

**SB 163**

HOUSE COMMITTEE REPORT

(11)

Date Referred: April 5, 1991

FURTHER REFERRALS:

Date of Committee Action: 5-9-91

The FINANCE Committee considered:

CSSB 163(FIN)am

CS FOR SENATE BILL NO. 163 (FINANCE) am AHFC & AIDEA BUDGETING AND REPORTING

"An Act relating to the budget and finances of the Alaska Housing Finance Corporation and the Alaska Industrial Development and Export Authority."

RECOMMENDATIONS:

be replaced with HCSL'S SB 163(FIN)am  the same title  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) REVENUE 3-26-91  
OLEP 3-29-91

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Ed Maclean</i>	<input checked="" type="checkbox"/>	<i>Bob King</i>		<input checked="" type="checkbox"/>	
<i>Mike Yavane</i>		<i>2000 &amp; 2001</i>		<input checked="" type="checkbox"/>	
		<i>George T. ...</i>		<input checked="" type="checkbox"/>	
<i>Kay Brown</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>Danora Barnes</i>	<input checked="" type="checkbox"/>				

*Mike Yavane Ed Maclean*  
CHAIRMAN'S SIGNATURE

FISCAL NOTE

Bill Version: CSSB 163(FIN)

(S) Publish Date: 3/29/91

STATE OF ALASKA  
 1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: Commerce & Economic Development  
 Title: An Act relating to the budget and Finance of ADEG and AIDEA BRU: AK Industrial Development & Export Authority  
 Sponsor: Adams & Fourchon Component: N/A  
 Requestor: Senate Finance Committee COMPONENT SERIAL NO. 

2	3	5
---	---	---

Expenditures/Revenues (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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						
PART-TIME						
TEMPORARY						

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)  
 This bill creates a reporting requirement whereby the Authority will provide information to the legislature which in itself has no fiscal impact.

Prepared By: Bertram L. Wagoner, Executive Director Phone: 907/561-8050  
 Division: AK Industrial Development & Export Authority Date: March 27, 1991  
 Approved by Commissioner: Commissioner Glen Olds *[Signature]*  
 Agency: Department of Economic Development Date: 3/28/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

(S) Publish Date: 3/26/91

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

Department Affected: Revenue

Title: An Act relating to the budget and finances of the Alaska Housing Finance Corporation.

BRU: Alaska Housing Finance Corporation

Component: Alaska Housing Finance Corporation

Sponsor: Senators Adams, Pourchar

Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. 

1	1	0
---	---	---

Expenditures/Revenues (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
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	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Judy DeSpain  
Division: Alaska Housing Finance Corporation/Administration

Phone: (907)561-1900  
Date: March 8, 1991

Approved by Commissioner: [Signature]  
Agency: DEPT. OF REVENUE

Date: 3-11-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor,

Changes in CSB 163 (Fin) have no fiscal impact. This fiscal note is appropriate.

Page      of

## HOUSE CS FOR CS FOR SENATE BILL NO. 163 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS ADAMS, Pourchot, Halford

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to the budget and finances of the Alaska Housing Finance Corporation  
2 and the Alaska Industrial Development and Export Authority."

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

4 \* Section 1. AS 18.56.089 is amended to read:

5 Sec. 18.56.089. COMPLIANCE WITH EXECUTIVE BUDGET ACT;  
6 CORPORATION FINANCES. (a) The operating budget of the corporation is subject to  
7 AS 37.07 (Executive Budget Act) [THE EXECUTIVE BUDGET ACT (AS 37.07)].

8 (b) To further ensure effective budgetary decision making by the legislature, the  
9 corporation shall

10 (1) annually review the corporation's assets, including the assets of the Alaska  
11 housing finance revolving fund under AS 18.56.082, to determine whether assets of the  
12 corporation exceed an amount required to fulfill the purposes of the corporation as defined  
13 in this chapter; in making its review, the board shall determine whether, and to what  
14 extent, assets in excess of the amount required to fulfill the purposes of the corporation

1 during the next fiscal year are available without

2 (A) breaching any agreement entered into by the corporation;

3 (B) materially impairing the operations or financial integrity of the  
4 corporation; or

5 (C) materially affecting the ability of the corporation to

6 (i) stabilize the market price of and demand for residential  
7 housing; and

8 (ii) ensure an adequate long-term supply of residential housing  
9 for persons of lower and moderate income; and

10 (2) present [A COMPLETE ACCOUNTING OF ALL ASSETS OF THE  
11 CORPORATION, INCLUDING ASSETS OF THE ALASKA HOUSING FINANCE  
12 REVOLVING FUND,] to the legislature by January 10 of each year a complete accounting of  
13 all assets of the corporation, including assets of the Alaska housing finance revolving fund  
14 under AS 18.56.082, and a report of the review and determination made under (1) of this  
15 subsection; the [. THE] accounting shall be audited by an independent outside auditor and  
16 must [SHALL] include a full description of all mortgage loan interest and principal repayments  
17 and program receipts, including

18 (A) mortgage loan commitment fees [,] received by or accrued to the  
19 corporation during the preceding fiscal year, and

20 (B) all income earned on assets of the corporation during that period,  
21 including earnings on assets of the state assisted mortgage fund.

