; am § 38 ch 115 SLA 1981; am § 7 ch 162 SLA 1984; am §§ 21 — 27 ch 42 SLA 1987; am § 32 ch 141 SLA 1988)

Effect of amendments. — The 1987 amendment substituted "account" for "fund" in the catchline; in subsection (a) substituted "account" for "fund" through-out the subsection, in the first sentence substituted "revolving fund" for "author-ity," and in the second sentence substi-tuted "this chapter" for "AS 44.88.010 — 44.88.220"; in subsection (b) substituted "account" for "fund"; in subsection (c) substituted "account" for "fund," inserted "is-sued to finance the purchase of loans for projects," and deleted "as defined in AS 44.88.220" at the end of the subsection; in subsection (d) inserted "with assets of the enterprise development account or with

proceeds of bonds secured by assets of the enterprise development account" and de-leted "or" at the end of paragraph (8)(A); in subsection (e) substituted "account in-cluding" for "fund which may include"; in subsection (f) substituted "account" for "fund" in two places and added "issued to finance the purchase by the authority of loans for projects" at the end of the subsec-tion; and added subsection (h).

The 1988 amendment, effective June 9, 1988, substituted "in accordance with AS 37.10.071" for "in the types of investments described in AS 37.10.070(a) and AS 39.35.110(a)(9) and (14)" in subsection (c).

Sec. 44.88.156. Multi-family housing loan account. [Repealed, § 44 ch 42 SLA 1987.]

Sec. 44.88.157. Loan insurance and loan insurance account.

(a) The loan insurance account is established in 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 44.88.155, or made by others and approved for insurance by the authority, for a project. The authority may enter into agreements as to the use of money in the loan insurance account and may pledge, assign, or grant interests in the loan insurance account as provided in this section. The authority may adopt regulations and enter into agreements with respect to the exercise of any power or approval relating to the loan insurance account under this section, including, without limitation, agreements as to the use of money in the loan insurance account, agreements with respect to the terms and conditions upon which payments from the loan insurance account will be made with respect to a loan insured under this section, agreements as to separate subaccounts in the loan insurance account for different categories of loans or as to loans made by the authority or any other person, and agreements regarding the payment of and security for bonds issued by the authority. An agreement, the rights of the authority under an agreement, or payments received or to be received under an agreement may be pledged or assigned by the authority for the benefit of the holders of bonds issued by the authority.

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

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

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

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

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

(g) On December 1 of each year the authority shall determine the amount on deposit in the loan insurance account and in each subaccount in the loan insurance account. If the amount in the loan insurance account or the amount in a subaccount in the loan insurance account is less than the fund requirement for the account or for the subaccount, the authority shall transfer the amount necessary to restore the loan insurance account or the subaccount to the fund requirement. The transfer shall be made from available money which is

not encumbered or restricted for other use under the terms of contracts with bondholders or others. If sufficient money is not available for transfer, the chairman of the authority shall, no later than January 2 of the following year, certify in writing to the governor and to the legislature the amount, if any, required to restore the account or a subaccount to the fund requirement. The legislature may appropriate the amount certified and the authority shall deposit in the account or proper subaccount the amounts appropriated by the legislature for the purposes of this subsection during the then current state fiscal year. Nothing in this subsection creates a debt or liability of the state.

(h) A contract of insurance executed by the authority under this section is conclusive evidence of eligibility for the insurance. The validity of a contract of insurance executed by the authority or of an advance commitment to insure is incontestable from the date of the execution of the contract or commitment, except for fraud or misrepresentation on the part of the insured or, as to commitments to insure, noncompliance with the terms of the advance commitment or authority regulations in force at the time of issuance of the advance commitment.

(i) Notwithstanding (a) — (h) of this section, the authority may establish additional insurance accounts to secure special obligation bonds, and may pay into an insurance account established under this subsection money made available from an appropriation or any other source. An insurance account established under this subsection is not subject to the requirements of (d) and (g) of this section.

(j) A loan may not be insured under this section if the loan is for a project the cost of which exceeds \$10,000,000.

(k) A loan in excess of \$1,000,000 may not be insured under this section unless at least 10 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.

(l) In this section:

(1) "loan insurance commitment fee" means a fee which is a percentage of the principal amount of a loan to be insured under this section determined by the authority to be actuarially sound for the operation of the loan insurance account;

(2) "loan insurance premium" means an annual insurance premium which is a percentage of the portion of the unpaid principal amount of a loan insured under this section determined by the authority to be actuarially sound for the operation of the loan insurance account or any subaccount. (§ 65 ch 106 SLA 1980; am § 39 ch 115 SLA 1981; am §§ 28 — 31 ch 42 SLA 1987)

Revisor's notes. — Reorganized in 1987 to place the definitions subsection at the end of the section.

Effect of amendments. — The 1987 amendment in subsection (a) added the first sentence and inserted "under AS 44.88.155" in the second sentence. in the

introductory language of subsection (b) substituted "this section" for "AS 44.88.010 — 44.88.220"; and in subsections (j) and (k) substituted "under this section" for "from a loan insurance account within the enterprise development fund."

Sec. 44.88.158. Small business enterprise loan account. (a) A small business enterprise loan account is established in the revolving fund. The account may be composed of money or assets appropriated or transferred to the authority, interest on investments and loans of the small business enterprise loan account, the unpledged income of the revolving fund, and other money or assets deposited in it by the authority.

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

(c) *[Repealed, § 44 ch 42 SLA 1987.]* (§ 65 ch 106 SLA 1980; am § 40 ch 115 SLA 1981; am §§ 32, 33, 44 ch 42 SLA 1987)

Effect of amendments. — The 1987 amendment inserted "business" in the catchline; in subsection (a) inserted "business" and substituted "revolving" for "enterprise development" in the first and last sentences; and in subsection (b) inserted "business" preceding "enterprise" in two

places and "purchase or participate in the purchase of loans to small business enterprises and to" and substituted "or exporting transaction" for "as defined AS 44.88.220"; and repealed subsection (c), concerning loan purchases.

Sec. 44.88.159. Interest rates. (a) The interest rate on a loan financed from the proceeds of tax-exempt bonds or expected by the authority to be financed from the proceeds of tax-exempt bonds is equal to the cost of funds to the authority. In this subsection "cost of funds" means the true interest cost expressed as a rate on tax-exempt bonds of the authority plus an additional percentage as determined by the authority to represent the allocable expenses of operation, costs of issuance, and loan servicing.

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

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Sec. 44.88.160. Findings of the authority. Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project for which bonds are agreed to be issued by the authority in an amount in excess of \$6,000,000, or before approving insurance or a commitment to insure a loan as provided in AS 44.88.157(b) with a principal amount in excess of \$6,000,000, there must have been filed with the authority a certified copy of a resolution of the governing body of the political subdivision of the state, if any, in which the project is to be located, consenting to the location (which consent need only refer to the general nature of the project ultimately to be acquired as set out in a request of the proposed project applicant). Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project, the authority must find, on the basis of all information reasonably available to it, that

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

(2) the project applicant is financially responsible;

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

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

(5) the scope of the project is sufficient to provide a reasonable expectation of a benefit to the economy of the state. (§ 1 ch 64 SLA 1967; am § 66 ch 106 SLA 1980)

Revisor's notes. — Formerly AS 44.61.160. Renumbered in 1980.

Effect of amendments. — The 1980 amendment divided the former section into two sentences by deleting "and", in the present first sentence, inserted "as provided in AS 44.88.090(e)" near the beginning, substituted the language beginning "for which bonds are agreed to be issued" and ending "principal amount in excess of \$6,000,000" for "as mentioned

in AS 44.88.090(e)" near the middle, and substituted "applicant" for "occupant" at the end, and in the second sentence, added "Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project" to the beginning, substituted "applicant" for "occupant" in paragraph (2), deleted "and" from the end of paragraph (2), and added paragraphs (4) and (5).

Sec. 44.88.165. Delinquent loans. If more than two percent of the total outstanding balance of loans purchased from a financial institution under this chapter becomes delinquent for 90 days or more, the authority shall discontinue purchasing loans from that financial institution for which it has not already made a purchase commitment and may not make new commitments to purchase loans from that financial institution until the delinquency is reduced to less than two percent. (§ 42 ch 115 SLA 1981; am § 55 ch 113 SLA 1982)

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

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

(d) The provisions of this section apply only to loans financed under AS 44.88.155 — 44.88.159. (§ 41 ch 115 SLA 1981; am § 54 ch 113 SLA 1982; am § 34 ch 42 SLA 1987)

Effect of amendments. — The 1987 amendment added subsection (d)

Article 4. General Administrative Provisions.

<p>Section 172 Economic development account 190 Operation of certain statutes excepted</p>	<p>Section 212 Fees charged by authority</p>
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Sec. 44.88.172. Economic development account. (a) The economic development account is established in the revolving fund. The account consists of money or assets appropriated, loaned, or transferred to the authority, and other money or assets deposited in the account by the authority. The account may 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, the authority may not pledge or use assets of the enterprise development account established in AS 44.88.155 to assist in the financing, development, or operation of the development project. However, whether or not the authority uses the economic development account, 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.

(c) The authority may not issue bonds to assist in the acquisition, financing, or operation of a development project under this section without prior legislative approval. (§ 8 ch 162 SLA 1984; am §§ 35, 36 ch 42 SLA 1987)

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finance the total cost of the project. The finance plan must also include an estimate of the operational costs of the completed project, as well as a description of the source of the money that is to be used to pay the operational costs.

(b) The authority shall give preference to a project that does not require financial assistance from the state. If the authority determines that a project requires state financial assistance, and if the authority further determines that it is desirable to finance the project, the authority shall recommend a method of financing that minimizes cost to the state. A finance plan required under (a) of this section must identify the method of financing that minimizes the cost to the state.

(c) The authority shall submit a finance plan prepared under this section to the state bond committee, the governor, and the legislature before issuing bonds or otherwise incurring debt for the project. If a project requires financial assistance from the state, the state financial assistance must be available before bonds are issued for the project. (§ 8 ch 162 SLA 1984)

Sec. 44.88.174. Regional resource advisory council. (a) Within 30 days after the authority adopts a resolution certifying that a project in the unorganized borough is eligible for financing under AS 44.88.172, the governor shall appoint a Regional Resource Advisory Council in the area of the state where the project is to be located and for which a regional housing authority has been established under AS 18.55.996. The purpose of a council is to assist the authority in reviewing a project that has been proposed for development in its area of the state.

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

(c) Members of a Regional Resource Advisory Council do not receive compensation for their services on the council, but are entitled to per diem and travel expenses authorized by law for state boards and commissions under AS 39.20.180. (§ 8 ch 162 SLA 1984)

Sec. 44.88.175. Requirements prior to approval of projects. (a) Before entering into an agreement to finance or to develop a proposed project with a cost in excess of \$10,000,000 that is financed under AS 44.88.172, the authority shall obtain the approval of each Regional Resource Advisory Council or municipality in the area in which the

proposed project is to be located. Approval under this subsection must be evidenced by a certified copy of a resolution of the council or of the governing body of the municipality.

(b) Before approving a project financed under AS 44.88.172 for which bonds must be issued, the authority shall

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

(2) find, on the basis of all information reasonably available to it, that

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

(B) the project applicant is financially responsible;

(C) the project is economically and financially feasible and able to produce revenue adequate to repay the bonds or loans with which it is financed;

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

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

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

(G) the project is in compliance with applicable law; and

(H) issuance of the bonds is not expected to adversely affect the ability of the state or any political subdivision of the state to market other bonds. (§ 8 ch 162 SLA 1984)

Sec. 44.88.176. Hearing to consider proposed project. Before considering a resolution regarding the approval or rejection of the development or financing of a proposed project with a cost in excess of \$10,000,000, that is financed under AS 44.88.172, a Regional Resource Advisory Council shall conduct a public hearing within the region. If a proposed project is located within a municipality, the governing body of a municipality shall conduct a hearing on the proposed project. (§ 8 ch 162 SLA 1984)

Sec. 44.88.177. Operation of projects. If a project is financed under AS 44.88.172, the authority shall solicit the review and advice of the Regional Resource Advisory Council or governing body in the area in which a project is located before the execution of contracts, agreements, resolutions, or other matters that directly concern the development, maintenance, and operation of a project. (§ 8 ch 162 SLA 1984)

Sec. 44.88.180. Conflicts of interest. (a) A member of the authority may not vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if the

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Effect of amendments. — The 1987 amendment substituted "account" for "fund" in the catchline and throughout the section; in subsection (a) substituted "revolving fund" for "authority" at the end of the first sentence, and in the third sentence deleted "only" preceding "be used" and inserted "only" following "be used," and inserted "development", in

subsection (b) inserted "development" preceding "project" throughout the subsection, in the first sentence deleted "other" preceding "assets" and substituted "enterprise development account established in AS 44.88.155" for "authority," deleted "as provided in Sec. 10 of this Act" at the end of the second sentence and added the last sentence, and added subsection (c).

Sec. 44.88.190. Operation of certain statutes excepted. (a) The authority shall not be considered or constitute (1) a political subdivision of the state as the term is used in AS 37.10.085, (2) a municipal corporation or political subdivision of the state as the terms are used in AS 29, or (3) except as provided in AS 44.88.205, a state agency as the term is used in AS 37, but for all other purposes the authority constitutes a political subdivision and an instrumentality of the state as provided in this chapter.

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

(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 under AS 44.88.390 does not constitute insurance for the purposes of AS 25.03.010. (§ 1 ch 64 SLA 1967; am § 67 ch 106 SLA 1980; am § 37 ch 42 SLA 1987)

Effect of amendments. — The 1987 amendment added subsection (c).

