

HB

386

Alaska State Legislature

Senate

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MEMORANDUM

DATE: April 30, 1998
TO: Legislative Legal
FROM: Lydia A. Jones 
Senate Transportation Committee
RE: SCS for CSHB 386 (TRA)

Please prepare a Senate Transportation Committee Substitute for CSHB 386 (version K) in final form as follows:

On page 7, delete lines 1 and 2.

Renumber accordingly.

Add a new subsection to Section 23, Page 11, following line 31, and renumber

(c) The Alaska Industrial Development and Export Authority shall issue bonds to finance the construction and improvement of the Hatcher Pass Ski Resort phase I located in the Matanuska/Susitna Borough. The principal amount of the bonds and other financing provided by the authority shall be offered at an equivalent of the tax exempt rate at time of offering. The principal amount of the bonds and other financing provided by the authority may not exceed \$15,000,000.

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MEMORANDUM



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DATE: April 29, 1998

TO: Terry Bannister
Legislative Legal

FROM: Lydia A. Jones *L.A.J.*
Senate Transportation Committee

RE: Senate CS for CS for House Bill 386 (TRA)
0-GH2023/F

Please amend as follows:

Page 14, line 2

Delete: "...through"

Insert: "comprised of"

Under Section 24 add:

"The Alaska Industrial Development and Export Authority may issue bonds to finance the expansion, improvement and modification of the existing port and small boat harbor facilities located at the City of Whittier, to be owned by the authority, or may finance the project by other means available to the authority. The principal amount of the bonds and other financing provided by the authority may not exceed \$10,000,000.

0-GH2023F
Bannister
4/28/98

SENATE CS FOR CS FOR HOUSE BILL NO. 386(TRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the financing authority, programs, operations, and projects
2 of the Alaska Industrial Development and Export Authority; and providing for
3 an effective date."

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

5 * Section 1. AS 44.88.090(e) is amended to read:

6 (e) Before issuing bonds, the authority shall provide for consideration at least
7 sufficient, in the judgment of the authority, to pay the principal of and interest on the
8 bonds as they become due and to create and maintain the reserves for the payments
9 that the authority ~~considers~~ necessary or desirable, and to meet all obligations in
10 connection with the lease or agreement ~~and all costs~~ necessary to service the bonds,
11 unless the lease or agreement provides that the obligations are to be met or costs are
12 to be paid by a party other than the authority. If the bonds are being issued to finance
13 a project or projects under AS 44.88.155 - 44.88.159, then the consideration shall be
14 provided by lease or other agreement regarding the project or projects. If the bonds

1 are being issued to finance a development project or development projects under
2 AS 44.88.172 - 44.88.177, then the consideration shall be provided by lease or other
3 agreement regarding the development project or development projects. [IF THE
4 BONDS ARE BEING ISSUED TO PROVIDE MONEY TO FINANCE,
5 GUARANTEE, OR INSURE AN EXPORTING TRANSACTION UNDER
6 AS 44.88.300 - 44.88.390, THEN THE CONSIDERATION SHALL BE PROVIDED
7 BY AGREEMENT WITH THE EXPORTER.]

8 * Sec. 2. AS 44.88.090(h) is amended to read:

9 (h) The authority may combine, for the purposes of a single offering, bonds
10 financing more than one project or development project under AS 44.88.155 -
11 44.88.159 or 44.88.172 - 44.88.177 [AND BONDS ISSUED TO PROVIDE MONEY
12 TO FINANCE, GUARANTEE, OR INSURE AN EXPORTING TRANSACTION
13 UNDER AS 44.88.300 - 44.88.390].

14 * Sec. 3. AS 44.88.095(g) is amended to read:

15 (g) Before July 1, 2000 [1998], the authority may issue bonds in an amount
16 greater than \$10,000,000 to assist in the financing of a development project under
17 AS 44.88.172 - 44.88.177 only with legislative approval. Beginning July 1, 2000
18 [1998], and thereafter, without prior legislative approval, the authority may not issue
19 bonds, except refunding bonds.

20 * Sec. 4. AS 44.88.100 is amended to read:

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

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

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

4 (B) the fixing and collection of rents or other consideration for
5 [,] and the other terms to be incorporated in a lease or contract of sale of a
6 project or development project financed under AS 44.88.155 - 44.88.159 or
7 44.88.172 - 44.88.177 [, OR OF A FACILITY THAT IS PART OF AN
8 EXPORTING TRANSACTION FINANCED, GUARANTEED, OR INSURED
9 UNDER AS 44.88.300 - 44.88.390];