22 \* Sec. 2. AS 44.88.205 is amended to read:

23 Sec. 44.88.205. COMPLIANCE WITH EXECUTIVE [OPERATING] BUDGET ACT;  
24 AUTHORITY FINANCES. (a) The [FOR FISCAL YEARS BEGINNING AFTER JUNE 30,  
25 1981, THE] operating budget of the authority is subject to AS 37.07 (Executive Budget Act).

26 \* Sec. 3. AS 44.88.205 is amended by adding a new subsection to read:

27 (b) To further ensure effective budgetary decision making by the legislature, the authority  
28 shall

29 (1) annually review the authority's assets to determine whether assets of the  
30 authority exceed an amount required to fulfill the purposes of the authority as defined in this  
31 chapter; in making its review, the members of the authority shall determine whether, and to what

1 extent, assets in excess of the amount required to fulfill the purposes of the authority during at  
2 least the next fiscal year are available without

3 (A) breaching any agreement entered into by the authority;

4 (B) materially impairing the operations or financial integrity of the  
5 authority; or

6 (C) materially affecting the ability of the authority to fulfill the authority's  
7 purposes set out in AS 44.88.070; and

8 (2) present to the legislature by January 10 of each year a complete accounting  
9 of all assets of the authority and a report of the review and determination made under (1) of this  
10 subsection; the accounting shall be audited by the auditor who conducts the audit required by  
11 AS 44.88.200 and must include a full description of all loan interest and principal payments and  
12 program receipts, including

13 (A) loan commitment fees received by or accrued to the authority during  
14 the preceding fiscal year, and

15 (B) all income earned on assets of the authority during that period.

HOUSE CS FOR CS FOR SENATE BILL NO. 163 ( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATORS ADAMS, Pourchot, Halford

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the budget and finances of the Alaska Housing Finance Corporation  
2 and the Alaska Industrial Development and Export Authority."

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

4 \* Section 1. AS 18.56.089 is amended to read:

5 Sec. 18.56.089. COMPLIANCE WITH EXECUTIVE BUDGET ACT;  
6 CORPORATION FINANCES. (a) The operating budget of the corporation is subject to  
7 AS 37.07 (Executive Budget Act) [THE EXECUTIVE BUDGET ACT (AS 37.07)].

8 (b) To further ensure effective budgetary decision making by the legislature, the  
9 corporation shall

10 (1) annually review the corporation's assets, including the assets of the Alaska  
11 housing finance revolving fund under AS 18.56.082, to determine whether assets of the  
12 corporation exceed an amount required to fulfill the purposes of the corporation as defined  
13 in this chapter; in making its review, the board shall determine whether, and to what  
14 extent, assets in excess of the amount required to fulfill the purposes of the corporation

- 1 during the next fiscal year are available without
- 2 (A) breaching any agreement entered into by the corporation;
- 3 (B) materially impairing the operations or financial integrity of the
- 4 corporation; or
- 5 (C) materially affecting the ability of the corporation to
- 6 (i) stabilize the market price of and demand for residential
- 7 housing; and
- 8 (ii) ensure an adequate long-term supply of residential housing
- 9 for persons of lower and moderate income; and

10 (2) present [A COMPLETE ACCOUNTING OF ALL ASSETS OF THE  
 11 CORPORATION, INCLUDING ASSETS OF THE ALASKA HOUSING FINANCE  
 12 REVOLVING FUND,] to the legislature by January 10 of each year a complete accounting of  
 13 all assets of the corporation, including assets of the Alaska housing finance revolving fund  
 14 under AS 18.56.082, and a report of the review and determination made under (1) of this  
 15 subsection; the [ THE] accounting shall be audited by an independent outside auditor and  
 16 must [SHALL] include a full description of all mortgage loan interest and principal repayments  
 17 and program receipts, including

- 18 (A) mortgage loan commitment fees [,] received by or accrued to the
- 19 corporation during the preceding fiscal year, and
- 20 (B) all income earned on assets of the corporation during that period,
- 21 including earnings on assets of the state assisted mortgage fund.

22 \* Sec. 2. AS 44.88.205 is amended to read:

23 Sec. 44.88.205. COMPLIANCE WITH EXECUTIVE [OPERATING] BUDGET ACT;  
 24 AUTHORITY FINANCES. (a) The [FOR FISCAL YEARS BEGINNING AFTER JUNE 30,  
 25 1981, THE] operating budget of the authority is subject to AS 37.07 (Executive Budget Act).

26 \* Sec. 3. AS 44.88.205 is amended by adding a new subsection to read:

27 (b) To further ensure effective budgetary decision making by the legislature, the authority  
 28 shall

29 (1) annually review the authority's assets to determine whether assets of the  
 30 authority exceed an amount required to fulfill the purposes of the authority as defined in this  
 31 chapter; in making its review, the members of the authority shall determine whether, and to what

1 extent, assets in excess of the amount required to fulfill the purposes of the authority during at  
2 least the next fiscal year are available without

3 (A) breaching any agreement entered into by the authority;

4 (E) materially impairing the operations or financial integrity of the  
5 authority; or

6 (C) materially affecting the ability of the authority to fulfill the authority's  
7 purposes set out in AS 44.88.070; and

8 (2) present to the legislature by January 10 of each year a complete accounting  
9 of all assets of the authority and a report of the review and determination made under (1) of this  
10 subsection; the accounting shall be audited by the auditor who conducts the audit required by  
11 AS 44.88.200 and must include a full description of all loan interest and principal payments and  
12 program receipts, including

13 (A) loan commitment fees received by or accrued to the authority during  
14 the preceding fiscal year, and

15 (B) all income earned on assets of the authority during that period.