Sec. 44.88.212. Fees charged by authority. (a) An application fee may not be charged for an application for authority participation in a loan under AS 44.88.158.

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

(c) The authority may not limit, or charge a fee or penalty for, prepayment of a loan after five years from the inception of the loan. (§ 34 ch 115 SLA 1981; am § 38 ch 42 SLA 1987)

Effect of amendments. — The 1987 amendment added subsection (c).

Sec. 44.88.530. Applicability of provisions [Repealed effective July 1, 1991]. AS 44.88.535 — 44.88.560 apply to

- (1) new loan guarantees under AS 44.88.500(a)(1); and
- (2) debt refinancing guarantees under AS 44.88.500(a)(2). (§ 2 ch 162 SLA 1988; r § 4 ch 162 SLA 1988)

Sec. 44.88.535. Conditions of loan guarantee [Repealed effective July 1, 1991]. (a) The authority may guarantee a loan under AS 44.88.500 — 44.88.599 if the

(1) loan is commercially reasonable, contains amortization provisions satisfactory to the authority, is secured by adequate collateral, and the net cash flow from the borrower provides adequate coverage for the debt service on the loan;

(2) term of the loan does not exceed 20 years;

(3) loan is originated with and serviced by a state chartered or federally chartered financial institution;

(4) portion of the loan not guaranteed by the authority is held by the originating financial institution or another financial institution approved by the authority;

(5) loan is made to a business with a majority interest held by state residents; and

(6) loan guarantee provides a benefit to the borrower.

(b) The authority may provide a guarantee from the fund for up to 70 percent of a loan that qualifies under AS 44.88.500 — 44.88.599. The ratio of the guarantee to the outstanding principal of the loan may not increase over the term of the loan.

(c) The authority may not guarantee the payment of interest on the guaranteed portion of a loan. (§ 2 ch 162 SLA 1988; r § 4 ch 162 SLA 1988)

Sec. 44.88.540. Limitations of guarantees from the fund [Repealed effective July 1, 1991]. The authority may not guarantee

(1) a total of more than \$50,000,000 of loans;

(2) more than \$25,000,000 of loans in which the amount of the loan guarantee exceeds \$500,000. (§ 2 ch 162 SLA 1988; r § 4 ch 162 SLA 1988)

Sec. 44.88.545. Limitations of guarantees with respect to borrowers [Repealed effective July 1, 1991]. The authority may not guarantee

(1) a loan of more than \$1,000,000;

(2) loans to an individual borrower that cumulatively exceed \$1,000,000 of indebtedness. (§ 2 ch 162 SLA 1988; r § 4 ch 162 SLA 1988)

Sec. 44.88.570. Distribution of loans [Repealed effective July 1, 1991]. The authority shall distribute guarantees of new loans and guarantees of loans made to refinance existing loans under AS 44.88.500 — 44.88.599 to all regions of the state in an equitable manner. (§ 2 ch 162 SLA 1988, r § 4 ch 162 SLA 1988)

Sec. 44.88.599. Definitions [Repealed effective July 1, 1991]. In AS 44.88.500 — 44.88.599

(1) "fund" means the business assistance fund established under AS 44.88.500;

(2) "prime rate" means the lowest money center prime rate of interest that is published in the Wall Street Journal. (§ 2 ch 162 SLA 1988, r § 4 ch 162 SLA 1988)

Article 7. General Provisions.

Section

900. Definitions

Sec. 44.88.900. Definitions. In this chapter

(1) "authority" means the Alaska Industrial Development and Export Authority created by this chapter;

(2) "business enterprise" means a single proprietorship, cooperative, corporation, firm, partnership, or other association of persons organized in any manner, for any credit worthy business purpose;

(3) "commercial activity" includes work in process or activity involving stock in trade, accounts receivable, or the refinancing of existing indebtedness, subject to the provisions of AS 44.88.158;

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

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

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

(7) "lease" includes, when used as a noun, an interest in, or when used as a verb, the transfer of an interest in, property less than fee simple title, including, without limitation, when used as a noun, agreements to use or occupy property;

Repealed in HB 123

AS 44.88.090(g) - The language in this section is included in Section 7 of the new bill, except that the issuance of bonds in any 12-month period is now limited to "\$400,000,000" instead of "the amount authorized to be issued during the preceding 12-month period, unless a different amount is authorized by the legislature."

AS 44.88.090(i) - This section requires the authority to obtain legislative approval before issuing bonds in any amount.

AS 44.88.105(e) - This section does not allow the Authority to establish capital reserve funds in excess of a \$1,000,000 unless 20% is retained by a federal or state chartered financial institution.

AS 44.88.105(g) - This section allows the Authority to waive the requirements of AS 44.88.105(a) establishing the maximum costs of \$10,000,000 and the requirements of subsection (e), which is being repealed.

AS 44.88.157 - This section establishes a loan insurance account and allows the Authority to provide insurance on mortgage loans and other loans purchased by the Authority.

AS 44.88.158 - This section sets up a small business enterprise loan account and allows the Authority to participate in the purchase loans for small businesses and to purchase the guaranteed portion of a loan made to a small business enterprise.

AS 44.88.159(c) - This subsection relates to the small business enterprise loan account. It sets the interest rate equal to the most recent index of Aa corporate bond yield averages.

AS 88.44.160 - This section is include in Section 7 (c) of the new bill, except that language referencing insurance is deleted. Also, language stating that the "scope of the project is sufficient to provide a reasonable expectation of a benefit to the economy of the state" has been deleted.

AS 88.44.172(b) - If a project is financed through use of the economic development account, the Authority may not use assets of the enterprise development account to assist in the financing of the project.

AS 88.44.172(c) - This section states that the Authority may not issue bonds for the economic development account without prior legislative approval. This is re-enacted in the bill as needing legislative approval on bonds over \$10,000,000.

AS 88.44.175 - This section sets up the requirements that need to be met before a project is approved for Authority participation. The new section in the bill Section 7 (e) does not address "the scope of the project to provide a reasonable expectation of a benefit to the economy of the state."; "the project is in compliance with applicable law"; and the issuance bonds is not expected to adversely affect the ability of the state or any political subdivision of the state to market other bonds."

AS 44.88.176 - This is in the new Section 7 of the bill.

AS 44.88.212(a) - This section does not allow an application fee to be charged applications for Authority participation in a small business enterprise loan.

AS 44.88.900(3) - This section defines commercial activity as it relates to the small business enterprise loan account. The small business enterprise loan account has been repealed in this bill.

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 100 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making appropriations for the operating and
7 loan program expenses of state government; and pro-
8 viding for an effective date."

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

10 * Section 1. Included within the general fund amounts appropriated in
11 this Act, the following amounts are from the unreserved special accounts in
12 the general fund:

13 Highway Fuel Tax Account \$21,000,000

14 Aviation Fuel Tax Account 9,100,000

15 * Sec. 2. Federal or other program receipts that exceed the amounts
16 appropriated in this Act are appropriated conditioned upon compliance with
17 the program review provisions of AS 37.07.080(h).

18 * Sec. 3. If federal or other program receipts exceed the estimates
19 appropriated by this Act, the appropriation from state funds for the af-
20 fected program shall be reduced by the amount of the excess if the re-
21 ductions are consistent with applicable federal statutes.

22 * Sec. 4. Except as provided in sec. 5 of this Act, if federal or other
23 program receipts fall short of the estimates appropriated by this Act, the
24 affected appropriation is reduced by the amount of the shortfall in re-
25 ceipts.

26 * Sec. 5. If the federal receipts under Title XX of the Social Security
27 Act (42 U.S.C. 1397 - 1397f) fall short of the estimate, the amount of the
28 shortfall is appropriated from the general fund.

29 * Sec. 6. Amounts equivalent to the amounts to be received in

1 settlement of insurance claims for property losses, and claims against
2 bonds guaranteeing the reclamation of state land, are appropriated, contin-
3 gent upon compliance with the program review provisions of AS 37.07.080(h),
4 from the general fund to the affected agency for the purpose of replacing
5 the facility or service lost as a result of the incident giving rise to the
6 claim.

7 * Sec. 7. The amount required to pay interest on revenue anticipation
8 notes issued by the commissioner of revenue under AS 43.08.010 is appropri-
9 ated from the general fund to the Department of Revenue.

10 * Sec. 8. The amount required to be paid by the state for the principal
11 of and interest on all issued and outstanding state-guaranteed bonds is
12 appropriated from the general fund to the state bond committee to make all
13 payments by the state required under its guarantee for principal and inter-
14 est.

15 * Sec. 9. The sum of \$8,737,600 is appropriated from the international
16 airports revenue fund to the state bond committee for payment of debt
17 service and trustee fees on outstanding international airports revenue
18 bonds.

19 * Sec. 10. The amount of the Rebate Requirement, as defined by Resolu-
20 tion No. 86-5 of the state bond committee, is appropriated from the inter-
21 national airports revenue fund to the state bond committee for deposit in
22 the Rebate Fund established by Resolution No. 86-5 of the state bond com-
23 mittee.

24 * Sec. 11. The sum of \$12,106,300 is appropriated from the general fund
25 to the state bond committee for lease payments to the Alaska State Housing
26 Authority, City of Seward, Delta Fox, Ltd., and City of Palmer.

27 * Sec. 12. The sum of \$120,386,300 is appropriated from the general
28 fund to the state bond committee for payment of debt service and trustee
29 fees on state general obligation bonds.

1 * Sec. 13. The income of the Alaska permanent fund allocated annually
2 to pay permanent fund dividends as provided in AS 43.23.045(b) is appropri-
3 ated to the dividend fund (AS 43.23.045(a)) for the payment of the 1989
4 permanent fund dividend and administrative and associated costs.

5 * Sec. 14. All unrestricted mortgage loan interest payments and all
6 other receipts, including, without limitation, mortgage loan commitment
7 fees, received by or accrued to the Alaska Housing Finance Corporation
8 during the period of July 1, 1989 through June 30, 1990, and all income
9 earned on assets of the corporation during that period, are appropriated to
10 the Alaska housing finance revolving fund (AS 18.56.082) for the purposes
11 described in AS 18.56.

12 * Sec. 15. The sum of \$11,330,300 is appropriated to the general fund,
13 as an additional revenue source, from the following enterprise funds:

14	Alaska World War II Veterans' Revolving Fund	
15	(AS 26.15.090)	\$ 279,600
16	Commercial Fishing Revolving Loan Fund (AS 16.10.340)	5,313,600
17	Child Care Facility Revolving Loan Fund (AS 44.33.240)	8,800
18	Historical District Revolving Loan Fund (AS 45.98.010)	82,400
19	Mining Loan Fund (AS 27.09.010)	3,200
20	Alternative Energy Revolving Loan Fund (AS 45.88.010)	727,600
21	Residential Energy Conservation Fund (AS 45.89.010)	343,400
22	Power Development Revolving Loan Fund (AS 44.33.600)	2,512,300
23	Grain Reserve Loan Fund (AS 03.12.040)	309,400
24	Agricultural Revolving Loan Fund (AS 03.10.040)	1,750,000

25 * Sec. 16. The sum of \$200,000 is appropriated from the general fund to
26 the Department of Community and Regional Affairs for payment as an organi-
27 zational grant to the Lake and Peninsula Borough under AS 29.05.190.

28 * Sec. 17. The balance on July 1, 1989, of the oil and hazardous sub-
29 stance release mitigation account in the general fund (AS 46.08.020(b)) is

1 appropriated to the Department of Environmental Conservation, oil and
2 hazardous substance release response fund (AS 46.08.010).

3 * Sec. 18. The sum of \$10,000,000 is appropriated from the general fund
4 to the Alaska Student Loan Corporation, student loan fund (AS 14.42.210) to
5 capitalize the fund.

6 * Sec. 19. The sum of \$166,300 is appropriated from the general fund
7 for purposes of implementing a state mariculture program for shellfish, sea
8 vegetables, and fresh water finfish, and is allocated as follows:

9 Department of Natural Resources --

10 Land and Water Management 69,200

11 Department of Fish and Game --

12 F.R.E.D. 48,000

13 Habitat 31,100

14 Department of Environmental Conservation 18,000

15 * Sec. 20. The sum of \$33,400 is appropriated from the general fund to
16 the Office of the Governor for the operating costs of the Alaska Finfish
17 Farming Task Force.

18 * Sec. 21. The sum of \$230,400 is appropriated from the general fund to
19 the Department of Health and Social Services for fiscal year 1990 costs of
20 the food stamp program settlement.

21 * Sec. 22. (a) The amounts necessary to refund to local governments
22 their share of taxes and fees collected under the following programs are
23 appropriated to the Department of Revenue from the general fund for payment
24 in fiscal year 1990:

25 Amusement and gaming tax revenues for fiscal year 1990 (AS 43.35);

26 Aviation fuel tax revenues for fiscal year 1990 (AS 43.40.010);

27 Electric and telephone cooperative tax revenues for fiscal year 1990

28 (AS 10.25.570); and

29 Liquor license fee revenues for fiscal year 1990 (AS 04.11).

1 (b) The sum of \$12,200,700 is appropriated from the general fund to
2 the Department of Revenue for refunds to local governments of their propor-
3 tionate share of fisheries taxes collected under AS 43.75 in fiscal year
4 1989.

5 * Sec. 23. The unobligated and unappropriated balance in the mental
6 health trust income account (AS 37.14.011 and 37.14.021) is transferred to
7 the unreserved portion of the general fund on July 1, 1989.