10 (C) the assignment by the authority of its rights in the lease or
11 contract of sale of a project or development project financed under
12 AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177 [, OR OF A FACILITY
13 THAT IS PART OF AN EXPORTING TRANSACTION FINANCED,
14 GUARANTEED, OR INSURED UNDER AS 44.88.300 - 44.88.390] or in a
15 mortgage or other security interest created with respect to a project or
16 development project financed under AS 44.88.155 - 44.88.159 or 44.88.172 -
17 44.88.177 [, OR WITH RESPECT TO A FACILITY THAT IS PART OF AN
18 EXPORTING TRANSACTION FINANCED, GUARANTEED, OR INSURED
19 UNDER AS 44.88.300 - 44.88.390] to a trustee for the benefit of bondholders;

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

22 (E) the vesting in a trustee of rights, powers, duties, funds, or
23 property in trust for the benefit of bondholders, including, without limitation,
24 the right to enforce payment, performance, and all other rights of the authority
25 or of the bondholders under a lease, contract of sale, mortgage, security
26 agreement, or trust agreement with respect to a project or development project
27 financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177 [, OR
28 WITH RESPECT TO A FACILITY THAT IS A PART OF AN EXPORTING
29 TRANSACTION FINANCED, GUARANTEED, OR INSURED UNDER
30 AS 44.88.300 - 44.88.390] by mandamus or other proceeding or by taking
31 possession of by agent or otherwise and operating a project or facility and

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

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

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

8 * Sec. 5. AS 44.88.130 is amended to read:

9 **Sec. 44.88.130. Pledge of the state.** The state pledges to and agrees with the
10 holders of bonds issued under this chapter and with the federal agency that lends or
11 contributes funds in respect to a project or development project financed under
12 AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177 [, OR IN RESPECT TO AN
13 EXPORTING TRANSACTION FINANCED, GUARANTEED, OR INSURED
14 UNDER AS 44.88.300 - 44.88.390] that the state will not limit or alter the rights and
15 powers vested in the authority by this chapter to fulfill the terms of a contract made
16 by the authority with the holders or federal agency and that the state will not in any
17 way impair the rights and remedies of the holders until the bonds, together with the
18 interest on them with interest on unpaid installments of interest, and all costs and
19 expenses in connection with an action or proceeding by or on behalf of the holders are
20 fully met and discharged. The authority is authorized to include this pledge and
21 agreement of the state, insofar as it refers to holders of bonds of the authority, in a
22 contract with the holders and, insofar as it relates to a federal agency, in a contract
23 with the federal agency.

24 * Sec. 6. AS 44.88.155(d) is amended to read:

25 (d) A loan participation purchased by the authority with assets of the enterprise
26 development account or with proceeds of bonds secured by assets of the enterprise
27 development account

28 (1) may not exceed \$10,000,000; however, in the case of a loan
29 participation for a power transmission intertie, the loan participation may exceed
30 \$10,000,000 with legislative approval;

31 (2) may not be purchased unless

1 (A) the project applicant is not, or, if the applicant is not a
2 single proprietorship, all members of the business enterprise or enterprises
3 constituting the project applicant are not, in default on another loan made by
4 the state or by a public corporation of the state; and

5 (B) at least 20 percent of the principal amount of the loan is
6 retained by the loan originator;

7 (3) may not be purchased if the loan to be purchased exceeds [THE
8 COST OF THE PROJECT OR] 75 percent of the appraised value of the collateral
9 offered as security for the loan [PROJECT, WHICHEVER IS LESS,] unless the
10 amount of the loan in excess of this limit is federally insured or guaranteed or is
11 insured by a qualified mortgage insurance company, except that in no event may the
12 loan to be purchased under this paragraph exceed the total of loan proceeds used
13 to refinance an existing debt plus the cost of new construction, expansion, or
14 acquisition;

15 (4) may not be purchased if the participation in the loan to be
16 purchased is for a term longer than the following, except that in no event may a loan
17 under (A) or (C) of this subparagraph have a term longer than three-quarters of
18 the authority's estimate of the life of the collateral offered as security for the loan:

19 (A) 40 years from the date the loan is made in the case of
20 a loan participation for a project described in AS 44.88.900(9)(E);

21 (B) 50 years from the date the loan is made [PROJECT OR
22 25 YEARS FROM THE DATE THE LOAN IS MADE, WHICHEVER IS
23 EARLIER; HOWEVER,] in the case of a loan participation for a power
24 transmission intertie;

25 (C) 25 years from the date the loan is made in the case of
26 a loan participation for other projects [, THE TERM MAY NOT BE
27 LONGER THAN 50 YEARS FROM THE DATE THE LOAN IS MADE];

28 (5) may be made only if the participation in the loan to be purchased
29 contains amortization provisions; the amortization provisions

30 (A) must be complete and satisfactory to the authority and
31 require periodic payments by the borrower;

1 (B) may allow the loan originator to amortize the portion of the
2 loan retained by the loan originator using a shorter amortization schedule than
3 the amortization schedule for the portion of the loan held by the authority if

4 (i) in the authority's opinion, the project financed can
5 support the increased debt service; and

6 (ii) the accelerated amortization schedule is required to
7 induce the originator to make the loan;

8 (6) may be made only if the participation in the loan to be purchased
9 is in the form and contains the terms and provisions with respect to insurance, repairs,
10 alterations, payment of taxes and assessments, default reserves, delinquency charges,
11 default remedies, acceleration of maturity, secondary liens, and other matters the
12 authority prescribes; and

13 (7) may be made only if the participation in the loan to be purchased
14 is secured as to repayment by a mortgage or other security instrument in the manner
15 the authority determines is feasible to assure timely repayment under the [A] loan
16 documents [AGREEMENT] entered into with the borrower.