See.

# Alaska State Legislature

Al Adams  
District L

WHILE IN SESSION  
P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3707

OUT OF SESSION  
P.O. Box 333  
Kotzebue, Alaska 99752  
(907) 442-3245

3111 C Street  
Anchorage, Alaska 99503  
(907) 561-7622



Official Business

April 8, 1991

TO: Rep. Navarre, Co-Chairman  
Rep. MacLean, Co-Chairman  
House Finance Committee

FROM: Senator Al Adams *AAK*

RE: SB 163

I would appreciate it if you would please schedule SB 163 for a hearing in the House Finance Committee.

Under current law both AHFC and AIDEA are subject to the Executive Budget Act and are required to present a complete audited accounting of assets to the Legislature by January 10 of each year.

SB 163 would not change these requirements, but would require AHFC and AIDEA to also determine whether, and to what extent, the Corporations have excess assets. They would notify the legislature on the amount needed to fulfill the purposes of the corporations and the amount, if any, that was available for appropriation by the Legislature without damaging the financial integrity of these corporations.

I believe this bill is in the public's best interest, and I would appreciate your consideration of the matter.

# State of Alaska

**Rep. Ronald Larson**

CHAIRMAN

**Sen. Jay Kerttula**

VICE-CHAIRMAN

Sen. Dick Eliason

Sen. Al Adams

Sen. Jim Duncan

Sen. Curt Menard

Sen. Lyman Hoffman

Rep. Pat Carney

Rep. Eileen MacLean

Rep. Kay Brown

Rep. Fran Ulmer

Rep. Terry Martin



## Legislative Budget and Audit Committee

WHILE IN SESSION

P.O. Box V

Juneau, Alaska 99811

(907) 465-3727

INTERIM ADDRESS

P.O. Box 53

Palmer, Alaska 99645

(907) 745-3826

The Honorable Mike Navarre  
The Honorable Eileen MacLean  
Co-Chairs  
House Finance Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

April 15, 1991

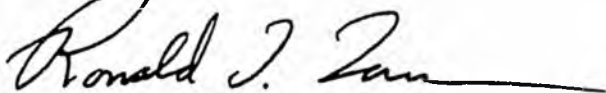
Dear Representatives:

The enclosed letter of April 10, 1991 proposed an amendment to CSSB 163(Fin) am to establish payment of dividends to the State from the Alaska Housing Finance Corporation.

With this letter, I enclose for the House Finance Committee's consideration a similar amendment to establish a dividend payment to the State from the Alaska Industrial Development and Export Authority.

By copy of this letter, I am providing the amendment to the Budget and Audit Committee and the Alaska Industrial Development and Export Authority, neither of which has had an opportunity to review this specific amendment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ronald L. Larson", with a long horizontal flourish extending to the right.

Ronald L. Larson, Chairman  
Legislative Budget and Audit Committee

cc Members of the Legislative Budget and Audit Committee  
Bert Wagnon, Executive Director, Alaska Industrial Development and  
Export Authority

# HOUSE AMENDMENT

TO: CSSB 163(Fin) am BY: Larson

Page 2 Line 22

Insert:

"\*Sec 5. AS 44.88.010 is amended by adding a new subsection to read:

(d) The legislature finds and declares that, to the extent the authority experiences annual earnings in excess of that necessary to fund its program needs and needed to be retained to maintain its financial viability, meet future debt service requirements, or comply with existing financial covenants, payment of dividends to the state from the annual earnings of the authority is necessary to provide for a return to the state on its investment in the authority.

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

Sec. 44.88.153. PAYMENT OF DIVIDENDS. (a) The authority shall pay each year a dividend to the state in the amount determined under (b) of this section, subject to the provisions of (c) of this section. The payment shall be made prior to November 30 of each year from the revolving fund established under AS 44.88.060.

(b) The amount of the dividend shall be the lesser of 50 percent of net income or 75 percent of unrestricted net income for the year ending June 30, reduced in either case by amounts the board determines necessary to meet the requirements of (c) of this section.

(c) Payment of the dividend is subject to the adoption of a resolution by the board approving the amount of the dividend and affirming that

(1) the authority is not in default as to payments of any required amounts and that payment to the state is not expected to impair its ability to meet future financial requirements including the payment of principal, interest, and program costs associated with outstanding debt;

(2) the payment will not cause the authority to be in default under the terms of any financial agreements or disable the authority from meeting any financial covenant including minimum asset maintenance requirements;

(3) financial resources remaining after payment are determined adequate to meet anticipated program requirements through the fiscal year subsequent to that in which payment is being made;

(4) neither the state nor any of its agencies, political subdivisions , or instrumentalities is in default as to payment of any amounts due pursuant to the terms of financial agreements with the authority; and,

(5) if the authority has unsecured general obligation debt outstanding, the payment will not result in the then existing credit ratings, if any, on such debt being reduced."

and renumber succeeding sections accordingly.