8 (SECTION 24 BEGINS ON PAGE 7)
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HOUSE BILL

123

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



ALASKA INDUSTRIAL
DEVELOPMENT AND EXPORT
AUTHORITY

PROMOTES EMPLOYMENT

Since 1981 an estimated 13,582 jobs have been created or retained as a result of Authority Financing.

Employment Per Region

TOTAL	Northern	Interior	Southwest	Anchorage	Southcentral	Southeast
13,582	437	1,480	788	7,178	1,804	1,895

THROUGH FINANCING

Authority financing has resulted in 804 projects with a value of \$871,932,230.

Projects and Dollar Value per Region

TOTAL	Northern	Interior	Southwest	Anchorage	Southcentral	Southeast
804	27	91	41	422	135	85
871,932,230	30,535,250	99,875,250	52,095,250	458,710,805	97,815,500	135,100,000

*HOW WILL THIS
LEGISLATION FURTHER
THE AUTHORITY'S EFFORTS
IN PROMOTING RESOURCE
DEVELOPMENT ???*

The Authority will be able to own, operate, or construct facilities

solely,

by partnership,

by jointventure,

or through other agreements with persons for shared ownership.

Example:

To enhance development of the Beluga coal fields, a common transportation system accessible by all lease holders could provide a stimulus for further movement of this project. Financing and or partial ownership with the lease holders in this common system could reduce the costs of moving the coal to tidewater.

The Authority will be able to provide financial support in the form of

loans,

guarantees,

equity investments.

Example:

In reference to the Beluga Coal Fields, the Authority could be just a lender for such a coal transportation project, or have an equity interest in the coal transportation system in conjunction with others and be repaid by charging fees per ton of coal transported. Flexibility and a menu of options are necessary as each project will be different and present unique problems to overcome.

In addition to these *current* bonding limitations:

The Authority cannot issue bonds in a total amount over \$400 million during a 12 month period.

The Authority cannot issue bonds for a particular project within a 12 month period over \$50 million.

Project bonds over \$6 million require location approval from the city or borough where the project will be located.

Project bonds over \$10 million require a public hearing as well as municipal approval.

In all cases, the Authority must find that;

The project is economically advantageous to the State and public welfare.

The project applicant is financially responsible.

Increased demand on public utilities will be satisfied.

The project will provide or retain employment reasonably related to the amount of Authority financing.

The project is feasible enough to repay the bonds or loans.

The bond issuance will not adversely affect the marketability of other state bonds.

The following bonding limitations are *proposed* :

The Authority can issue bonds up to \$25 million to assist in the acquisition of a development project without prior legislative approval.

The State's moral obligation on any future bonds issued by the Authority is eliminated.

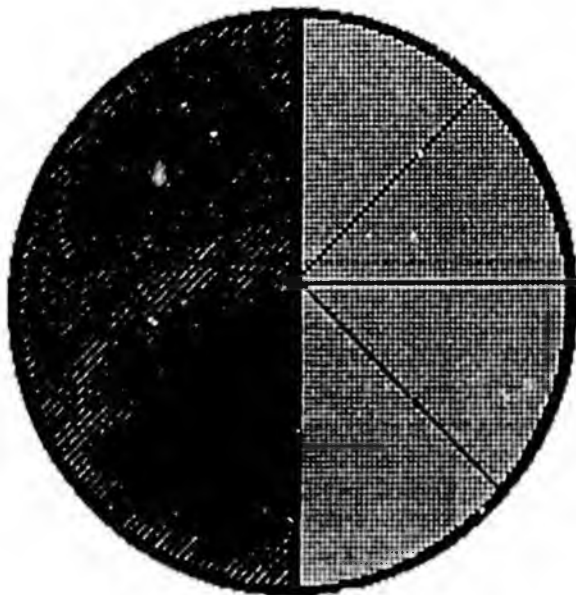
The principle amount of a loan retained by the originator is increased from 10% to 20%.

The Authority can regulate conditions where they will no longer purchase loan participations from a financial institution as a result of excessive delinquencies.

The Authority will be able to utilize assets in pursuing the promotion of resource development projects by revising the scope of the Revolving Fund.

The revolving fund is comprised of two primary accounts: the *Enterprise Development Account* and the *Economic Development Account*. The Enterprise Development accounts are originated and financed through financial institutions, and the Economic Accounts are for major development projects like the Red Dog Mine. *All accounts are independant.

THE REVOLVING FUND



Economic Development Account

Capital Reserve Account
Sustaining Capital Account
Operation & Maintenance Account
Construction Revenue Account
Project Economic Development Account

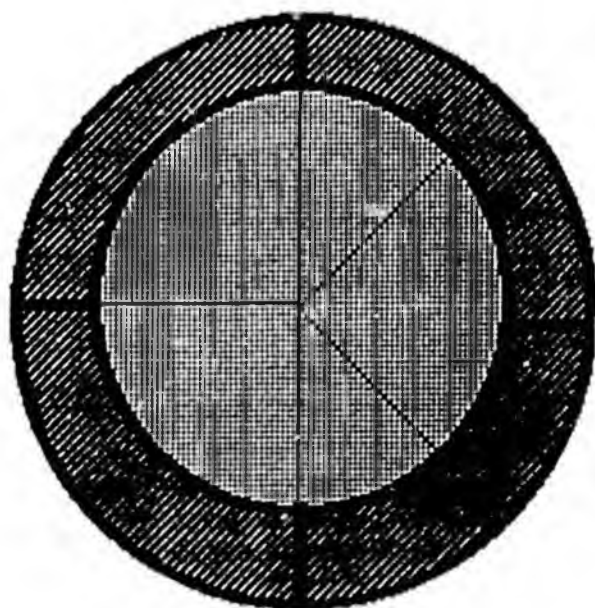


Enterprise Development Account

Capital Reserve Account
Business Assistance Account
Loan Collection Account
Investment Account

Proposed scope of the Revolving Fund

"Pool" all the unrestricted funds of both major accounts together to function as a general fund.



-  **Restricted Accounts**
 - Enterprise Development Account
 - Capital Resource Account
 - Business Assistance Account
 - Economic Development Account
 - Capital Reserve Requirement Account
 - Sustaining Capital Account

-  **Unrestricted Accounts**
 - Loan Collection Account
 - Investment Account
 - Operation & Maintenance Account
 - Construction Revenue Account
 - Project Development Account

*HOW MUCH WILL THIS
COST ???*

...NOTHING.

Draft of
February 24, 1989

SECTIONAL ANALYSIS

House Bill 123

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

DISCUSSION:

The purpose of this legislation is to further the Alaska Industrial Development and Export Authority's efforts in promoting employment through resource development projects. The Authority has historically functioned as a correspondent to Alaskan banks, financing real estate mortgages in the service sector of the economy. This legislation is an attempt to redirect the Authority's efforts to achieve the goal of increased employment through primary sector industrial development. This redirection is an attempt to create new jobs and promote population growth within the State. This in turn will provide assistance to the service sector which currently is suffering from a lack of demand.

The congressional changes to the tax code in 1986 significantly altered the type of projects that can be financed with the proceeds of tax-exempt bonds. The only projects currently eligible are manufacturing plants (through December 31, 1989) and certain facilities referred to as "exempt facilities." Financing for airports, docks, and wharfs is still available if the project is owned by a governmental entity. This change in the tax law has reduced the attractiveness and demand for Authority tax-exempt financing.

The definition of a development project in AS 44.88.900(9)(A) limits Authority ownership. The current definition stresses the primary resource industries, and accentuates transportation and infrastructure associated with those projects.

This legislation does not eliminate the essential framework whereby the Authority acts as a correspondent to Alaskan banks. The current banking situation has curtailed many of the existing banks correspondent relationships. It is critical that the Authority remain as an institute correspondent during these difficult times.

Pursuant to its purpose, all provisions of the bill accomplish at least one of the following four objectives.

1. Increase efforts in promoting resource development projects.
2. Amend existing statutes to allow utilization of the Authority's assets in pursuing the promotion of development projects.
3. Conform existing statutes to the 1986 Tax Act.
4. Reorganize, refine, and consolidate statutes of the Authority.

Section 1. AS 44.88.010(a)(9):

Three changes are made in this section: two deletions of dated language that is no longer applicable, and an addition allowing the Authority to participate in different types of ownership.

The deletions conform state law to the federal law changes made as a result of the 1986 Tax Reform Act.

The addition defines the necessary relationship possibilities between the Authority and other persons or entities. Each project will face unique problems, and flexibility is needed to address and overcome them. Without this flexibility, the Authority's effectiveness in promoting resource development projects will be limited.

Section 2. AS 44.88.010(c):

There are two changes in this section: the addition that sets forth the Authority's scope of providing financial support for or with various persons or entities, and the deletion removes language that is unnecessary and could be viewed as applying only to exports.

Section 3. AS 44.88.060:

The two additions in this section establish the scope of the revolving fund. The revolving fund is currently made up of two separate accounts: the Enterprise Development Account where loans are originated and financed through banks, and the Economic Development Account designated for major development projects. The additions allow the Authority to create additional accounts within the unrestricted accounts of the revolving fund, and transfer monies between accounts subject to bond-holder agreements. The investment powers are moved into the revolving fund, allowing it to function as the general fund and be invested in accordance with Title 37.

Section 4. AS 44.88.070:

The addition in this section sets forth the Authority's scope of owning and operating development projects: solely or by partnership, joint venture, or other agreement with another person. This definition is necessary as the projects contemplated will require the flexibility to deal with different forms of ownership and operation.

Section 5. AS 44.88.080(14):

The two additions in this section broaden and conform the Authority's scope of powers with regard to development projects that are not standardized.

Section 6. AS 44.88:

This addition creates a new section, 44.88.095, BONDING LIMITATIONS. It consolidates all the Authority's statutory limitations regarding the issuance of bonds into one section. The provisions do not change and are merely moved from another section with one exception; the Authority will have the ability to issue bonds up to \$25 million as opposed to \$10 million to assist in the financing or operation of a development project without prior legislative approval. Local approval is still required under this section.

Section 7. AS 44.88.105(a):

The deletion in this section eliminates the ceiling on bonds regarding the establishment of capital reserve funds. It also eliminates the state's moral obligation to supplement a capital reserve fund created after January 1, 1989 should it ever fall below the required amount.

With this elimination of moral obligation, bonds of the Authority issued after January 1, 1989, will stand on their own and do not contingently obligate the State in any form whatsoever. Since 1981 all bonds have had the benefit of the State's moral obligation. It is now appropriate that the Authority stand on its own financially with respect to future bond issues. Of course, the Authority's bonds that are already outstanding and were issued with the moral obligation will continue to have that benefit.

Section 8. AS 44.88.105(d):

This addition is in conjunction with the changes of section 7 and sets forth the date, January 1, 1989, after which no additional moral obligation bonds could be issued.

Section 9. AS 44.88.155(c)

The deletion in this section is in conjunction with the changes in section 3, it simply moves the investment powers into the revolving fund.

Section 10. AS 44.88.155(d):

There are two changes and one deletion in this section.

The first change allows the Authority to participate in the financing of projects that previously have been beyond the Authority's financial scope. Increasing the loan limit on a project from \$10 million to \$25 million will allow the Authority to participate in larger projects strictly as a correspondent. Several tourism-related projects have been beyond the \$10 million limit. This change would allow Authority participation in these projects.

The second change requires that the principle amount of a loan held by the originator be increased from 10% to 20% as long as the loan is outstanding. This would promote caution when banks contemplate selling their loans to the Authority. They will be responsible for holding a more significant portion of the credit and hopefully act accordingly.

The deletion will allow the Authority to become active in purchasing the guaranteed portion of federal SBA loans from banks. The revised investment statute, AS. 37.10.071, will permit the Authority to invest its funds in the guaranteed portion of federal SBA loans once the program restrictions are removed from statute. This flexibility is essential. The SBA modifies its program periodically, and casting the program in statute does not provide enough flexibility to maintain a market presence in these guarantees.

Section 11. AS 44.88.165:

The statute regarding loan delinquencies is repealed and reenacted. It allows the Authority to regulate conditions whereby it may discontinue purchase of loan participations from a financial institution because of excessive loan delinquencies. This revision is necessary to allow more financial institutions to participate in the authority's loan programs.

Section 12. AS 44.88.172(a):

The additions to this section establish the Economic Development Account within the Revolving Fund. They set forth the scope for which the Economic Development Account will be used.

Section 13. AS 44.88.900(4):

This section clarifies the definition of "development" project by referring to the resource development oriented plants and facilities described in the definition of "project", including transporting plants and facilities as set forth in section 14.

Section 14. AS 44.88.900(9):

There is one addition and deletion in this section. The addition includes certain transportation facilities in the definition of a project, while the deletion eliminates the obsolete language from the tax code prior to the 1986 Tax Reform Act.

Section 15. Repealed statutes:

AS 44.88.090(g), 44.88.160, 44.88.172(c), 44.88.175, and 44.88.176 are reenacted in substantially the same form and placed in Section 6, Bonding Limitations.

AS 44.88.090(i) is repealed to allow the Authority to issue bonds after January 1, 1990.

AS 44.88.105(e) and (g) relate to the moral obligation provisions, that under this legislation, would terminate on January 1, 1989. The provisions of 44.88.105(e) duplicate those added by section 10, AS 44.88.155(d)(7)(A) of this legislation.

AS 44.88.157 creates a loan insurance account and permits the Authority to insure loans purchased under its general financing provisions. This section is unnecessary because it has not been used since its inception.

AS 44.88.159(c), 44.38.212(a), and 44.88.900(3) refer to AS 44.88.158, the small business enterprise loan account that is repealed under this legislation.

AS 44.88.158 provides authority that is already given in the investment powers (AS 37.10.071) in the revolving loan fund.