17 * Sec. 7. AS 44.88.190(c) is amended to read:

18 (c) A loan participation purchased or financed by the authority is exempt from
19 the provisions of AS 45.45.010. [A GUARANTEE EXTENDED UNDER
20 AS 44.88.300 OR INSURANCE PROVIDED UNDER AS 44.88.390 DOES NOT
21 CONSTITUTE INSURANCE FOR THE PURPOSES OF AS 21.03.010.]

22 * Sec. 8. AS 44.88 is amended by adding a new section to read:

23 **Sec. 44.88.215. Confidentiality of information.** (a) In order to promote the
24 purposes of AS 44.88, unless the records were a matter of public record before
25 submittal to the authority, the following records, files, and information shall be kept
26 confidential upon the request of the person supplying the information or upon the
27 request of the project, bond, loan, or guarantee applicant or borrower:

28 (1) income tax returns;

29 (2) financial statements, profit-and-loss statements, and cash flow
30 projections, except the information required by the authority to calculate debt service
31 coverage on the loan;

- 1 (3) financial business plans;
- 2 (4) credit reports from consumer reporting agencies and other credit
- 3 information obtained from banks, creditors, or other credit reporting entities;
- 4 (5) trade secrets;
- 5 (6) appraisals, except the name of the appraiser, the date of the
- 6 appraisal, and the fair market value determined for the property appraised;
- 7 (7) market surveys and marketing strategy information; and
- 8 (8) any information required to be kept confidential by a federal law
- 9 or regulation or by state law.

10 (b) Information compiled by the authority from information described in (a)

11 of this section shall be kept confidential unless disclosure is authorized by the person

12 supplying the information and by the project, bond, loan, or guarantee applicant or

13 borrower.

14 (c) The information that is determined to be confidential under (a) or (b) of

15 this section is not a public record under AS 09.25.110 - 09.25.220.

16 * **Sec. 9.** AS 44.88.500 is repealed and reenacted to read:

17 **Sec. 44.88.500. Business and export assistance guarantees.** Subject to the

18 requirements of AS 44.88.500 - 44.88.599, the authority may

- 19 (1) guarantee new business and export assistance loans; and
- 20 (2) guarantee new business and export assistance loans made to
- 21 refinance existing loans.

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

23 **Sec. 44.88.502. Effect of guarantee.** (a) A guarantee under AS 44.88.500 -

24 44.88.599 does not create a debt or liability of the state.

25 (b) A guarantee under AS 44.88.500 may not be terminated, canceled, or

26 revoked except under its terms. A guarantee held by a participating financial

27 institution is presumed to be valid.

28 (c) A guarantee or portion of a guarantee under AS 44.88.500 that relates to

29 an export transaction must guarantee against commercial and political loss, in whole

30 or in part, of principal and interest. The authority may require the borrower to obtain

31 insurance against some or all of the loss guaranteed under AS 44.88.500. In this

1 subsection, "political loss" means a loss incurred as a result of

2 (1) a political risk that would be insurable under an export credit
3 insurance policy issued by the Export-Import Bank of the United States; or

4 (2) any other political risk that is actually insured under insurance the
5 authority requires the borrower to obtain.

6 * Sec. 11. AS 44.88.505(a) is amended to read:

7 (a) A business enterprise may apply for a new loan guarantee under
8 AS 44.88.500(1) [AS 44.88.500(a)(1)].

9 * Sec. 12. AS 44.88.515 is amended to read:

10 **Sec. 44.88.515. Qualifications of applicant for debt refinancing guarantee.**

11 A business enterprise may apply under AS 44.88.500(2) [AS 44.88.500(a)(2)] to
12 guarantee the refinancing of existing debt.

13 * Sec. 13. AS 44.88.525 is amended to read:

14 **Sec. 44.88.525. Conditions of debt refinancing guarantee.** The authority
15 may not guarantee refinanced debt

16 (1) unless the refinancing

17 (A) is necessary to extend substantial debt payments over a
18 longer period of time, thereby improving the applicant's net cash flow and
19 working capital position consistent with the useful life of the assets being
20 refinanced;

21 (B) assists with short-term debt or cash expenditures when
22 lenders will not extend reasonable longer terms to the applicant; and

23 (C) creates additional economic opportunity or improves the
24 viability of the borrower rather than just reducing the liability of the lender; or

25 (2) unless the refinancing is necessary to place a permanent loan
26 subsequent to an interim loan for financing [CONSTRUCTION] of the project.