Page 3 Line 15

Add:

"\*Sec. 9. AS 44.88.900 is amended by adding new subsections to read:

(8) 'net income' means the amount stated as net income in the authority's financial statements that are audited by an independent firm of certified public accountants;

(16) 'unrestricted net income' means the portion of net income that may be used for general purposes of the authority.

and renumbering subsections (8)-(14) as subsections (9)-(15)."

# State of Alaska

**Rep. Ronald Larson**

CHAIRMAN

**Sen. Jay Kerttula**

VICE-CHAIRMAN

**Sen. Dick Eliason**

**Sen. Al Adams**

**Sen. Jim Duncan**

**Sen. Curt Menard**

**Sen. Lyman Hoffman**

**Rep. Pat Carney**

**Rep. Eileen MacLean**

**Rep. Kay Brown**

**Rep. Fran Ulmer**

**Rep. Terry Martin**

WHILE IN SESSION:

P.O. Box V  
Juneau, Alaska 99811  
(907) 465-3727

INTERIM ADDRESS:

P.O. Box 53  
Palmer, Alaska 99645  
(907) 745-3826

## Legislative Budget and Audit Committee

The Honorable Mike Navarre  
The Honorable Eileen MacLean  
Co-Chairs  
House Finance Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

April 10, 1991

Dear Representatives:

Pursuant to AS 24.20.201(a)(10), the Legislative Budget and Audit Committee recommended that the Alaska Housing Finance Corporation Board of Directors favorably consider the draft *State Appropriation Repayment Plan* that is enclosed.

The Budget and Audit Committee also recommends to the Legislature that the corporation's statutes be amended to provide for such a plan. I enclose for the House Finance Committee's consideration an amendment to CSSB 163(Fin) am to accomplish this. By copy of this letter, I am providing the amendment to the Budget and Audit Committee and the Alaska Housing Finance Corporation, neither of which has had an opportunity to review this specific amendment.

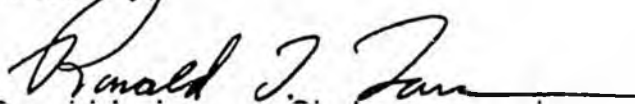
As indicated in the enclosed March 28, 1991 Board Consideration Memorandum on this subject, the plan has the following attributes:

1. payments are initiated by the corporation, avoiding legal concerns or bond market reactions that might result from appropriations, at least, from sizable ones;
2. payments are a portion of earnings, which also minimizes legal concerns and bond market reactions because the existing amount of corporation assets, which serve as security for bondholders, is not reduced; and,
3. the corporation's Board has the discretion to reduce or withhold the payments if necessary to meet the corporation's financial requirements or operational needs.

Continued legislative interest in the corporation's financial resources is evidenced by Senate Bill 163, relating to the budget and finances of the corporation and the Alaska Industrial Development and Export Authority, as well as by proposed appropriations of \$4 million and \$80 million from corporation assets in House Bill 75 and Senate Bill 233. This interest can be expected to increase as Prudhoe production declines.

A plan such as the proposed *Repayment Plan*, which adequately addresses the needs of the corporation, could make an important contribution to the State's fiscal well-being in the years ahead.

Sincerely,



Ronald L. Larson, Chairman  
Legislative Budget and Audit Committee

cc Members of the Legislative Budget and Audit Committee  
Barry Hulin, Chief Operating Officer, Alaska Housing Finance  
Corporation

# HOUSE AMENDMENT

TO: CSSB 163(Fin) am BY: Larson

Page 1 Line 4

Insert:

\*\*Section 1. AS 18.56.010 is amended by adding a new subsection to read:

(g) The legislature finds and declares that, to the extent the corporation experiences annual earnings in excess of that necessary to fund its program needs and needed to be retained to maintain its financial viability, meet future debt service requirements, or comply with existing financial covenants, payment of dividends to the state from the annual earnings of the corporation is necessary to provide for a return to the state on its investment in the corporation.

\*Sec. 2. AS 18.56 is amended by adding a new section to read:

Sec. 18.56.086. PAYMENT OF DIVIDENDS. (a) The corporation shall pay each year a dividend to the state in the amount determined under (b) of this section, subject to the provisions of (c) of this section. The payment shall be made prior to November 30 of each year from the revolving fund established under AS 18.56.082.

(b) The amount of the dividend shall be the lesser of 50 percent of net income or 75 percent of unrestricted net income for the year ending June 30, reduced in either case by amounts the board determines necessary to meet the requirements of (c) of this section.

(c) Payment of the dividend is subject to the adoption of a resolution by the board approving the amount of the dividend and affirming that

(1) the corporation is not in default as to payments of any required amounts and that payment to the state is not expected to impair its ability to meet future financial requirements including the payment of principal, interest, and program costs associated with outstanding debt;

(2) the payment will not cause the corporation to be in default under the terms of any financial agreements or disable the corporation from meeting any financial covenant including minimum asset maintenance requirements;

(3) financial resources remaining after payment are determined adequate to meet anticipated program requirements through the fiscal year subsequent to that in which payment is being made;

(4) neither the state nor any of its agencies, political subdivisions, or instrumentalities is in default as to payment of any amounts due pursuant to the terms of financial agreements with the corporation; and,

(5) if the corporation has unsecured general obligation debt outstanding, the payment will not result in the then existing credit ratings, if any, on such debt being reduced."

and renumber succeeding sections accordingly.