The deletion in section 10, page 8, line 10 will allow the Authority to become active once again in purchasing the guaranteed portion of federal SBA loans from banks. The revised investment statute, AS 37.10.071, will permit the Authority to invest its funds in the guaranteed portion of federal SBA loans once the program restrictions are removed from statute. This flexibility is essential. The SBA modifies its program periodically, and casting the program in statute does not provide enough flexibility to maintain a market presence in these guarantees.

AS 44.88.172(b) does not allow use of the Authority's assets for resource development projects and is repealed.

Section 16.:

This section provides for an immediate effective date.

SUGGESTED SPONSOR AMENDMENTS

House Bill 123

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

1. Section 2, AS 44.88.010(c):

Page 2, line 12; [federal, state] replaced with public.

REASON; Drafting oversight. Existing language would exclude participation with municipalities which could be beneficial to both parties.

2. Section 6, new section 44.88.095:

A. Page 3, line 20 and 26; development inserted before the word "project" in two places.

B. Page 4, line 6; "Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project..."

C. Page 5, line 16; [aquisition] replaced with financing.

REASON; Drafting oversight. To conform to the definition section and effect proper word usage.

3. Section 10, AS 44.88.155(d):

Page 8, line 5; "...originator of the loan as long as the loan is outstanding."

REASON; Drafting oversight.

4. Section 11, AS 44.88.165:

Page 8, line 22; [the] replaced with its.

REASON; Drafting oversight. To clarify that the Authority should base its decision regarding continuing to work with a bank on the Authority's own experience with that bank.

5. Section 13, AS 44.88.900(4):

Page 9, line 11; ...[the same] as a "project" [, as defined] described in paragraph (9)(A) of this section;

REASON; Error in drafting. Definition is to be limited to 44.88.900 (9)(A)..

5. Section 13, AS 44.88.900(4) continued:

As restated, this section would read, "development project" means the same as a "project," described in paragraph (9)(A) of this section.

HB 122

adding power to make certain property disposals to public and nonprofit entities. The introduction of this bill was requested by the board of directors of the authority.

This bill attempts to make amendments to the Alaska Statutes in every place necessary to change the name of the authority back to the Alaska State Housing Authority, the original name in effect from the advent of statehood to 1986. (As a precaution, however, sec. 23. of the bill expressly requires the revisor of statutes to make any additional statutory changes that might be necessary.) The authority believes that the name recognition gained over the years of operation is a valuable asset that should not be lost. The original name of the authority fairly encompassed the powers and duties assigned by law and should not pose a legal problem.

The bill also contains a section that makes amendments to existing law beyond the change of name. Section 4 of the bill makes an amendment that allows the authority to dispose of real or personal property to other public or nonprofit entities for less than fair market value. The authority interprets existing law to provide that it cannot dispose of certain authority property unless it sells the property at fair market value. This interpretation makes it difficult and expensive for other state agencies to use excess property of the authority for other public purposes. A capital appropriation last year for mental health housing (from the mental health trust account) contemplated the assistance of the authority in procuring and then transferring property to certified mental health housing grantees. The amendment set out in this bill generally parallels language governing other disposals of property (see AS 18.55.320) and will permit the authority to assist other state agencies and municipalities in the performance of official functions.

I urge your favorable action on this bill.

Sincerely,

/s/

Steve Cooper
Governor"

HB 123

HOUSE BILL NO. 123 by the Rules Committee by request of the Governor, entitled:

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

was read the first time and referred to the Labor & Commerce, Judiciary and Finance Committees.

Alaska Industrial Development
and Export Authority

Alaska Industrial Development
and Export Authority

HB 123

A zero fiscal note with analysis by the Department of Commerce & Economic Development was published January 27, 1989.

The Governor's transmittal letter, dated January 27, 1989, appears below:

"Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill authorizing the Alaska Industrial Development and Export Authority (AIDEA) to finance development enterprises.

The most significant provisions of this bill relate to AIDEA's ability to finance resource development projects that AIDEA intends to own or operate (such as the Red Dog Mine project). In this regard, the bill would permit AIDEA to issue up to \$25,000,000 of its bonds for such a project without requiring passage of a law approving the project. It would also permit AIDEA to transfer amounts among its various accounts to provide more financing flexibility. (Although the provisions (proposed AS 44.88.095(b) and (f)) requiring legislative approval before certain bonds exceeding specified amounts may be issued raise a constitutional question under the separation-of-powers doctrine, I know of the legislature's concern about bond issuance and I believe that it might be helpful to set out this procedure in the statutes, as a courtesy to the legislature.)

Another significant provision would require originating financial institutions to retain a higher percentage of a loan before it may sell it to AIDEA. Under existing law, a financial institution must retain 10 percent of a loan. AS 44.88.155(d). Under this bill, the originating financial institution must retain 20 percent of the loan. By increasing this requirement along with the amount that AIDEA can invest in or loan on projects, it is hoped that financial institutions will carefully select the projects for which they will extend credit.

This bill will allow AIDEA to gather together all funds and accounts established by law and administer them as a part of the revolving fund of the authority. AIDEA would be given the power to transfer freely between accounts within the development fund so that it has the flexibility to adapt to the appropriate structure of a financing proposal presented to it for financing. AIDEA would be given the power to create separate accounts necessary to guarantee repayment of a bond issue if that action becomes necessary to make the bonds marketable.

The bill also amends a provision in existing law which represents to investors in AIDEA bonds that the state might step in and make bond payments if the authority is unable to do so. This section acknowledges the state's moral obligation to back AIDEA's revenue bonds if the authority becomes

HB 123

insolvent. The bill would change this moral obligation representation to apply only to bonds issued on or before January 1, 1989.

The bill would expressly confer on AIDEA the power to share ownership of projects with private enterprises by either forming a partnership, joint venture, or other form of cooperative ownership agreement.

The bill would also amend the provision in existing law that prohibits AIDEA from purchasing loans from financial institutions that experience a two percent or greater delinquency rate on loans made by the institution. The bill would allow AIDEA to set the target delinquency rate by regulation. By adopting this technique, AIDEA will be given the flexibility to adjust the delinquency rate to reflect existing economic conditions. The inflexible rule in effect under existing law sets the rate too low to allow the majority of banks in the state to qualify for AIDEA financing.

I urge your favorable consideration on this bill.

Sincerely,

/s/

Steve Cooper
Governor

HB 124

HOUSE BILL NO. 124 by the Rules Committee by request of the Governor, entitled:

"An Act relating to sport fishing and hunting licenses and to big game tags; and providing for an effective date."

was read the first time and referred to the Resources and Finance Committees.

A fiscal note by the Department of Fish & Game was published January 27, 1989.

The Governor's transmittal letter, dated January 27, 1989, appears below:

"Dear Mr. Speaker: *

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to sport fishing and hunting licenses. This bill would raise the cost of a resident sport fishing license by \$5. Making a new distinction, the cost of a resident hunting license would be raised \$3 for small game, and \$13 for big game. The combination hunting and trapping license fee would be

SECTIONAL ANALYSIS

CS for House Bill 123

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

DISCUSSION:

The purpose of this legislation is to further the Alaska Industrial Development and Export Authority's efforts in promoting employment through resource development projects. The Authority has historically functioned as a correspondent to Alaskan banks, financing real estate mortgages in the service sector of the economy. This legislation is an attempt to redirect the Authority's efforts to achieve the goal of increased employment through primary sector industrial development. This redirection is an attempt to create new jobs and promote population growth within the State. This in turn will provide assistance to the service sector which currently is suffering from a lack of demand.

The congressional changes to the tax code in 1986 significantly altered the type of projects that can be financed with the proceeds of tax-exempt bonds. The only projects currently eligible are manufacturing plants (through December 31, 1989) and certain facilities referred to as "exempt facilities." Financing for airports, docks, and wharves is still available if the project is owned by a governmental entity. This change in the tax law has reduced the attractiveness and demand for Authority tax-exempt financing.

The definition of a development project in AS 44.88.900(9)(A) limits Authority ownership. The current definition stresses the primary resource industries, and accentuates transportation and infrastructure associated with those projects.

This legislation does not eliminate the essential framework whereby the Authority acts as a correspondent to Alaskan banks. The current banking situation has curtailed many of the existing banks correspondent relationships. It is critical that the Authority remain as an institute correspondent during these difficult times.

Pursuant to its purpose, all provisions of the bill accomplish at least one of the following four objectives.

1. Increase efforts in promoting resource development projects.
2. Amend existing statutes to allow utilization of the Authority's assets in pursuing the promotion of development projects.
3. Conform existing statutes to the 1986 Tax Act.
4. Reorganize, refine, and consolidate statutes of the Authority.

Section 1. AS 44.88.010(a)(9):

Three changes are made in this section: two deletions of dated language that is no longer applicable, and an addition allowing the Authority to participate in different types of ownership.

The deletions conform state law to the federal law changes made as a result of the 1986 Tax Reform Act.

The addition defines the necessary relationship possibilities between the Authority and other persons or entities. Each project will face unique problems, and flexibility is needed to address and overcome them. Without this flexibility, the Authority's effectiveness in promoting resource development projects will be limited.

Section 2. AS 44.88.010(c):

There are two changes in this section: the addition that sets forth the Authority's scope of providing financial support for or with various persons or entities, and the deletion removes language that is unnecessary and could be viewed as applying only to exports.

Section 3. AS 44.88.060:

The two additions in this section establish the scope of the revolving fund. The revolving fund is currently made up of two separate accounts: the Enterprise Development Account where loans are originated and financed through banks, and the Economic Development Account designated for major development projects. The additions allow the Authority to create additional accounts within the unrestricted accounts of the revolving fund, and transfer monies between accounts subject to bond-holder agreements. The investment powers are moved into the revolving fund, allowing it to function as the general fund and be invested in accordance with Title 37.

Section 4. AS 44.88.070:

The addition in this section sets forth the Authority's scope of owning and operating development projects: solely or by partnership, joint venture, or other agreement with another person. This definition is necessary as the projects contemplated will require the flexibility to deal with different forms of ownership and operation.

Section 5. AS 44.88.080(14):

The two additions in this section broaden and conform the Authority's scope of powers with regard to development projects that are not standardized.

Section 6. AS 44.88.090(a):

The deletion in this section removes language that is unnecessary in this legislation as proposed.

Section 7. AS 44.88:

This addition creates a new section, 44.88.095, BONDING LIMITATIONS. It consolidates all the Authority's statutory limitations regarding the issuance of bonds into one section. The provisions do not change and are merely moved from another section with one exception; the Authority will have the ability to issue bonds up to \$25 million as opposed to \$10 million to assist in the financing or operation of a development project without prior legislative approval. Local approval is still required under this section.

Section 8. AS 44.88.105(a):

The deletion in this section eliminates the ceiling on bonds regarding the establishment of capital reserve funds. It also eliminates the state's moral obligation to supplement a capital reserve fund created after January 1, 1989 should it ever fall below the required amount.

With this elimination of moral obligation, bonds of the Authority issued after January 1, 1989, will stand on their own and do not contingently obligate the State in any form whatsoever. Since 1981 all bonds have had the benefit of the State's moral obligation. It is now appropriate that the Authority stand on its own financially with respect to future bond issues. Of course, the Authority's bonds that are already outstanding and were issued with the moral obligation will continue to have that benefit.

Section 9. AS 44.88.105(d):

This addition is in conjunction with the changes of section 8 and sets forth the date, January 1, 1989, after which no additional moral obligation bonds could be issued.

Section 10. AS 44.88.155(b):

The change in this section allows the Authority to establish accounts within the enterprise development account considered appropriate by the Authority.

Section 11. AS 44.88.155(c)

The deletion in this section is in conjunction with the changes in section 3, it simply moves the investment powers into the revolving fund.

Section 12. AS 44.88.155(d):

There are two changes and one deletion in this section.

The first change allows the Authority to participate in the financing of projects that previously have been beyond the Authority's financial scope. Increasing the loan limit on a project from \$10 million to \$25 million will allow the Authority to participate in larger projects strictly as a correspondent. Several tourism-related projects have been beyond the \$10 million limit. This change would allow Authority participation in these projects.

The second change requires that the principle amount of a loan held by the originator be increased from 10% to 20% as long as the loan is outstanding. This would promote caution when banks contemplate selling their loans to the Authority. They will be responsible for holding a more significant portion of the credit and hopefully act accordingly.

The deletion will allow the Authority to become active in purchasing the guaranteed portion of federal SBA loans from banks. The revised investment statute, AS. 37.10.071, will permit the Authority to invest its funds in the guaranteed portion of federal SBA loans once the program restrictions are removed from statute. This flexibility is essential. The SBA modifies its program periodically, and casting the program in statute does not provide enough flexibility to maintain a market presence in these guarantees.

Section 13. AS 44.88.165:

The statute regarding loan delinquencies is repealed and reenacted. It allows the Authority to regulate conditions whereby it may discontinue purchase of loan participations from a financial institution because of excessive loan delinquencies. This revision is necessary to allow more financial institutions to participate in the authority's loan programs.

Section 14. AS 44.88.172(a):

The additions to this section establish the Economic Development Account within the Revolving Fund. They set forth the scope for which the Economic Development Account will be used.

The changes to the following three sections affect the Authority's commercial business loan guarantee program. These changes are necessary to make this program more marketable to banking institutions.

Section 15. AS 44.88.535(b):

The guaranteed portion of the loan is increased from 70% to 80%.

Section 16. AS 44.88.545:

The guaranty will cover \$1 million or less, as opposed to guaranteeing a loan of \$1 million or less.