27 * Sec. 14. AS 44.88.535(a) is amended to read:

28 (a) The authority may guarantee a loan under AS 44.88.500 - 44.88.599 if the

29 (1) loan

30 (A) is commercially reasonable;

31 (B) contains payment [AMORTIZATION] provisions

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satisfactory to the authority;

(C) is secured by adequate collateral; however, the authority may waive on a case-by-case basis the requirement of collateral for a loan guarantee of \$100,000 or less for which the proposed loan term [AMORTIZATION PERIOD] does not exceed five years, but the ability to waive the requirement of this subparagraph or the grant of a waiver does not prevent the financial institution that holds the loan guaranteed by the authority from requiring reasonable collateral for the loan;

(2) borrower demonstrates the ability to repay the loan from either or both of the following:

(A) net cash flow from the borrower [PROVIDES ADEQUATE COVERAGE FOR THE DEBT SERVICE ON THE LOAN]; and

(B) proceeds from the sale of current assets that are collateral for the loan if the sale, or receipt of proceeds from the sale, is an event that creates a payment obligation; in this subparagraph, "current asset" means property that will be or could be converted into cash in the normal operation of a business within one year;

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

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

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

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

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

* Sec. 15. AS 44.88.535(c) is amended to read:

(c) The authority may guarantee the payment of interest on the guaranteed portion of a loan

(1) in the manner established by the authority by regulation; and

(2) for a period of time not to exceed

(A) 90 days for loans or parts of loans not made to support

1 an export transaction;

2 (B) 180 days for loans or parts of loans made for a post-
3 shipment loan guarantee to support an export transaction; in this
4 subparagraph, "post-shipment loan guarantee" means a guarantee, or
5 portion of a guarantee, that becomes effective after the export contract
6 date that shipment of the related goods or raw materials or provision of
7 the related services begins; or

8 (C) 270 days for loans or parts of loans made for a pre-
9 shipment loan guarantee to support an export transaction; in this
10 subparagraph, "pre-shipment loan guarantee" means a guarantee, or part
11 of a guarantee, that becomes effective before the export contract date that
12 shipment of the related goods or raw materials or provision of the related
13 services begins.

14 * Sec. 16. AS 44.88.545 is amended to read:

15 Sec. 44.88.545. Limitations of guarantees with respect to borrowers. The
16 authority may not provide a guarantee

17 (1) of more than \$1,000,000;

18 (2) to an individual borrower that cumulatively, with the outstanding
19 principal balance of other authority guaranteed indebtedness of that borrower,
20 exceeds \$1,000,000 [OF GUARANTEED INDEBTEDNESS].

21 * Sec. 17. AS 44.88.555(b) is amended to read:

22 (b) Amounts received toward satisfaction of a default on a loan guaranteed
23 under AS 44.88.500 - 44.88.599 shall be allocated between the lender and the fund
24 according to the guaranteed percentage of the loan until the principal balance and
25 accrued interest have [HAS] been repaid.

26 * Sec. 18. AS 44.88.560 is amended to read:

27 Sec. 44.88.560. Powers of the authority. The authority may

28 (1) adopt regulations to implement AS 44.88.500 - 44.88.599;

29 (2) establish terms and conditions for loan guarantees and refinancing
30 agreements subject to the requirements of AS 44.88.500 - 44.88.599;

31 (3) make and execute contracts and other instruments to impiement

1 AS 44.88.500 - 44.88.599;

2 (4) charge reasonable fees that the authority may establish by
3 regulation

4 [(A) ONE PERCENT OF THE AMOUNT GUARANTEED] for
5 the service it provides under AS 44.88.500 - 44.88.599; [AND

6 (B) ANY OTHER REASONABLE FEE THAT THE
7 AUTHORITY MAY ESTABLISH BY REGULATION;]

8 (5) acquire real or personal property by purchase, transfer, or
9 foreclosure when the acquisition is necessary to protect the authority's interest in a loan
10 or a loan guarantee;

11 (6) exercise any other power necessary to implement AS 44.88.500 -
12 44.88.599; and

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

16 * Sec. 19. AS 44.88.599 is amended by adding a new paragraph to read:

17 (3) "export transaction" means a contract for the sale of goods, services,
18 or raw materials that includes a term that requires the goods, services, or raw
19 materials, in whole or in part, to be shipped to or provided in a foreign country.