Page 2 Line 22

Insert:

"\*Sec. 4. AS 18.56.900 is amended by adding new subsections to read:

(11) 'net income' means the amount stated as net income in the corporation's financial statements that are audited by an independent firm of certified public accountants;

(15) 'unrestricted net income' means the portion of net income that may be used for general purposes of the corporation.

and renumbering subsections (11)-(13) as subsections (12)-(14)."

and renumber succeeding sections accordingly.

Alaska Housing Finance Corporation  
Board Consideration Memorandum

Date: March 28, 1991

Staff Member: Tom Behan

**Item:** Establishment of Board Position on State General Fund Transfers

---

**Issue:**

Over recent years, legislative interest in the Corporation's financial resources has persisted. Legislative proposals have varied as to the means of calculating specific amounts, but each involved some form of transfer back to the State. The recent appearance of a \$4 million appropriation from AHFC to capitalize the Alaska Children's Trust Fund is an extreme example of the confusion which exists over who owns the assets reflected in the Corporation's financial statements. It has become obvious that AHFC needs to establish a position on how it views its existing resources and define its financial relationship with the State. The AHFC Board and staff should then do everything possible to gain legislative support for the plan and vigorously resist any further efforts to remove corporate resources. Should these efforts to treat AHFC funds as if they were State General Fund resources be successful, the general pledge of AHFC becomes meaningless and transactions will require higher capitalization levels. The number of institutions available to provide credit support will also decline and fees increase.

**Options:**

- (1) Continue without a formalized policy, determining a position on each legislative action separately.
- (2) Establish boundaries, permitting legislative reappropriations falling within such boundaries to proceed unchallenged.
- (3) Establish a plan for the transfer of resources back to the State and actively solicit legislative support for it.

**Recommendation:**

Adopt a plan for transfers which contains the following key elements: (1) the transfer of assets is initiated by the Corporation, (2) the transfer is from annual earnings, so that the financial condition of the Corporation is not weakened, and (3) the AHFC Board has the ability to take all pertinent factors into consideration prior to releasing assets.

**Requested Board Action:**

As a means of initiating Board discussion regarding this matter, staff has drafted a State Appropriation Repayment Plan. This plan is attached along with a draft Resolution and an analysis of transfers which would have taken place since 1980 were the plan to have been in effect. Adoption of a plan similar to that drafted is encouraged. Establishment of a Board consensus regarding the position the Corporation should take on legislative proposals which involve transfer of assets would also be helpful.

**Alaska Housing Finance Corporation**  
***State Appropriation Repayment Plan***

Draft of March 28, 1991

---

The Alaska Housing Finance Corporation has received appropriations from the State of Alaska over a number of years to establish and operate a variety of mortgage and mobile home loan lending programs. The following plan outlines a program for annual payments to the State representing a return of these appropriations.

The Corporation shall remit to the State of Alaska a Repayment Amount calculated as set forth below. Payment to the State is dependent upon all Repayment Conditions having been met. The payment to the State shall be made prior to November 30 of each year with the first payment occurring in 1991. The payment will be from the General Account of the Revolving Fund, established pursuant to AS 18.56.082.

The Corporation shall allocate its net income between "unrestricted" and "restricted." Net income shall be considered restricted if the Corporation could not have used the net income for general corporate purposes. Examples of restrictions include (i) net income of funds and accounts established in which the assets are pledged to the repayment of outstanding debt, and (ii) net income of funds established to cover losses on defaulted loans and mortgages. At the time of adoption of this plan, the net income of the Corporation Operating Account and the General Account of the Revolving Loan Fund would be considered unrestricted. The net income of all other funds and accounts would be considered restricted.

The Corporation's Board of Directors shall review the calculation of the Repayment Amount and make the required findings. The Board shall approve by resolution the specific amount of the payment to be made to the State each year.

The net income of the Corporation shall be determined as of each June 30. The net income shall be reflected in the Corporation's audited financial statements and shall be published with its Annual Report as required by AS 18.56.200(b).

Alaska Housing Finance Corporation  
State Appropriation Repayment Plan  
Draft of March 28, 1991

The Repayment Amount shall be the lesser of (a) 75 percent of unrestricted net income, or (b) 50 percent of total net income, reduced in each case by amounts the AHFC Board of Directors determines necessary to maintain compliance with existing financing agreements and as may be required to meet the Repayment Conditions.

The Repayment Conditions are positive determinations by the AHFC Board of Directors that:

- (1) the Corporation is not in default as to payments of any required amounts and that payment to the State is not expected to impair its ability to meet future financial requirements including the payment of principal, interest, and program costs associated with outstanding debt;
- (2) the payment will not cause the Corporation to be in default under the terms of any financial agreements or disable the Corporation from meeting any financial covenant including minimum asset maintenance requirements;
- (3) financial resources remaining after payment are determined adequate to meet anticipated program requirements through the fiscal year subsequent to that in which payment is being made;
- (4) neither the State nor any of its agencies, political subdivisions or instrumentalities is not in default as to payment of any amounts due pursuant to the terms of financial agreements with the Corporation; and
- (5) if the Corporation has unsecured general obligation debt outstanding, the payment will not result in the then existing credit ratings, if any, on such debt being reduced.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 1991 by Alaska Housing  
Finance Corporation Resolution no. 91-\_\_\_\_\_.