Section 17. AS 44.88.560:

The Authority is given the power to pay liquidation costs of collateral securing loans that are guaranteed by this program when the Authority considers it to be in its best interest to do so.

Section 18. AS 44.88.900(4):

This section clarifies the definition of "development" project by referring to the resource development oriented plants and facilities described in the definition of "project", including transportation related facilities as set forth in section 19.

Section 19. AS 44.88.900(9):

There is one addition and deletion in this section. The addition includes certain transportation facilities in the definition of a project, while the deletion eliminates the obsolete language from the tax code prior to the 1986 Tax Reform Act.

Section 20. Repealed statutes:

AS 44.88.090(g), 44.88.160, 44.88.172(c), 44.88.175, and 44.88.176 are reenacted in substantially the same form and placed in Section 6, Bonding Limitations.

AS 44.88.090(i) is repealed to allow the Authority to issue bonds after January 1, 1990.

AS 44.88.105(e) and (g) relate to the moral obligation provisions, that under this legislation, would terminate on January 1, 1989. The provisions of 44.88.105(e) duplicate those added by section 10, AS 44.88.155(d)(7)(A) of this legislation.

AS 44.88.157 creates a loan insurance account and permits the Authority to insure loans purchased under its general financing provisions. This section is unnecessary because it has not been used since its inception.

AS 44.88.159(c), 44.88.212(a), and 44.88.900(3) refer to AS 44.88.158, the small business enterprise loan account that is repealed under this legislation.

AS 44.88.158 provides authority that is already given in the investment powers (AS 37.10.071) in the revolving loan fund.

The deletion in section 10, page 8, line 10 will allow the Authority to become active once again in purchasing the guaranteed portion of federal SBA loans from banks. The revised investment statute, AS 37.10.071, will permit the Authority to invest its funds in the guaranteed portion of federal SBA loans once the program restrictions are removed from statute. This flexibility is essential. The SBA modifies its program periodically, and casting the program in statute does not provide enough flexibility to maintain a market presence of these guarantees.

AS 44.88.172(b) does not allow use of the Authority's assets for resource development projects and is repealed.

Section 21:

This section provides for an immediate effective date.

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 15, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 5/1/89

The JUDICIARY Committee considered:

HB 123

HOUSE BILL NO. 123 [AK INDUSTRIAL DEVELOP. & EXPORT AUTHORITY]
"An Act relating to the Alaska Industrial Development and Export Authority; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with CSHB 123(JUD) [] the same title
[X] a new title
- [] have attached amendment(s)
- [] do pass
- [] do not pass
- [] no recommendation
- [X] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:
(Date/Dept)

- [] fiscal impact _____
- [] zero fiscal note _____
- [] zero with analysis _____

- [] fiscal note(s) _____
- [X] zero fiscal note(s) 1/26/89 Commerce & Econ. Development
- [] zero fn/analysis _____

SIGNING DO PASS:

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Chairman's signature

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 1800

WAC/psol

May 8
9:45 AM

MEMORANDUM

May 7, 1989

SUBJECT: Additional changes to SCS CSHB 123(L&C)
TO: Senator Dick Eliason
Chair, Labor and Commerce Committee
FROM: Theresa L. Bannister *TB*
Legislative Counsel

This memo accompanies the draft of the above-referenced bill that you requested. Your addition of a section would normally require renumbering the subsequent bill sections. However, your draft did not need the usual renumbering, since CSHB 123(Jud) am needed some technical adjustments due to the amendments made by the house. Your draft does not contain the section (former sec. 4) that was deleted on the floor of the house, although it appears in the CSHB 123 (Jud) am version. The effective date sections (secs. 23 and 24) have been adjusted to reflect the amendments and your new section.

If I may be of further assistance, please advise.

TB:kb
wkk5/017

Enclosure

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↓
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change from house

- ① T.F.B
- ② Please determine on how floor
- ③ Report comparison Section 4

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 123 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

11 (9) the achievement of the goal of full employment, and of
12 establishment and continuing operation and development of industrial,
13 manufacturing, export, small business, and business enterprises in the
14 state [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR TRANSPORTATION,
15 FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL, FACILITIES FOR
16 THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER, FACILITIES FOR
17 INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES FOR LOCAL DIS-
18 TRICT HEATING OR COOLING, PARKING FACILITIES, OR A STORAGE OR TRAINING
19 FACILITY RELATING TO A PLANT OR FACILITY,] will be accelerated and
20 facilitated by the creation of an instrumentality of the state with
21 powers to incur debt, to own and operate facilities, to make and
22 insure loans to finance [,] and to assist private lenders to make
23 loans to finance [,] the establishment, operation, and development of
24 industrial, manufacturing, export, small business, and business enter-
25 prises [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR TRANSPORTA-
26 TION, FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL, FACILITIES
27 FOR THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER, FACILITIES FOR
28 INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES FOR LOCAL DIS-
29 TRICT HEATING OR COOLING, PARKING FACILITIES, OR A STORAGE OR TRAINING

1 FACILITY RELATING TO A PLANT OR FACILITY);

2 * Sec. 2. AS 44.88.010(c) is amended to read:

3 (c) It is further declared to be the policy of the state, in the
4 interests of promoting the health, security, and general welfare of
5 all the people of the state, and a public purpose of the state, to
6 accomplish the objectives set out in (b) of this section through the
7 provision of financial support to a [IN COOPERATION WITH] federal,
8 state, municipal, or [AND] private entity [INSTITUTIONS FOR THE PUR-
9 POSE OF INCREASING THE EXPORT OF ALASKA GOODS, TALENT, RAW MATERIALS,
10 AND SERVICES].

11 * Sec. 3. AS 44.88.060 is amended to read:

12 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AU-
13 THORITY REVOLVING FUND. The Alaska Industrial Development and Export
14 Authority revolving fund is established in the authority. The revolv-
15 ing fund consists of appropriations made to the revolving fund by the
16 legislature, money or other assets transferred to the revolving fund
17 by the authority, and unrestricted payments on loans made or purchased
18 by the authority. Unless otherwise expressly stated, the accounts
19 created in this chapter are accounts in the revolving fund. The
20 authority may create additional accounts either in the revolving fund
21 or outside the revolving fund. Subject to agreements made with the
22 holders of the authority's bonds or with other persons, the authority
23 may transfer amounts in an account in the revolving fund to another
24 account in the revolving fund. Amounts deposited in the revolving
25 fund may be pledged to the payment of bonds of the authority or ex-
26 pended for the purposes of the authority under this chapter. The
27 authority has the powers and responsibilities established in AS 37.-
28 10.071 with respect to the investment of amounts held in the revolving
29 fund.

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* Sec. 4. AS 44.88.080 is amended by adding a new paragraph to read:
(25) to make cooperative agreements with the Department of Transportation and Public Facilities, acting on behalf of the international airports revenue fund established under AS 37.15.430, to acquire, equip, operate, maintain, construct or install facilities that will enhance the competitiveness of the international airports, including a cooperative agreement to lend amounts from the international airport revenue fund to finance the development or improvement of utilities serving the airports.

* Sec. 5. AS 44.88 is amended by adding a new section to read:
Sec. 44.88.082. JOINT OWNERSHIP PROHIBITED. The authority may not enter into an agreement for joint ownership of a project.

* Sec. 6. AS 44.88.090(a) is amended to read:
(a) The [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. 7. AS 44.88 is amended by adding a new section to read:
Sec. 44.88.095. BONDING LIMITATIONS. (a) The authority may not

1 issue bonds in a 12-month period in an amount that exceeds
2 \$400,000,000.

3 (b) The authority may not issue revenue bonds, other than re-
4 funding bonds, to purchase a loan for a project under AS 44.88.155 -
5 44.88.159, to acquire a development project under AS 44.88.172 -
6 44.88.177 or to provide money to finance, guarantee, or insure an
7 exporting transaction under AS 44.88.300 - 44.88.390 in an amount
8 greater than \$50,000,000 during any 12-month period unless the issu-
9 ance is included separately in the estimates required in the report of
10 the authority under AS 44.88.210(b) and unless the legislature, by
11 law, approves the issuance.

12 (c) Before entering into a lease or other agreement under
13 AS 44.88.090(e) regarding a project for which the authority agrees to
14 issue bonds in an amount in excess of \$6,000,000, there must be filed
15 with the authority a certified copy of a resolution of the governing
16 body of the political subdivision of the state, if any, in which the
17 project is to be located, consenting to the location of the project.
18 The consent need only refer to the general nature of the project
19 ultimately to be acquired, as set out in a request of the proposed
20 project applicant. Before entering into a lease or other agreement
21 under AS 44.88.090(e) regarding a project, the authority shall find,
22 on the basis of all information reasonably available to it, that

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

26 (2) the project applicant is financially responsible;

27 (3) provision to meet increased demand upon public facili-
28 ties that might result from the project is reasonably assured; and

29 (4) the project will provide, or retain, employment reason-

1 ably related to the amount of the financing by the authority, con-
2 sidering the amount of investment per employee for comparable facil-
3 ities and other relevant factors.

4 (d) Before adopting a resolution approving a project to be
5 financed under AS 44.88.172 for which bonds must be issued, the au-
6 thority shall, on the basis of all information reasonably available to
7 it, make findings, with respect to the project, as described in
8 (c)(1) - (4) of this section, and also find that

9 (1) the project is economically and financially feasible
10 and able to produce revenue adequate to repay the bonds or loans with
11 which it is financed;

12 (2) the project complies with applicable law; and

13 (3) issuance of the bonds is not expected to adversely
14 affect the ability of the state or any political subdivision of the
15 state to market other bonds.

16 ✖ → (e) Before entering into an agreement to finance or to develop a
17 proposed project financed under AS 44.88.172 for which bonds must be
18 issued, the authority shall obtain the approval of each Regional
19 Resource Advisory Council appointed under AS 44.88.174 or municipality
20 in the area in which the proposed project is to be located. Approval
21 under this subsection must be evidenced by a certified copy of a
22 resolution of the council or of the governing body of the municipal-
23 ity. Before considering a resolution regarding the approval or re-
24 jection of the development or financing of a proposed project under
25 this subsection, a Regional Resource Advisory Council shall conduct a
26 public hearing in the region. If a proposed project is located in a
27 municipality, the governing body of the municipality shall conduct a
28 hearing on the proposed project.

29 ✖ → (f) Before entering into an agreement to finance or to develop a

1 proposed project financed under AS 44.88.172 for which bonds must be
2 issued, the authority shall compile and make available to the public a
3 document that summarizes the projected economic, social, and environ-
4 mental effects of the project; and, in conjunction with the Department
5 of Fish and Game, the Department of Natural Resources, the Department
6 of Environmental Conservation, and the Department of Labor, the au-
7 thority shall conduct a public hearing on the projected effects of the
8 project.

9 (g) Without prior legislative approval, the authority may not
10 issue bonds in an amount greater than \$10,000,000 to assist in the
11 financing of a development project under AS 44.88.172 - 44.88.177.

12 * Sec. 8. AS 44.88.095(g) is repealed and reenacted to read:

13 → (g) The authority may not issue bonds, other than refunding
14 bonds, without securing the prior approval of the legislature.

15 * Sec. 9. AS 44.88.105(a) is amended to read:

16 (a) For the purpose of securing one or more issues of its bonds,
17 the authority may establish one or more special funds, called "capital
18 reserve funds", and shall pay into those capital reserve funds the
19 proceeds of the sale of its bonds and other money which may be made
20 available to the authority from other sources for the purposes of the
21 capital reserve funds. A capital reserve fund may be established only
22 if the authority determines that the establishment of the fund would
23 enhance the marketability of the bonds [, AND IF THOSE COSTS OF A
24 PROJECT, AS DEFINED IN AS 44.88.900, WHICH ARE TO BE FINANCED WITH THE
25 PROCEEDS OF THE BONDS, DO NOT EXCEED \$10,000,000]. Money in a capital
26 reserve fund, except as provided in this section, may be used as
27 required only for (1) the payment of the principal of, and interest
28 on, bonds or of the sinking fund payments with respect to those bonds;
29 (2) the purchase or redemption of the bonds; or (3) the payment of a

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

13 * Sec. 10. AS 44.88.105(d) is amended to read:

14 (d) With respect to a capital reserve fund created under this
15 section on or before January 1, 1989, the [THE] chairman of the au-
16 thority shall annually, no later than January 2, certify in writing to
17 the governor and the legislature the amount, if any, required to
18 restore the [A] capital reserve fund to the capital reserve fund
19 requirement. The legislature may appropriate to the authority the
20 amount certified by the chairman of the authority. The authority
21 shall deposit the amounts appropriated under this subsection during a
22 fiscal year in the proper capital reserve fund. Nothing in this
23 section creates a debt or liability of the state.

24 * Sec. 11. AS 44.88.155(b) is amended to read:

25 (b) The authority may establish in the enterprise development
26 account the [A SMALL ENTERPRISE LOAN ACCOUNT, A LOAN INSURANCE AC-
27 COUNT, AND OTHER] accounts it considers appropriate.

28 * Sec. 12. AS 44.88.155(c) is amended to read:

29 (c) Money and other assets of the enterprise development account

1 may be used to secure bonds of the authority issued to finance the
2 purchase of loans for projects [AND SHALL BE HELD AND INVESTED BY THE
3 AUTHORITY IN ACCORDANCE WITH AS 37.10.071] or shall be used to pur-
4 chase loans for projects.