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

21 (9) "project" means

22 (A) a plant or facility used or intended for use in connection
23 with making, processing, preparing, transporting, or producing in any manner,
24 goods, products, or substances of any kind or nature or in connection with
25 developing or utilizing a natural resource, or extracting, smelting, transporting,
26 converting, assembling, or producing in any manner, minerals, raw materials,
27 chemicals, compounds, alloys, fibers, commodities and materials, products, or
28 substances of any kind or nature;

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

31 (C) commercial activity by a business enterprise;

1 (D) a plant or facility demonstrating technological advances of
2 new methods and procedures and prototype commercial applications for the
3 exploration, development, production, transportation, conversion, and use of
4 energy resources;

5 (E) infrastructure for a new tourism destination facility or for
6 the expansion of a tourism destination facility; in this subparagraph,
7 "tourism destination facility" does not include a hotel or other overnight
8 lodging facility;

9 (F) a plant or facility, other than a plant or facility described in
10 (D) of this paragraph, for the generation, transmission, development,
11 transportation, conversion, or use of energy resources;

12 * Sec. 21. AS 44.88.085(h), 44.88.300, 44.88.310, 44.88.320, 44.88.330, 44.88.340,
13 44.88.350, 44.88.360, 44.88.370, and 44.88.390 are repealed.

14 * Sec. 22. Section 4, ch. 162, SLA 1988, as amended by sec. 4, ch. 25, SLA 1991, sec. 4,
15 ch. 27, SLA 1993, and sec. 20, ch. 111, SLA 1996, is repealed.

16 * Sec. 23. TRANSFER OF ASSETS. Assets of the export insurance account
17 (AS 44.88.390(a)) are transferred to the Alaska Industrial Development and Export Authority
18 revolving fund (AS 44.88.060) on July 1, 1998.

19 * Sec. 24. LEGISLATIVE APPROVALS. (a) The Alaska Industrial Development and
20 Export Authority may issue bonds to finance the expansion, improvement, and modification
21 of the existing port facilities owned by the authority with respect to the DeLong Mountain
22 transportation system and to finance the construction of new facilities to be owned by the
23 authority related to the DeLong Mountain transportation system or may finance these projects
24 by other means available to the authority. The principal amount of the bonds and other
25 financing provided by the authority may not exceed \$80,000,000.

26 (b) The Alaska Industrial Development and Export Authority may issue bonds to
27 finance the improvement and expansion of the existing port facilities located at the City of
28 Nome, Alaska, to be owned by the authority, or may finance the project by other means
29 available to the authority. The principal amount of the bonds and other financing provided
30 by the authority may not exceed \$30,000,000.

1 (c) The Alaska Industrial Development and Export Authority may issue bonds to
2 finance the expansion, improvement, and modification of existing facilities at the Anchorage
3 International Airport and to finance construction of a new domestic terminal. The principal
4 amount of the bonds and other financing provided by the authority may not exceed
5 \$179,000,000.

6 (d) The Alaska Industrial Development and Export Authority may issue bonds to
7 finance the design and construction of a port at Pt. MacKenzie to be owned and operated by
8 the authority, or may finance the project by other means available to the authority. The
9 principal amount of the bonds and other financing provided by the authority may not exceed
10 \$70,000,000.

11 (e) The Alaska Industrial Development and Export Authority may issue bonds to
12 finance the development of a railroad right-of-way within a railroad and utility corridor from
13 near the village of Healy along the general alignment of the Stampede Trail to the eastern
14 boundary of Denali National Park, or may finance this project by other means available to the
15 authority. The principal amount of the bonds and other financing provided by the authority
16 may not exceed \$70,000,000.

17 (f) The Alaska Industrial Development and Export Authority may issue bonds to
18 finance the improvement and expansion of the existing port facilities located at the City of
19 Seward, to be owned by the authority, or may finance the project by other means available
20 to the authority. The principal amount of the bonds and other financing provided by the
21 authority may not exceed \$20,000,000.

22 (g) The Alaska Industrial Development and Export Authority may issue bonds to
23 finance the construction and improvement of the Hatcher Pass Ski Resort, phase 1, located in
24 the Matanuska-Susitna Borough. The principal amount of the bonds and other financing
25 provided by the authority may be offered at an interest rate that is equivalent to the tax
26 exempt rate in effect at the time of offering. The principal amount of the bonds and other
27 financing provided by the authority may not exceed \$15,000,000.

28 (h) Subsections (a) - (g) of this section constitute the legislative approvals as or if
29 required by AS 44.88.095(g), as amended by sec. 3 of this Act.

30 * Sec. 25. RIGHT-OF-WAY FOR RAILROAD AND UTILITY CORRIDOR. (a) The
31 Department of Natural Resources shall grant to the Alaska Industrial Development and Export

1 Authority on the terms the department determines to be appropriate, and as may be more
2 particularly described by the authority, a right-of-way through the land described under (b) of
3 this section for the purpose of financing a project under AS 44.88 to enable Kantishna
4 Holdings, Inc. and its successors and assigns in interest, or Kantishna Holdings, Inc. or its
5 successors and assigns in interest, to develop a railroad and utility corridor through the land
6 described under (b) of this section. The right-of-way grant to the authority may not impair
7 current valid property rights within the land described under (b) of this section.