c:\wp51\divplan\mkc

*Resolution Establishing a Plan for  
Partial Repayment of State Appropriations*

BE IT RESOLVED by the Board of Directors of the Alaska Housing Finance Corporation as follows:

I. Findings:

(a) the State of Alaska has made a significant investment in Alaska Housing Finance Corporation through appropriations of cash and mortgage loans; and

(b) the Corporation expects to experience annual earnings in excess of that necessary to fund immediate program needs; and

(c) the Corporation further expects a portion of such excess earnings to be over and above that needed to be retained to maintain its financial viability, meet future debt service requirements, or comply with existing financial covenants; and

(d) there has been presented a State Appropriation Repayment Plan which provides for repayments to be made under certain circumstances.

II. Conclusion:

The attached State Appropriation Repayment Plan effectively meets the objectives of partial repayment and is hereby adopted.

III. Effective Date:

This resolution shall take effect immediately.

DATED THIS \_\_\_\_ day of \_\_\_\_\_, 1991.

Robert Mintz  
Chairman of the Board

# Alaska Housing Finance Corporation

## Analysis of Proposed Dividend Policy Consideration of Affect on Prior Years (In Thousands)

Fiscal Period			Net Income				Maximum Repayment Amount
No. Months	Ending		Unrestricted		All Funds		
	Month	Year	Total	75%	Total	50%	
12	6	1990	35,888	26,918	34,342	17,171	17,171
12	6	1989	(4,001)	(3,001)	(124,049)	(62,025)	0
12	6	1988	16,317	12,238	(11,454)	(5,727)	0
12	6	1987	34,121	25,591	20,928	10,464	10,464
12	6	1986	41,297	30,973	41,835	20,918	20,918
12	6	1985	46,738	35,054	78,882	38,441	35,054
12	6	1984	37,905	28,429	74,774	37,387	28,429
12	6	1983	46,837	35,128	73,187	36,594	35,128
12	6	1982	60,577	45,433	95,193	47,597	45,433
7	6	1981	28,063	21,047	44,858	22,429	21,047
12	11	1980	14,136	10,602	25,913	12,957	10,602
<b>Totals</b>			<u>321,990</u>	<u>268,410</u>	<u>352,409</u>	<u>176,206</u>	<u>224,246</u>

**Note:** Unrestricted Net Income includes net income of the following:  
Corporation Operating Account, General Account of the Revolving Fund, and  
State Appropriated Loan Fund

## MEMORANDUM

Date: March 28, 1991

To: Thomas C. Behan  
CEO/Executive Director

From: Mark Cameron *mkc*  
CFO/Finance Director

Subject: Senate Bill 163

The Corporation has been asked to comment on Senate Bill 163 "An Act relating to the budget and finances of the Alaska Housing Finance Corporation introduced by Senators Adams and Pourchot. Staff has reviewed the Bill and feels that it raises numerous policy and legal issues which should properly be addressed by the AHFC Board prior to staff comment. The following summarizes some of the more significant aspects of the proposed bill and potential implications should it become effective.

### What the Bill Does

Senate Bill No. 163 would amend AS 18.56.089, requiring the Corporation to review its assets each year and determine how much "money" it had that was in excess of that "amount required to fulfill the purposes of the corporation as defined in this chapter during the next fiscal year." The AHFC Board would then determine what portion of this excess could be appropriated by the Legislature without breaching any of the Corporation's outstanding agreements or "materially impairing the operations or financial integrity of the Corporation."

The logical presumption is that the Legislature would then reappropriate this amount to the State's General Fund.

SB 163 would further require that the Board's determinations be published in a report along with the Corporation's audited financial statements. This report would be filed on or before January 10th of each year.

#### Positive Aspects of the Bill

While the overall effect of SB 163 is of severe consequence to the maintenance of existing Corporate resources, the bill has several positive aspects, many of which have not appeared in previous legislation dealing with this matter. Specifically, the bill:

- \* is not an appropriation bill.
- \* imposes only reporting requirements.
- \* has the AHFC Board making the determinations.
- \* recognizes AHFC has outstanding contractual agreements which must be honored.
- \* permits the AHFC Board to determine the amount giving effect to its ongoing operations and financial integrity.
- \* lets the Corporation withhold from the calculation of the excess, that amount necessary to continue its programs for the next fiscal year.

#### Concerns Regarding the Bill

Depending upon interpretation of existing language, or clarifying amendments to the bill, the Corporation's unrestricted assets in excess of what it determined necessary to operate its programs for the next year would be categorized as "excess" and subject to appropriation to the State's General Fund. After the initial removal of all excess, annual determinations would primarily include earnings and assets released from accounts related to bonds retired. The Corporation would soon be dependent upon annual legislative appropriations for ongoing loan program operations.

Thomas C. Behan

March 28, 1991

Page 3

The bill could put the AHFC Board in a precarious position. The determination of the Board will be the amount of existing resources which it feels are surplus to its operations. By making a finding of any amount, it would be stating that the resources are "available for appropriation by the legislature." Under various financing agreements, the Corporation is charged with protecting its resources and prudently administering its financial affairs. Since all of the Corporation's approximate \$3.5 billion in outstanding debt is additionally secured by its general obligation, it is not clear whether assisting in, or even permitting, a reappropriation of corporate assets would be in conflict with these representations.