5 * Sec. 13. AS 44.88.155(d) is amended to read:

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

11 (1) may not exceed

12 [(A)] \$10,000,000; [OR

13 (B)] \$500,000 IF THE LOAN IS PURCHASED UNDER AS 44.88.-
14 158;]

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

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

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

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

29 (6) shall be secured as to repayment by a mortgage or other

1 security instrument in the manner the authority determines is feasible
2 to assure timely repayment under a loan agreement entered into with
3 the borrower;

4 (7) may not be made unless

5 (A) at least 20 [10] percent of the principal amount
6 of the loan is retained by the originator of the loan as long as
7 the loan is outstanding; or

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

11 (8) must be

12 (A) [AT LEAST PARTIALLY GUARANTEED BY THE UNITED
13 STATES OR AN AGENCY OR INSTRUMENTALITY OF THE UNITED STATES,
14 SUBJECT TO THE PROVISIONS OF AS 44.88.158;

15 (B)] financed from the proceeds of bonds; or

16 (B) [(C)] expected by the authority to be financed
17 from the proceeds of bonds.

18 * Sec. 14. AS 44.88.165 is repealed and reenacted to read:

19 Sec. 44.88.165. DELINQUENT LOANS. The authority shall adopt
20 regulations to describe the circumstances under which it will discon-
21 tinue purchasing loans from a financial institution because of exces-
22 sive delinquencies among the loans previously purchased by the author-
23 ity from the financial institution. In adopting the regulations, the
24 authority must consider the authority's delinquency experience with
25 loans it purchased from all financial institutions. The authority may
26 include in the regulations other remedies it considers appropriate as
27 alternatives to the discontinuance of purchasing loans from the finan-
28 cial institution.

29 * Sec. 15. AS 44.88.172(a) is amended to read:

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(a) The economic development account is established in the revolving fund. The economic development account consists of money or assets appropriated, loaned, or transferred to the authority for deposit in the account [,] and other money or assets deposited in the account by the authority. While money is on deposit in the economic development account, the money [THE ACCOUNT] may 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.

* Sec. 16. AS 44.88.585(b) is amended to read:

* (b) The authority may provide a guarantee from the fund for up to 80 [70] percent of a loan that qualifies under AS 44.88.500 - 44.88.599. The ratio of the guarantee to the outstanding principal of the loan may not increase over the term of the loan.

* Sec. 17. AS 44.88.545 is amended to read:

* Sec. 44.88.545. LIMITATIONS OF GUARANTEES WITH RESPECT TO BORROWERS. The authority may not provide a guarantee
(1) [A LOAN:] of more than \$1,000,000;
(2) [LOANS] to an individual borrower that cumulatively exceeds [EXCEED] \$1,000,000 of guaranteed indebtedness.

* Sec. 18 AS 44.88.560 is amended to read:

Sec. 44.88.560. POWERS OF THE AUTHORITY. The authority may

- (1) adopt regulations to implement AS 44.88.500 - 44.88.599;
- (2) establish terms and conditions for loan guarantees and refinancing agreements subject to the requirements of AS 44.88.500 - 44.88.599;
- (3) make and execute contracts and other instruments to

1 implement AS 44.88.500 - 44.88.599;

2 (4) charge

3 (A) [(i)] one percent of the amount guaranteed for the
4 service it provides under AS 44.88.500 - 44.88.599; and

5 (B) [(ii)] any other reasonable fee that the authority
6 may establish by regulation;

7 (5) acquire real or personal property by purchase, trans-
8 fer, or foreclosure when the acquisition is necessary to protect an
9 interest in the fund; and

10 (6) exercise any other power necessary to implement AS 44.-
11 88.500 - 44.88.599;

12 * → (7) to the extent the authority considers it to be in its
13 best interest to do so, use money in the business assistance fund to
14 pay expenses relating to the liquidation of collateral securing loans
15 guaranteed by the business assistance fund.

16 * Sec. 19. AS 44.88.900(4) is repealed and reenacted to read:

17 (4) "development project" has the meaning given to "proj-
18 ect" in (9)(A) of this section;

19 * Sec. 20. AS 44.88.900(9) is amended to read:

20 (9) "project" means

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

22 [(i)] in connection with making, processing, pre-
23 paring, transporting, or producing in any manner, goods,
24 products, or substances of any kind or nature or in connec-
25 tion with developing or utilizing a natural resource, or
26 extracting, smelting, transporting, converting, assembling,
27 or producing in any manner, minerals, raw materials, chemi-
28 cals, compounds, alloys, fiber, commodities and materials,
29 products, or substances of any kind or nature;

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[(ii) AS AN INDUSTRIAL PARK; IN CONNECTION WITH TRANSPORTATION; FOR THE PREVENTION, LIMITATION OR CONTROL OF POLLUTION; FOR THE DISPOSAL OF SEWAGE OR SOLID WASTE; FOR THE LOCAL FURNISHING OF GAS; FOR THE FURNISHING OF WATER; AS OR IN CONNECTION WITH MASS COMMUTING VEHICLES; FOR LOCAL DISTRICT HEATING OR COOLING; AS A PARKING FACILITY; OR AS A STORAGE OR TRAINING FACILITY DIRECTLY RELATED TO A PLANT OR FACILITY DESCRIBED IN THIS PARAGRAPH;]

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

(C) commercial activity by a small enterprise;

* Sec. 21. AS 44.88.090(g), 44.88.090(i), 44.88.105(e), 44.88.105(g), 44.88.157, 44.88.158, 44.88.159(c), 44.88.160, 44.88.172(b), 44.88.172(c), 44.88.175, 44.88.176, 44.88.212(a), and 44.88.900(3) are repealed.

* Sec. 22. AS 44.88.095(b) is repealed.

* Sec. 23. Sections 8 and 22 of this Act take effect January 1, 1991.

* Sec. 24. Sections 1 - 7 and 9 - 21 of this Act take effect immediately under AS 01.10.070(c).

400 gum
From 7V/T-80/1 (House Floor)

C.S. FOR HOUSE BILL NO. 123 (JUDICIARY)

Section 1. 44.88.010(a)(9):

This section removes dated language that no longer conforms to the Federal Tax Code. The deleted language was litany from the Tax Code which was removed by the 1986 Tax Reform Act.

Section 2. 44.88.010(c):

This section inserts "municipal" to correct an oversight. Previous language stated federal and state but made no mention of local governments. Local governments have a significant role to play in economic development and this change recognizes that.

Section 3. 44.88.060:

The two additions in this section establish the scope of the revolving fund. The revolving fund is currently made up of two separate accounts: the Enterprise Development Account where loans are originated and financed through banks, and the Economic Development Account designated for major development projects. The additions allow the Authority to create additional accounts within the unrestricted accounts of the revolving fund, and transfer monies between accounts subject to bond-holder agreements. The investment powers are moved into the revolving fund, allowing it to function as the general fund and be invested in accordance with Title 37.

Section 4.

44.88.080²⁵~~(14)~~: Provides for cooperation between the authority and DOT/PIA on planning development of the international airports. ~~The addition is technical drafting style.~~

Section 5. 44.88.082:

This section prohibits joint-ownership of a project. The Authority may still finance or may own certain types of facilities but may not joint-venture such facilities.

Section 6. 44.88.090(a):

Technical clean up language. Conforming.

Section 7. 44.88.095:

This is a new section which incorporates all the limitations into one section. With the exception of (f) and (g), all of these provisions are moved from other sections of 44.88 to this "limitation section".

44.88.095(e) was amended slightly by deleting the \$10 million cap for municipal approval. It was felt in committee that any project the Authority owned should be subject to municipal approval.

44.88.095(f) is new language requiring a public hearing in conjunction with the State agencies involved in permitting a project.

Section 8. 44.88.095(g):

Provides that the Authority may continue to issue bonds until January 1, 1991 by the delayed effective date section at the end of the bill.

Section 9. 44.88.105(a):

Section 10. 44.88.105(d):

The deletion in this section eliminates the ceiling on bonds regarding the establishment of capital reserve funds. It also eliminates the State's moral obligation to supplement a capital reserve fund created after January 1, 1989 should it ever fall below the required amount.

With this elimination of moral obligation, bonds of the Authority issued after January 1, 1989, will stand on their own and do not contingently obligate the State in any form whatsoever. Since 1981 all bonds have had the benefit of the State's moral obligation. It is now appropriate that the Authority stand on its own financially with respect to future bond issues. Of course, the Authority's bonds that are already outstanding and were issued with the moral obligation will continue to have that benefit.

Section 11. 44.88.155(b):

Drafting style

Section 12. 44.88.155(c):

Conforming change. The deletion in this section is in conjunction with the changes in Section 3 and simply moves the investment powers limitation into the revolving fund.

Section 13. 44.88.155(d):

The deletion will allow the Authority to become active in purchasing the guaranteed portion of federal SBA loans from banks. The revised investment statute, AS. 37.10.071, will permit the Authority to invest its funds in the guaranteed portion of federal SBA loans once the program restrictions are removed from statute. This flexibility is essential. The SBA modifies its program periodically, and casting the program in statute does not provide enough flexibility to maintain a market presence in these guarantees.

The second change deletes 10% and inserts 20%. This will require banks to hold a larger portion of the loans they sell the Authority and hopefully foster prudent underwriting on the banks part.

The third deletion is conforming and deals with removing the SBA language which will allow the Authority to participate in purchasing the guaranteed portion of SBA loans through its investment powers.

Section 14. 44.88.165:

The statute regarding loan delinquencies is repealed and reenacted. It allows the Authority to regulate conditions whereby it may discontinue purchase of loan participations from a financial institution because of excessive loan delinquencies. This revision is necessary to allow more financial institutions to participate in the Authority's loan programs.

Section 15. 44.88.172(a):

Technical and style change.

Section 16. 44.88.545:

585(b): changes loan guaranty from 70% to 80%.

Section 17. 44.88.545:

Provides a change to the Loan Guaranty Program whereby the guaranty will cover \$1 million or less, as opposed to guaranteeing a loan of \$1 million or less.

Section ¹⁶/~~17~~. 44.88.560:

The Authority is given the power to pay liquidation costs of collateral securing loans that are guaranteed by this program when the Authority considers it to be in its best interest to do so.

Section ¹⁹/~~18~~. 44.88.900(4):

This section clarifies the definition of "development" project by referring to the resource development oriented plants and facilities described in the definition of "project," including transportation related facilities as set forth in Section 19.

Section 19. 44.88.900(9):

There is one addition and deletion in this section. The addition includes certain transportation facilities in the definition of a project, while the deletion eliminates the obsolete language from the tax code prior to the 1936 Tax Reform Act.

PROPOSED AMENDMENTS

Before entering into a lease or other agreement regarding a project, the authority shall find that

(1) the project is in the best interest of the state based on analysis of the social, economic, and environmental impacts of the proposed project. The analysis shall include

- a. the economic feasibility of the proposed project, including potential short-term and long-term costs to the state;
- b. consideration of alternatives;
- c. measures that may reduce or eliminate adverse impacts;
- d. statement of irreversible and irretrievable commitments of natural resources;

The authority shall issue a draft best interest finding in writing and publish notice of the finding. Copies of the draft finding, including the analysis under () and the comments and views of the state agencies, shall be made available to the public. The public shall have 90 days from publication of the notice of the finding under this section to comment on the draft best interest finding.

After reviewing and considering the public comments received under this section, the authority shall issue a final best interest finding and give public notice of the decision.

3
one @ \$10 mil for an
project investment log
over

Effect of Repealer's in HB 123

AS 44.88.090(g) - The language in this section is included in Section 7 of the new bill, except that the issuance of bonds in any 12-month period is now limited to "\$400,000,000" instead of "the amount authorized to be issued during the preceding 12-month period, unless a different amount is authorized by the legislature."

AS 44.88.090(i) - NO WAY - this deletes Rick's amendment to the law last year, that would require the authority to obtain legislative approval before issuing bonds in any amount.

AS 44.88.105(e) - This section does not allow the Authority to establish capital reserve funds in excess of a \$1,000,000 unless 20% is retained by a federal or state chartered financial institution.

AS 44.88.105(g) - This section allows the Authority to waive the requirement that bonds do not exceed \$10,000,000

AS 44.88.157 - This section establishes a loan insurance account and allows the Authority to provide insurance on mortgage loans and other loans purchased by the Authority.

AS 44.88.158 - This section sets up a small business enterprise loan account and allows the Authority to participate in the purchase loans for small businesses and to purchase the guaranteed portion of a loan made to a small business enterprise.

AS 44.88.159(c) - This subsection relates to the small business enterprise loan account. It sets the interest rate equal to the most recent index of Aa corporate bond yield averages.

AS 88.44.160 - This section is include in Section 7 (c) of the new bill, except that language referencing insurance is deleted. Also, language stating that the "scope of the project is sufficient to provide a reasonable expectation of a benefit to the economy of the state" has been deleted.

AS 88.44.172(b) - If a project is financed through use of the economic development account, the Authority may not use assets of the enterprise development account to assist in the financing of the project.

AS 88.44.172(c) - This section states that the Authority may not issue bonds for the economic development account without prior legislative approval. This is re-enacted in the bill as needing legislative approval on bonds over \$10,000,000.

AS 88.44.175 - This section sets up the requirements that need to be met before a project is approved for Authority participation. The new section in the bill Section 7 (e) does not address "the scope of the project to provide a reasonable expectation of a benefit to the economy of the state."; "the project is in compliance with applicable law"; and the issuance bonds is not expected to adversely affect the ability of the state or any political subdivision of the state to market other bonds."

AS 44.88.176 - This is in the new Section 7 of the bill

AS 44.88.

HOUSE COMMITTEE REPORT

715

(7)

Date Referred: January 27, 1989

FURTHER REFERRALS: JUDICIARY
FINANCE

Date of Committee Action: _____

The LABOR & COMMERCE Committee recommends that:

HB 123

HOUSE BILL NO. 123 [AK INDUSTRIAL DEVELOP. & EXPORT AUTHORITY]
"An Act relating to the Alaska Industrial Development and Export Authority;
and providing for an effective date."