8 (b) The right-of-way grant to the authority under (a) of this section must run from
9 near the village of Healy along the general alignment of the Stampede Trail to the eastern
10 boundary of Denali National Park, and must proceed through the following cadastral units:

11 (1) Township 12 South, Range 7 West

12 Section 7;

13 (2) Township 12 South, Range 8 West

14 Sections 7, 11, 12, and 14 - 23;

15 (3) Township 12 South, Range 9 West

16 Sections 1 - 18, inclusive;

17 (4) Township 12 South, Range 10 West

18 Sections 1 - 18, inclusive;

19 (5) Township 12 South, Range 11 West

20 Sections 11, 15 - 22

21 Sections 27 - 30: N 1/2.

22 (c) The right-of-way developed for the project described under (a) of this section must
23 be 300 feet in width plus any ancillary land necessary for the development.

24 (d) If the right-of-way developed for the project described under (a) of this section
25 uses less than all of the land contained in the right-of-way granted to the authority under (a)
26 of this section, the authority's right-of-way shall be modified to exclude the land not needed
27 for the project.

28 (e) In this section, "authority" means the Alaska Industrial Development and Export
29 Authority.

30 * Sec. 26. Section 22 of this Act takes effect June 30, 1998.

31 * Sec. 27. Except as provided in sec. 26 of this Act, this Act takes effect July 1, 1998.

Page 5, replace lines 15-20 with the following:

(4) may not be purchased if the participation in the loan to be purchased is for a term longer than:

(A) 40 years from the date the loan is made in the case of a loan participation for a project described in AS 44.88.900(9)(E):

(B) 50 years from the date the loan is made in the case of a loan participation for a power transmission intertie:

(C) 25 years from the date the loan is made in the case of a loan participation for other projects:

provided, however, that in no event may a loan under (A) or (C) of this subparagraph have a term longer than three-quarters of the authority's estimate of the life of the collateral offered as security for the loan.

[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; HOWEVER IN THE CASE OF A LOAN PARTICIPATION FOR A POWER TRANSMISSION INTERTIE, THE TERM MAY NOT BE LONGER THAN 50 YEARS FROM THE DATE THE LOAN IS MADE];

New section:

Sec " __, AS 44.88.900(9)(E) is amended to read:

(E) infrastructure for a new tourism destination facility or for the expansion of a tourism destination facility; in this subparagraph "tourism destination facility" does not include a hotel or other overnight lodging facility:

CS HB 386(FIN)
AIDEA LEGISLATION
SECTIONAL ANALYSIS

Sections 1 and 2 - Technical Change Related to Integration of Export and Business Assistance Programs

Sections 1 and 2 eliminate references to AIDEA's existing Export Finance program in the general bonding provisions of AIDEA's statutes. These technical changes are needed as part of the integration of AIDEA's Export Assistance and Business Assistance programs.

Background. AIDEA's 10-year old Export Assistance Loan Guarantee program has never been utilized. While AIDEA has been able to finance export activities through its Loan Participation, Development Finance, and to a limited extent, its Business Assistance program, for a variety of reasons, the Export Assistance program does not meet the needs of the businesses it was intended to serve.

In 1997, AIDEA commissioned a report examining AIDEA's role in Alaska's export activities. The report noted that while AIDEA's other programs support Alaska exporting, the Export Finance program is ineffective for the type of exporting transactions prevalent in Alaska today. The existing program is modeled on those from other states with strong manufacturing bases. The program does not deal effectively with Alaska's dominant export activities, including air cargo and the transshipment of goods and services produced elsewhere and shipped to Asia and Russia through Anchorage and Fairbanks.

While AIDEA's Business Assistance Loan Guarantee program has been able to support export transactions, from time to time, it was not designed for these transactions and is not useful for a wide variety of exporting activities.

In order to address the needs of the Alaska business and financial communities this bill integrates the existing Export Assistance program with the Business Assistance program and modifies the programs to create a new Business and Export Assistance program that can effectively support Alaskan businesses that export goods and services. Bill sections 1, 2, 4, 5, 7, and 9-22 accomplishes this integration and modification of AIDEA's Export and Business Assistance programs.

Section 3 – AIDEA Bonding Authority

Section 3 of the bill extends AIDEA's general bonding authority which sunsets on July 1, 1998. The bill extends the current sunset until July 1, 2003. Bonds for development finance projects in excess of \$10,000,000 will continue to require legislative authorization.

Background. Effective July 1, 1998, AIDEA's ability to issue bonds other than refunding bonds will sunset. The sunset would prevent AIDEA from issuing any new bonds (other than refunding bonds) without legislative approval and severely curtail AIDEA's ability to fulfill its statutory mission.

The sunset would prevent AIDEA from issuing bonds to assist key development projects and also conduit revenue financing transactions that do not involve the credit of AIDEA or the state. In 1997 alone, AIDEA issued tax-exempt conduit revenue bonds to help finance the Fort Knox gold mine (\$71 million) and the Goat Lake Hydroelectric project (\$23 million). These bonds helped lower the cost of financing for these projects without any financial risk to AIDEA or the state. The bill would extend the current sunset until July 1, 2003.