The bill raises several issues in addition to the basic question of Legislative powers with respect to corporate resources. The review called for is of existing assets. The Board's finding of any excess is restricted to "money." It is not clear whether the definition of money is to be liberally interpreted to include short-term investments.

A serious timing question also arises. What happens if a determination is made by the Board, funds are reappropriated, yet when payment is due, the resources have been otherwise committed? From a practical standpoint, as soon as the Board makes the determination, the funds would have to be segregated and available to facilitate any potential transfer request.

The Corporation has recommended that prior to passage of any legislation dealing with the removal of existing resources, the attorney general's office, and with respect to (ii) through (v) below, the Corporation's bond counsel, provide opinions that (i) the Legislature has the power to reappropriate AHFC assets, (ii) the reappropriation is not inconsistent with AHFC representations and is not likely to give rise to bondholder litigation, (iii) the AHFC Board does not have an obligation to contest or dispute the removal of its general assets, (iv) the act will not effectively result in the assumption by the State of AHFC's outstanding debt, and (v) the reappropriation does not destroy the wall of separate legal existence which permits AHFC to issue debt without voter approval.

Thomas C. Behan  
March 28, 1991  
Page 4

The question appropriating AHFC funds back to the General Fund must take into consideration the following:

1. The Corporation has "a legal existence independent and separate from the State."
2. By virtue of its separate legal status, the Corporation's debt does not represent an obligation of the State and therefore does not have to be approved by the voters.
3. The AHFC statutes have a specific provision for the return of assets to the State. AS 18.56.020 states that "The corporation may not be terminated as long as it has bonds, notes or other obligation outstanding. Upon termination of the corporation, its rights and property pass to the state." If the Legislature can reappropriate assets of the corporation at any time, this statutory provision would be unnecessary.
4. All of the Corporation's debt has been issued with AHFC's general obligation supporting it. As such, existing holders of AHFC's obligations have claim to all of its resources, and the AHFC Board has contractual obligations and implicit obligations to protect and maintain those assets. Any positions or actions taken by the Corporation must take these existing responsibilities into consideration.
5. Each public offering of AHFC debt has included complete financial statements. These statements have treated legislative appropriations as having been complete when received.
6. Should the State treat the Corporation's assets as their own, a potential bondholder claim could arise that AHFC's debt should be treated as if it were that of the State.

### Conclusion

The Corporation should support the concept of returning, on an annual basis, a portion of the financial support previously provided by the State. A State Repayment Plan has been drafted. An initial draft copy of the Repayment Plan is attached. The Corporation should take the position that this plan goes as far as possible to transfer excess earnings to the State without raising the complex financial and legal issues enumerated above.

The key elements which staff believes must be in any plan which transfers assets away from the Corporation are as follows:

1. The transfer of assets must be initiated by the Corporation.
2. The transfer must come from annual earnings, so that the financial condition of the Corporation is not weakened.
3. While the determination can be made based upon a specified formula, the AHFC Board must have the ability to take all pertinent factors into consideration prior to releasing assets.

In light of the substantial debt the Corporation has outstanding, the unresolved legal questions mentioned, and desire to maintain access to credit markets, the Board may want to consider requesting the sponsors of the bill to consider the State Repayment Plan adopted by the Corporation as an alternative to SB 163.

The projected resources of AHFC are in excess of that currently projected for existing programs. Consideration should be given, however, to the State's vast housing needs. The State must, under Federal law, establish a statewide housing policy or risk losing millions of dollars available to fund housing. Several bills have been introduced to facilitate the establishment of statewide housing policies. Additional programs and project financing will be identified to better provide safe, sanitary, decent and affordable housing to Alaskan residents.

Thomas C. Behan  
March 28, 1991  
Page 6

Retention of existing resources will enable the Corporation to play a major role in identifying and meeting those needs. The removal of existing AHFC resources beyond the level of annual earnings could preclude the Corporation from responding to these needs when identified.

Steve Rieger

## UNCERTAIN FINANCIAL TIMES FOR AHFC

The annual budget process for the State of Alaska is, in part, a quest for money. The revenue forecasts for the upcoming year are a big event because they strongly determine how much the governor can propose to spend and how much the legislature can appropriate. However, the revenue forecast is not the only source of funds. An additional, smaller boost to spending has come from little pockets of money lying around from the high revenue years of the early 1980s.

Sometimes the pockets of money are not so little. One state corporation, AHFC, has a net worth of about \$1.6 billion. The financial survival and effectiveness of AHFC will be an interesting question over the next few years. It also may turn out that AHFC made a key mistake last year in resisting a proposal which could have protected the corporation.

AHFC is particularly vulnerable for a number of reasons. Most important, it has a large net worth. Second, money promises to get much tighter for the state operating budget as North Slope production declines and as the Gulf War windfall finds itself easily absorbed in this year's spending. Third, some of the easier targets have already been picked clean. Fourth, AHFC relies on the confidence of Wall

Street investors if it is to borrow funds at low cost and pass the benefit on to homebuyers — in other words the corporation could suffer just as much



from a loss of lender confidence as it could from a loss of some of its funds. Fifth, AHFC has lost some of its luster and its political constituency.