[] be replaced with CS HB 123 (LAC) [] the same title
[] have attached amendment(s) [] a new title

[] have attached amendment(s)

- [] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [] fiscal impact
- [] zero fiscal note
- [] zero with analysis

APPROVES PREVIOUS:

- [] fiscal note(s) published:
- [] zero fiscal notes(s) ^{analysis} published:
CEO 1/27/89

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Mark Boyer BOYER
great industrial & resource development tool!

David Duley NORFOLK DOWLEY
Mark Boyer No Rec GRUENKE
John J. ... No Rec SPORNHOLZ
Brew ... No Rec LEMAN

David Duley
Chairman's signature

February 17, 1989

Rep. Dave Donley
Alaska State Legislature
3111 C Street
Anchorage, AK 99503

Re: HB 123

Dear Rep. Donley:

The Alaska Legislature passed the Business Assistance Program Statute last year for implementation through the Alaska Industrial Development and Export Authority. Even though the legislation gave a good framework of a program to deal with, we feel that the regulatory process through which the program has been implemented created a program which is not being used by the banking system for business development. In particular, of the indicated items below, the first represents the major regulatory curtailment of the program while the remaining represent legislative problems. I have attempted to place these in order of importance.

1. Under the regulations the payment of the guaranty is made based on the principal balance at the time of liquidation and does not cover liquidation costs and protective advances in handling the defaulted loan. Our recommendation would be to change the regulations to cover liquidation, carrying costs, and protective advances in the handling of collateral. This is universally the case in participation loans, other government guaranteed programs, and AIDEA's other loan programs. Since AIDEA has the ability to approve a liquidation of collateral plan and is not required to pay the guaranty until such time as liquidation takes place, they could in fact stall the liquidation and the sale of the assets for many years, which would substantially increase or create prohibitive liquidation and protective advance expenses to the banks. We believe that this regulation in itself has destroyed the validity of the program.
2. We believe the guaranty amount should be increased from 70% to 90% to be consistent with the AIDEA umbrella loan program. For instance, under AIDEA's umbrella loan program, AIDEA effectively buys a 90% participation in loans rather than a 70% participation in the guaranteed loan program. The bond holders are providing the capital in the umbrella program as the Alaska banking system would under the guarantee program. It seems logical that they be consistent in their credit exposure from program to program. It should be noted that we understand that AIDEA

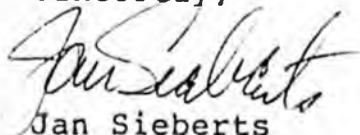
Rep. Dave Donley
February 17, 1989
Page Two

is requesting legislation to reduce their participation amount to 80% in the umbrella loan program. If that is the case, we would think it reasonable to increase the guaranteed amount to 80% to be consistent. As a matter of fact, the federal SBA program will guarantee 90% of some loans with the most common guaranty at 85%.

3. The million dollar cap on the loan should be removed. As an example, a fish processing plant may require a loan of \$2,000,000 and we would like to have the opportunity to request a 35% guaranty from AIDEA. It has been our experience in larger complex projects requiring long-term capital that a variety of participants are brought together with different regulations to make a transaction work. We really think the limitation on a loan of \$1,000,000 was a drafting mistake in the legislation.
4. The loan guaranteed amount should be increased to \$1,000,000 as we believe was the intent of the original lawmakers. The law in its final form limited the amount of the loan to \$1,000,000 with a 70% guaranty or a \$700,000 maximum guaranty. As a matter of fact, since the implementation of the law the federal Small Business Administration's loan guaranty program has increased their guaranty to the amount of \$750,000 from \$500,000. The federal program is excellent, but does not work for all borrowers.

In my opinion, these are the major impediments to the AIDEA Business Assistance Program. Feel free to call upon me for any questions you may have.

Sincerely,



Jan Sieberts
Senior Vice President

lkr

cc: Bob Gray
Dick Hall

A M E N D M E N T

OFFERED IN THE HOUSE

BY LEMAN

TO: HB 123

Page 1, line 21 through line 24:

Delete "to enter into partnership, joint venture, and other agreements with other persons with respect to the ownership, operation, or construction of facilities, and"

Page 2, line 11 through line 12:

Delete ", or through joint venture, partnership, or other agreements with,"

Page 3, line 4 through line 7:

Delete all material.

Renumber the following bill sections accordingly.

Page 3, line 9 through line 11:

Delete ", and to enter into agreements with other persons for shared ownership, operation, or construction of projects,"

Page 3, line 20:

Delete "or an interest in a project"

Page 9, line ²⁹ ~~8~~ through line ¹⁰ ~~11~~:

Delete "either solely or by partnership, joint venture, or other agreement with another person"

Rep M. Davis

A M E N D M E N T

REFERRED IN THE HOUSE

TO: CSHB 123(L&C)

10, following line 2:

Insert a new bill section to read:

"* Sec. 15. AS 44.88 is amended by adding a new section to read:

Sec. 44.88.215. REQUIREMENTS BEFORE APPROVAL OF PROJECT. Before entering into a lease or other agreement regarding a project under this chapter, the authority shall

(1) make a written draft best interest finding that the project is in the best interest of the state based on an analysis of the social, economic, and environmental effects of the proposed project; as part of the analysis the authority shall request comments from the appropriate state agencies; the analysis must include

(A) the economic feasibility of the project, including potential short-term and long-term costs to the state;

(B) a consideration of alternatives to the project;

(C) a statement of the measures that may reduce or eliminate adverse effects;

(D) a statement of the irreversible and irretrievable commitments of natural resources required for the project;

(2) publish notice of the draft best interest finding made under (1) of this section; copies of the draft finding, including the analysis under (1) of this section and the comments and views provided

by the state agencies, shall be made available to the public; the public shall have 90 days from the publication of the notice of the draft finding under this section to comment;

(3) after reviewing and considering the public comments received under (2) of this section, issue a final best interest finding and give public notice of the decision."

renumber the following bill sections accordingly.

PROPOSED AMENDMENTS
TO CSHB 123 (JUD)

1. Page 1, line 10, following "projects,":
Delete "and"
2. Page 1, line 12, following "approval":
Insert "and extending the authority to issue bonds without prior legislative approval until January 1, 1991."
3. Page 3, line 10 (Sec. 5)
 - a. After word "persons," delete "including" insert "except for"
 - b. After word "ownership" insert "shared"
 - c. After word "or" insert "shared"
4. Page 6, following line 6:
Insert a new subsection to read:
"(g) After January 1, 1991, the authority may not issue bonds, other than refunding bonds, without securing the prior approval of the Legislature."

go0799hH
Bannister
4/24/89

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 123 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Industrial Development
7 and Export Authority, including prohibiting the au-
8 thority from entering into agreements with other
9 persons for shared ownership, operation, or construc-
10 tion of projects, and restricting the authority's
11 power to issue bonds under certain conditions without
12 legislative approval; and providing for an effective
13 date."

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

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

16 (9) the achievement of the goal of full employment, and of
17 establishment and continuing operation and development of industrial,
18 manufacturing, export, small business, and business enterprises in the
19 state [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR TRANSPORTATION,
20 FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL, FACILITIES FOR
21 THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER, FACILITIES FOR
22 INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES FOR LOCAL DIS-
23 TRICT HEATING OR COOLING, PARKING FACILITIES, OR A STORAGE OR TRAINING
24 FACILITY RELATING TO A PLANT OR FACILITY,] will be accelerated and
25 facilitated by the creation of an instrumentality of the state with
26 powers to incur debt, to own and operate facilities, to make and
27 insure loans to finance, and to assist private lenders to make loans
28 to finance. the establishment, operation, and development of indus-
29 trial, manufacturing, export, small business, and business enterprises

1 [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR TRANSPORTATION,
2 FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL, FACILITIES FOR
3 THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER, FACILITIES FOR
4 INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES FOR LOCAL DIS-
5 TRICT HEATING OR COOLING, PARKING FACILITIES, OR A STORAGE OR TRAINING
6 FACILITY RELATING TO A PLANT OR FACILITY];

7 * Sec. 2. AS 44.88.010(c) is amended to read:

8 (c) It is further declared to be the policy of the state, in the
9 interests of promoting the health, security, and general welfare of
10 all the people of the state, and a public purpose of the state, to
11 accomplish the objectives set out in (b) of this section through the
12 provision of financial support in cooperation with a municipality, and
13 federal, state, municipal, and private institutions [FOR THE PURPOSE
14 OF INCREASING THE EXPORT OF ALASKA GOODS, TALENT, RAW MATERIALS, AND
15 SERVICES].

16 * Sec. 3. AS 44.88.060 is amended to read:

17 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AU-
18 THORITY REVOLVING FUND. The Alaska Industrial Development and Export
19 Authority revolving fund is established in the authority. The revol-
20 ving fund consists of appropriations made to the revolving fund by the
21 legislature, money or other assets transferred to the revolving fund
22 by the authority, and unrestricted payments on loans made or purchased
23 by the authority. Unless otherwise expressly stated, the accounts
24 created in this chapter are accounts in the revolving fund. The
25 authority may create additional accounts either in the revolving fund
26 or outside the revolving fund. Subject to agreements made with the
27 holders of the authority's bonds or with other persons, the authority
28 may transfer amounts in an account in the revolving fund to another
29 account in the revolving fund. Amounts deposited in the revolving

1 fund may be pledged to the payment of bonds of the authority or ex-
2 pended for the purposes of the authority under this chapter. The
3 authority has the powers and responsibilities established in AS 37.-
4 10.071 with respect to the investment of amounts held in the revolving
5 fund.

6 * Sec. 4. AS 44.88.080(14) is amended to read:

7 (14) to acquire, manage, and operate projects as the au-
8 thority considers necessary or appropriate to serve a public purpose
9 or to exercise its powers under this chapter;

10 * Sec. 5. AS 44.88 is amended by adding a new section to read:

11 Sec. 44.88.087. SHARED OWNERSHIP, OPERATION, OR CONSTRUCTION
12 PROHIBITED. Notwithstanding AS 44.88.080, the authority may not enter
13 into an agreement with other persons, including governmental entities
14 or institutions, for shared ownership, operation, or construction of
15 projects.

16 * Sec. 6. AS 44.88.090(a) is amended to read:

17 (a) The [SUBJECT TO (g) OF THIS SECTION, THE] authority may
18 borrow money and may issue bonds, including but not limited to bonds
19 on which the principal and interest are payable

20 (1) exclusively from the income and receipts or other money
21 derived from the project or development project financed with the
22 proceeds of the bonds or derived from the exporter or exporting trans-
23 action financed, guaranteed, or insured with the proceeds of the
24 bonds;

25 (2) exclusively from the income and receipts or other money
26 derived from designated projects or development projects or other
27 sources whether or not they are financed, insured, or guaranteed in
28 whole or in part with the proceeds of the bonds; or

29 (3) from its income and receipts or other assets generally,

1 or a designated part or parts of them.

2 * Sec. 7. AS 44.88 is amended by adding a new section to read:

3 Sec. 44.88.095. BONDING LIMITATIONS. (a) The authority may not
4 issue bonds in a 12-month period in an amount that exceeds
5 \$400,000,000.

6 (b) The authority may not issue revenue bonds, other than re-
7 funding bonds, to purchase a loan for a project under AS 44.88.155 -
8 44.88.159, to acquire a development project under AS 44.88.172 -
9 44.88.177 or to provide money to finance, guarantee, or insure an
10 exporting transaction under AS 44.88.300 - 44.88.390 in an amount
11 greater than \$50,000,000 during any 12-month period unless the issu-
12 ance is included separately in the estimates required in the report of
13 the authority under AS 44.88.210(b) and unless the legislature, by
14 law, approves the issuance.

15 (c) Before entering into a lease or other agreement under
16 AS 44.88.090(e) regarding a project for which the authority agrees to
17 issue bonds in an amount in excess of \$6,000,000, there must be filed
18 with the authority a certified copy of a resolution of the governing
19 body of the political subdivision of the state, if any, in which the
20 project is to be located, consenting to the location of the project.
21 The consent need only refer to the general nature of the project
22 ultimately to be acquired, as set out in a request of the proposed
23 project applicant. Before entering into a lease or other agreement
24 under AS 44.88.090(e) regarding a project, the authority shall find,
25 on the basis of all information reasonably available to it, that

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

29 (2) the project applicant is financially responsible;

1 (3) provision to meet increased demand upon public facili-
2 ties that might result from the project is reasonably assured; and

3 (4) the project will provide, or retain, employment reason-
4 ably related to the amount of the financing by the authority, con-
5 sidering the amount of investment per employee for comparable facil-
6 ities and other relevant factors.

7 (d) Before adopting a resolution approving a project to be
8 financed under AS 44.88.172 for which bonds must be issued, the au-
9 thority shall, on the basis of all information reasonably available to
10 it, make findings, with respect to the project, as described in
11 (c)(1) - (4) of this section, and also find that

12 (1) the project is economically and financially feasible
13 and able to produce revenue adequate to repay the bonds or loans with
14 which it is financed;

15 (2) the project complies with applicable law; and

16 (3) issuance of the bonds is not expected to adversely
17 affect the ability of the state or any political subdivision of the
18 state to market other bonds.