Sections 4 and 5 - Technical Change Related to Integration of Export and Business Assistance Programs

Sections 4 and 5 eliminate references to AIDEA's existing Export Finance program in general bonding provisions of AIDEA's statutes. These technical changes are needed as part of the integration of AIDEA's Export Assistance and Business Assistance programs.

Section 6 – Technical Changes to AIDEA's Loan Participation Program

Section 6 makes technical changes clarifying certain requirements of AIDEA's Loan Participation program. The bill clarifies that the Authority may not purchase loan participations if the loan exceeds 75% of the appraised value of the collateral securing the loan (AS 44.88.155(d)(3)). In addition, the bill provides that loans, under the program, may not exceed the amount necessary for new construction, expansion, acquisition and the amount necessary to refinance existing debt (AS 44.88.155(d)(3)). The bill also clarifies that the term of the Authority's participation may not exceed 75% of the useful life of the collateral provided as security for the loan (AS 44.88.155(d)(4)). Finally, the bill makes a technical change to AS 44.88.155(d)(7) to clarify that the collateral pledged by the borrower is to secure timely repayment of the obligations of the borrower under the loan documents.

Background. Questions have arisen as to how AIDEA's loan participation requirements apply when the proceeds of the loan are to be used for multiple purposes or if the loan is to be secured by several pieces of collateral. The bill clarifies AIDEA's statutes to specify that loans may not exceed 75% of the appraised value of all the collateral pledged and that the term may not exceed 75% of the useful life of the collateral pledged. Finally the bill clarifies that loans may not exceed the amount necessary for acquisition, construction, and debt refinancing for the project.

Sections 7 - Technical Change Related to Integration of Export and Business Assistance Programs

Section 7 eliminates a reference to AIDEA's existing Export Finance program in general provisions of AIDEA's statutes. This technical change is needed as part of the integration of AIDEA's Export Assistance and Business Assistance programs.

Section 8 - Confidentiality of Information

Section 8 adds a new confidentiality of information section in AIDEA's statutes that replaces the existing confidentiality provision that applies to AIDEA's Export Finance program. The new provision would apply to all of AIDEA's financial programs. The provision sets forth those categories of information that are to be kept confidential. Among the categories of confidential information specified in the bill are income tax returns, financial business plans, marketing strategy information, and information required by federal or state law to be kept confidential. Information compiled by the Authority from confidential information is also confidential. Information may only be kept confidential, however, if the person supplying the information or the project, bond, loan or guarantee applicant or borrower requests confidentiality. In addition, to be covered under this section the information could not have been a matter of public record before the information was submitted to AIDEA. Information that is determined to be confidential under the statutory requirements is not a public record.

Background. Participants in AIDEA's programs are often required to submit to the Authority proprietary and financial information regarding their projects, as well as their personal financial information. Applicants are often surprised to learn that this information may be subject to disclosure under the public records act. This is particularly true of banks that submit information on borrowers under the Authority's Loan Participation and Business Assistance programs. Banks are generally prohibited under state law from releasing any information regarding their borrowers.

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AIDEA often receives public records requests seeking proprietary and financial information regarding applicants and borrowers. Under existing law, AIDEA is required to release the information unless the Authority determines that the privacy interest of the applicant or borrower outweighs the public interest in releasing the information. These are difficult standards to administer and provide little guidance for banks, borrowers, applicants, and those seeking release of the information. Under the public records act, the Authority is not permitted to inquire into the motivations of those seeking the information. Therefore, it is possible for a borrower's competitors to request proprietary information for the sole purpose of obtaining a competitive advantage.

While it is important to protect the proprietary and financial information of businesses that submit information to the Authority, it is also important that the public have full access to information necessary to understand AIDEA's activities and the transactions it undertakes. The bill modifies AIDEA's existing confidentiality statute and furthers both of these important interests.

The bill establishes categories of information that are to be kept confidential. For the confidentiality provision to be invoked, the person supplying the information or the applicant or borrower must request that the information be held in confidence. Information not within the statutory categories will continue to be public records. The statutory provision will allow those who participate in AIDEA's programs, as well as those who may seek information from the Authority, to clearly understand what information is and is not public.

Section 9 – Change Related to Integration of Export and Business Assistance Programs

Section 9 repeals and reenacts AS 44.88.500 to effect the integration of the Export Assistance program into the newly modified Business and Export Assistance Program. The section makes clear that, under the program, the Authority may guarantee both new and refinancing business and export assistance loans. The numbering of the subsections has also been changed.

Section 10 – Changes Related to Integration of Export and Business Assistance Programs

Section 10 creates a new section in AIDEA's statutes modifying AIDEA's existing Business Assistance program to create a new Business and Export Assistance program that can effectively support Alaskan businesses that export goods and services.