The first two points need little explanation. The other bear some discussion:

The largesse which was bestowed on many state programs and agencies during the big money years of the early 1980s did not always pass into memory with nothing to show for it. We ended up purchasing the Alaska Railroad, and placed a large endowment into the assets of the Alaska Housing Finance Corporation (AHFC) and the Alaska Industrial Development and Export Authority (AIDEA). There also was a large amount of cash in the state's general fund, although there were outstanding reserves or unspent appropriations from prior years laying claim to that money.

Any leftover state wealth is a tempting target as money gets tighter,

and in recent years the legislature has spent its operating income plus dug into these old pools of money. In the later years of the decade, as oil prices and state revenue weakened, more and more of the state's assets were scrutinized by the legislature. Old, unspent capital appropriations, with cash reserved against them in the state's general fund, were repealed to yield a good chunk of change each year, but now

the bones are pretty well picked clean. Ditto with the old Railbelt Energy Fund, which at one time was well in excess of \$200 million.

The state corporations such as AHFC and AIDEA were largely protected against any raids. One year AHFC was forced to purchase some state housing loans from a different state agency for cash, but little has happened beyond that. That may change now that easier targets are gone.

AHFC's structure and its high net worth have allowed it to borrow money at very good long term rates. In the markets where AHFC gets its money, the confidence of the lenders is critical. Bond rating agencies and lenders look for current financial strength and long term stability in giving its blessing to borrowers such as AHFC. They understand private corporations and their financial practices, but can be much more skeptical about politically-controlled institutions.

This makes for a potentially explosive situation for AHFC. While it is possible that some of AHFC's net worth or its future earnings are not necessary for the continued operation of its programs, releasing that money could snowball into a five-course meal. The bond rating agencies are sensitive to such a dynamic, and would view with alarm any propensity of the legislature to take money from AHFC without strict controls and protections for the bondholders. If AHFC's bond rating were reduced, the cost of borrowing would go up and

the benefit of the corporation to Alaskans would be lowered.

The political constituency for AHFC is still good, but not rock-solid. AHFC has had its ups and downs in profitability and popularity with Alaska citizens, as it has provided lower-cost mortgage money to many residents, but has been blamed for inflating housing prices in some segments of the market, causing hardship on owners when the collapse in housing prices occurred. One of AHFC's programs in particular, the "HOF" program, was blamed for encouraging the construction of some real junk. AHFC also took some significant operating losses during the collapse. With mixed reviews, it is a little harder for AHFC to fend off proposals to use some of its net worth somewhere else.

None of the above is to say that the state's other financial resources are insufficient for its other needs, or that taking some of AHFC's net worth is justified at this time. It is just a fact of life that AHFC is in the unenviable position of being state-owned and having a high net worth at a time when the state may be making cuts elsewhere. The scrutiny of AHFC is inevitable.

When the shareholders of a private corporation want some cash from their investment, they request or demand a dividend. However, tradeoffs between reinvesting earnings and paying the earnings to the owners often do not lead to a confrontation between the board and the shareholders — instead the board declares a dividend sufficient to give a return to the shareholders but also retains a sufficient amount to meet operating needs, growth needs, and financial covenants. When this is done prudently the corporation's lenders are not alarmed and continue to lend money. However, if an adequate payout is not made and the corporation becomes perceived, rightly or wrongly, as too rich, conditions become ripe for a corporate raid.

It seems that a dividend proposal could work for AHFC. The dividend would take only a fraction of each year's earnings, and the net worth of the corporation would grow by the remainder of the earnings. It would seem that everyone would be happy: AHFC would preserve and increase its net worth, the legislature would have a vested interest in the contin-

ued success of AHFC because the operating budget would share in the earnings, and Wall Street would be calm because dividends are a concept it understands.

Unfortunately, last year AHFC passed up a chance to support just such a proposal.

Last year's proposal would mandate AHFC to pay a dividend to the Legislature out of a portion of each year's earnings, but the payout could be reduced if necessary to protect the corporation's financial integrity.

AHFC resisted the measure and rallied enough support to defeat it.

Their opposition may turn out to be a mistake. This year the operating budget passed by the House contains an appropriation of \$4 million from AHFC's funds to an unrelated program. This is the very kind of direct appropriation of AHFC reserves which a dividend program would have helped prevent. Without the dividend program a direct appropriation was inevitable — if not this year then very soon after. AHFC can afford a \$4 million bite, as it made \$34 million in 1990 and will probably earn more than double that this year.

However this measure might be the first of many.

It is certain to raise alarms among AHFC's lenders if it is not represented as part of any official long term program to protect the financial soundness of AHFC.

If borrowing costs go up, the ordinary homebuyer is the one who will lose.

AHFC may now be facing a rear-guard battle to preserve its financial integrity while the state faces ever tighter financial pressures. The battle is over practical reality, not over the merits of the other operating budget needs. If AHFC loses, its days as an agency able to borrow money at a low cost and pass those savings through to middle-class Alaskans are in jeopardy.

It will be interesting to see whether the corporation will be able to act in time to correct its position of last year and support a more controlled dividend or other payment policy.

I hope it succeeds, because in spite of its ups and downs AHFC has provided a lot of benefits to a lot of people.

*Steve Rieger, a former member of the state House from Anchorage, is a financial consultant.*