19 (e) Before entering into an agreement to finance or to develop a
20 proposed project with a cost in excess of \$10,000,000 financed under
21 AS 44.88.172 for which bonds must be issued, the authority shall
22 obtain the approval of each Regional Resource Advisory Council ap-
23 pointed under AS 44.88.174 or municipality in the area in which the
24 proposed project is to be located. Approval under this subsection
25 must be evidenced by a certified copy of a resolution of the council
26 or of the governing body of the municipality. Before considering a
27 resolution regarding the approval or rejection of the development or
28 financing of a proposed project under this subsection, a Regional
29 Resource Advisory Council shall conduct a public hearing in the

1 region. If a proposed project is located in a municipality, the
2 governing bod, of the municipality shall conduct a hearing on the
3 proposed project.

4 (f) Without prior legislative approval, the authority may not
5 issue bonds in an amount greater than \$10,000,000 to assist in the
6 financing of a development project under AS 44.88.177 - 44.88.177.

7 * Sec. 8. AS 44.88.105(a) is amended to read:

8 (a) For the purpose of securing one or more issues of its bonds,
9 the authority may establish one or more special funds, called "capital
10 reserve funds", and shall pay into those capital reserve funds the
11 proceeds of the sale of its bonds and other money which may be made
12 available to the authority from other sources for the purposes of the
13 capital reserve funds. A capital reserve fund may be established only
14 if the authority determines that the establishment of the fund would
15 enhance the marketability of the bonds [, AND IF THOSE COSTS OF A
16 PROJECT, AS DEFINED IN AS 44.88.900, WHICH ARE TO BE FINANCED WITH THE
17 PROCEEDS OF THE BONDS, DO NOT EXCEED \$10,000,000]. Money in a capital
18 reserve fund, except as provided in this section, may be used as
19 required only for (1) the payment of the principal of, and interest
20 on, bonds or of the sinking fund payments with respect to those bonds;
21 (?) the purchase or redemption of the bonds; or (3) the payment of a
22 redemption premium required to be paid when the bonds are redeemed
23 before maturity. However, money in a capital reserve fund may not be
24 withdrawn if the withdrawal would reduce the amount in the capital
25 reserve fund to less than the capital reserve fund requirement, except
26 for the purpose of making payment, when due, of principal, interest,
27 redemption premiums on the bonds, and sinking fund payments when other
28 money of the authority is not available for the payments. Income or
29 interest earned by, or increment to, a capital reserve fund, from the

1 investment of all or part of the fund, may be transferred by the
2 authority to other funds or accounts of the authority if the transfer
3 does not reduce the amount of the capital reserve fund below the
4 capital reserve fund requirement.

5 * Sec. 9. AS 44.88.105(d) is amended to read:

6 (d) With respect to a capital reserve fund created under this
7 section on or before January 1, 1989, the [THE] chairman of the au-
8 thority shall annually, no later than January 2, certify in writing to
9 the governor and the legislature the amount, if any, required to
10 restore the [A] capital reserve fund to the capital reserve fund
11 requirement. The legislature may appropriate to the authority the
12 amount certified by the chairman of the authority. The authority
13 shall deposit the amounts appropriated under this subsection during a
14 fiscal year in the proper capital reserve fund. Nothing in this
15 section creates a debt or liability of the state.

16 * Sec. 10. AS 44.88.155(b) is amended to read:

17 (b) The authority may establish in the enterprise development
18 account the [A SMALL ENTERPRISE LOAN ACCOUNT, A LOAN INSURANCE
19 ACCOUNT, AND OTHER] accounts it considers appropriate.

20 * Sec. 11. AS 44.88.155(c) is amended to read:

21 (c) Money and other assets of the enterprise development account
22 may be used to secure bonds of the authority issued to finance the
23 purchase of loans for projects [AND SHALL BE HELD AND INVESTED BY THE
24 AUTHORITY IN ACCORDANCE WITH AS 37.10.071] or shall be used to pur-
25 chase loans for projects.

26 * Sec. 12. AS 44.88.155(d) is amended to read:

27 (d) A loan purchased in whole or in part by the authority with
28 assets of the enterprise development account or with proceeds of bonds
29 secured by assets of the enterprise development account, other than a

1 loan which is financed with the proceeds of bonds of the authority and
2 secured only by a project applicant or a project,

3 (1) may not exceed

4 [(A)] \$10,000,000; [OR

5 (B) \$500,000 IF THE LOAN IS PURCHASED UNDER AS 44.88.-

6 158;]

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

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

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

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

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

25 (7) may not be made unless

26 (A) at least 20 [10] percent of the principal amount
27 of the loan is retained by the originator of the loan as long as
28 the loan is outstanding; or

29 (B) 100 percent of the principal amount of the loan is

1 guaranteed by the United States or an agency or instrumentality
2 of the United States;

3 (8) must be

4 (A) [AT LEAST PARTIALLY GUARANTEED BY THE UNITED
5 STATES OR AN AGENCY OR INSTRUMENTALITY OF THE UNITED STATES,
6 SUBJECT TO THE PROVISIONS OF AS 44.88.158;

7 (B)] financed from the proceeds of bonds; or

8 (B) [(C)] expected by the authority to be financed
9 from the proceeds of bonds.

10 * Sec. 13. AS 44.88.165 is repealed and reenacted to read:

11 Sec. 44.88.165. DELINQUENT LOANS. The authority shall adopt
12 regulations to describe the circumstances under which it will discon-
13 tinue purchasing loans from a financial institution because of exces-
14 sive delinquencies among the loans previously purchased by the author-
15 ity from the financial institution. In adopting the regulations, the
16 authority^a must consider the authority's delinquency experience with
17 loans it purchased from all financial institutions. The authority may
18 include in the regulations other remedies it considers appropriate as
19 alternatives to the discontinuance of purchasing loans from the finan-
20 cial institution.

21 * Sec. 14. AS 4.88.172(a) is amended to read:

22 (a) The economic development account is established in the
23 revolving fund. The economic development account consists of money or
24 assets appropriated, loaned, or transferred to the authority for
25 deposit in the account [,] and other money or assets deposited in the
26 account by the authority. While money is on deposit in the economic
27 development account, the money [THE ACCOUNT] may be used only to
28 finance, acquire, manage, and operate development projects that the
29 authority intends to own and operate. The term "operate" includes

1 operation directly by the authority [,] or by an agent of the author-
2 ity.

3 * Sec. 15. AS 44.88.535(b) is amended to read:

4 (b) The authority may provide a guarantee from the fund for up
5 to 80 [70] percent of a loan that qualifies under AS 44.88.500 -
6 44.88.599. The ratio of the guarantee to the outstanding principal of
7 the loan may not increase over the term of the loan.

8 * Sec. 16. AS 44.88.545 is amended to read:

9 Sec. 44.88.545. LIMITATIONS OF GUARANTEES WITH RESPECT TO
10 BORROWERS. The authority may not provide a guarantee

11 (1) [A LOAN] of more than \$1,000,000;

12 (2) [LOANS] to an individual borrower that cumulatively
13 exceeds [EXCEED] \$1,000,000 of guaranteed indebtedness.

14 * Sec. 17. AS 44.88.560 is amended to read:

15 Sec. 44.88.560. POWERS OF THE AUTHORITY. The authority may

16 (1) adopt regulations to implement AS 44.88.500 - 44.88.-
17 599;

18 (2) establish terms and conditions for loan guarantees and
19 refinancing agreements subject to the requirements of AS 44.88.500 -
20 44.88.599;

21 (3) make and execute contracts and other instruments to
22 implement AS 44.88.500 - 44.88.599;

23 (4) charge

24 (A) [(i)] one percent of the amount guaranteed for the
25 service it provides under AS 44.88.500 - 44.88.599; and

26 (B) [(ii)] any other reasonable fee that the authority
27 may establish by regulation;

28 (5) acquire real o. personal property by purchase, trans-
29 fer, or foreclosure when the acquisition is necessary to protect an

1 interest in the fund; and

2 (6) exercise any other power necessary to implement AS 44.-
3 88.500 - 44.88.599;

4 (7) to the extent the authority considers it to be in its
5 best interest to do so, use money in the business assistance fund to
6 pay expenses relating to the liquidation of collateral securing loans
7 guaranteed by the business assistance fund.

8 * Sec. 18. AS 44.88.900(4) is repealed and reenacted to read:

9 (4) "development project" has the meaning given to "proj-
10 ect" in (9)(A) of this section;

11 * Sec. 19. AS 44.88.900(9) is amended to read:

12 (9) "project" means

13 (A) a plant or facility used or intended for use
14 [(i)] in connection with making, processing, pre-
15 paring, transporting, or producing in any manner, goods,
16 products, or substances of any kind or nature or in connec-
17 tion with developing or utilizing a natural resource, or
18 extracting, smelting, transporting, converting, assembling,
19 or producing in any manner, minerals, raw materials, chemi-
20 cals, compounds, alloys, fibers, commodities and materials,
21 products, or substances of any kind or nature;

22 [(ii) AS AN INDUSTRIAL PARK; IN CONNECTION WITH
23 TRANSPORTATION; FOR THE PREVENTION, LIMITATION OR CONTROL OF
24 POLLUTION; FOR THE DISPOSAL OF SEWAGE OR SOLID WASTE; FOR
25 THE LOCAL FURNISHING OF GAS; FOR THE FURNISHING OF WATER; AS
26 OR IN CONNECTION WITH MASS COMMUTING VEHICLES; FOR LOCAL
27 DISTRICT HEATING OR COOLING; AS A PARKING FACILITY; OR AS A
28 STORAGE OR TRAINING FACILITY DIRECTLY RELATED TO A PLANT OR
29 FACILITY DESCRIBED IN THIS PARAGRAPH;]

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

3 (C) commercial activity by a small enterprise;

4 * Sec. 20. AS 44.88.090(g), 44.88.090(i), 44.88.105(e), 44.88.105(g),
5 44.88.157, 44.88.158, 44.88.159(c), 44.88.160, 44.88.172(b), 44.88.172(c),
6 44.88.175, 44.88.176, 44.88.212(a), and 44.88.900(3) are repealed.

7 * Sec. 21. This Act takes effect immediately under AS 01.10.070(c).
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RECEIVED APR - 3 1989

465-3700



ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY

1577 "C" STREET • SUITE 304 • ANCHORAGE, ALASKA 99501-5177 • (907) 274-1651

TELECOPY

TO: The Honorable Peter Goll
House of Representatives
Alaska State Legislature

FROM: Bertram L. Wagnon, Executive Director
Alaska Industrial Development & Export Authority

SUBJECT: House Bill 123

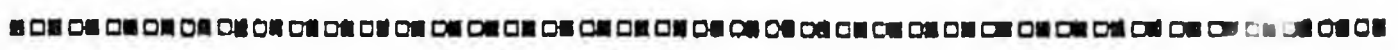
DATE: April 3, 1989

TIME SENT: 9⁵⁶a

0102001-502

Beef
Thank you

This letter
Back to me.



THIS FORM PLUS 2 PAGES. PHONE CONTACT IF NOT RECEIVED PROPERLY IS (907) 274-1651. ATTENTION: Sharron

THANK YOU.

NOTE: Original Memorandum with attachments will be hand delivered on Tuesday, April 4, 1989




ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY

1577 "C" STREET • SUITE 304 • ANCHORAGE, ALASKA 99501-5177 • (907) 274-1651

MEMORANDUM

TO: The Honorable Peter Goll
House of Representatives, Alaska State Legislature

FROM: Bertram L. Wagnon
Executive Director 

DATE: April 3, 1989

SUBJECT: House Bill 123

Per our phone conversation I have attempted to set out below an explanation of the two areas of concern you mentioned on Thursday.

1. Public access to bonds issued by the Authority.

The debt issued by the Authority in the form of its bonds are sold through underwriting syndicates lead by a senior underwriter, Goldman Sachs & Company and Prudential Bache Securities. Efforts have been made to make these securities available to Alaskans by including brokerage houses that have offices in Alaska in the underwriting group. Dean Witter, Paine Webber and Merrill Lynch have all participated in our selling groups and all three have offices located in Anchorage. Due to the structure of our financings, about 2/3 of the volume is taken down by institutional buyers with the balance being sold to the retail market. This split between buyers changes over time with changes in the economy and lately continual changes in federal taxation policy. For example the 1986 tax code change made our bonds subject to A.M.T (the Alternative Minimum Tax) which in time will most likely cause fewer insurance companies to be buyers. All reasonable efforts are made to have our bonds available to the Alaska public at the initial public offering.

For background information, I have attached official statements from several of our past transactions for your review.

Honorable Pater Goll
April 3, 1989
Page Two

2. How loans are participated in by AIDEA.

The Authority functions as a participant to banks who make loans to Alaskan residents. An individual needing to obtain funds for a business would approach a bank of their choice.

The bank would evaluate the proposal and if satisfied with the credit aspects, would then forward the package to the Authority for its review. If the Authority concurs with the bank, the Authority will issue a commitment letter to the bank and once the bank has closed the loan, purchase its participation (usually 80%). The rationale for having the bank originate the transaction is to keep the private banking sector involved in making both money available to Alaska business as well as performing the credit analysis.

As you mentioned on smaller loans, some banks may not find it cost effective to go through the participation process and undoubtedly some smaller customers are not being served. Two avenues exist to address the particular needs of the very small loan.

The Federal SBA operates a program that many banks take advantage of. This program allows the banks to make a loan to a small business and have SBA guaranty up to 85% of the loan amount. This transfer of risk from the bank to the SBA often will entice a bank to make loans it otherwise could not.

A second alternative is the Authority's own Guaranty program (amendments to this program are contained in Sections 15, 16 & 17 of CSHB123 to make the program more acceptable to banks) operated by the Authority. This program operates similar to the SBA program and its intent is to once again entice banks to make loans to credit worthy businesses.

BLW/ss
attachment(s)