AS 44.88.502(a) and (b) incorporate and modify language from existing AS 44.88.370 and 44.88.360(a), respectively, which are repealed under section 20 of the bill. AS 44.88.502(a) provides that a guarantee issued under the program does not create a debt or liability of the state. AS 44.88.502(b) provides that guarantees under the program held by a financial institution are presumed valid and may not be terminated except as provided in the guarantee itself.

AS 44.88.502(c) incorporates and modifies provisions from the Authority's existing Export Assistance program into the newly integrated Business and Export Assistance program. AS 44.88.502(c) provides that guarantees issued under the program to support export transactions may guarantee against commercial and political losses. This provision is in existing AS 44.88.360(a) which is repealed under section 20 of the bill. AS 44.88.502(c) also allows the Authority to require insurance to cover some or all of the loss guaranteed under the program. "Political loss" is defined to mean losses that would be insurable under an export credit insurance policy issued by the Export-Import Bank or a risk that is actually insured under a policy the buyer obtains.

Background. AS 44.88.502(c) makes changes to AIDEA's existing Business Assistance program to create an effective Business and Export Assistance program. Under the Authority's existing Export Assistance program (AS 44.88.360) export credit insurance was always required. This requirement adds additional cost, time, and complexity to export transactions. Under the bill (AS 44.88.502(c)) AIDEA may exercise its discretion to determine if such insurance should be required for a particular export transaction. This discretion allows AIDEA to realistically assess the risks of a particular transaction to determine if export credit insurance is necessary.

AIDEA's existing Export Assistance program provided that the only political losses that could be guaranteed were those losses actually insured under an export credit insurance policy issued by the Export-Import Bank or other similar institution. This requirement severely detracted from the attractiveness of the program. AS 44.88.502(c) utilizes the Export-Import Bank's export credit insurance policy to describe the types of losses that may be guaranteed under the Authority's program but does not require that such insurance be obtained for guarantees to be effective. Instead, the decision to require insurance and the type and amount is left to the discretion of the Authority.

Section 11 and 12 – Technical Changes Related to Integration of Export and Business Assistance Programs

These sections make minor technical changes related to the integration of the Export Assistance program and Business Assistance program. These sections change the numbering of the statutory cross reference to AS 44.88.500 to reflect

the renumbering of the subsections in that provision as a result of section 9 of the bill.

Sections 13 through 15 – Modifications to Effect Integration of Export and Business Assistance Programs

These sections modify AIDEA's existing Business Assistance program to create a new Business and Export Assistance program that can effectively support Alaskan businesses that export goods and services.

Section 13 eliminates a condition on debt refinancing guarantees that limits the refinancing to interim construction related debt.

Section 14 modifies the existing program to recognize that payment of guaranteed debt may come from the sale of the assets that are the collateral for the loan.

Section 15 modifies the existing program to allow the Authority to guarantee up to 180 days interest on post-shipment guarantees and up to 270 days on pre-shipment loan guarantees supporting export transactions.

Background. The changes made in these sections are intended to make the new Business and Export Assistance program effective for Alaska export transactions. The changes in sections 14 and 15 reflect the fact that many export transactions require payment upon the sale of the exported goods that are the security for the transaction. Typical export finance transactions do not require multiple payments but rather one payment (paying off the entire loan) upon the sale of the exported goods. Section 14 allows the Authority to recognize the sale of the goods as the source of payment in these transactions. Section 15 allows the Authority the limited ability to guarantee interest on these transactions pending receipt of the proceeds of the sale.

Sections 16 through 18 – Technical Changes to Business and Export Assistance Program

These sections make minor technical clarifications to AIDEA's statutes.

Section 16 clarifies that the total amount of outstanding AIDEA guaranteed indebtedness for an individual borrower may not exceed \$1 million.

Section 17 clarifies that amounts received toward a defaulted AIDEA guaranteed loan are to be allocated between the bank and AIDEA in accord with the percentage AIDEA guaranteed, until such time as all principal and accrued interest has been paid.

Section 18 makes a technical change allowing AIDEA to establish, by regulation, reasonable fees for the program. Under current statute AIDEA is to charge one percent of the amount guaranteed plus any other reasonable fee established in regulation. The bill will allow AIDEA to establish all fees for the program by regulation.

Section 19 – New Definitions for Business and Export Assistance Program

Section 19 creates a new definition for “export transaction.” This term is used elsewhere in the statutory provisions for the Business and Export Assistance program.

Section 20 – Repealers

This section repeals AS 44.88.085(h), AS 44.88.300, 44.88.310, 44.88.320, 44.88.330, 44.88.350, 44.88.360, 44.88.370, and 44.88.390 to effect the repeal of the existing Export Assistance program that is being integrated with the Business and Export Assistance program in other provisions of the bill. This section also repeals AS 44.88.340, the Authority’s existing confidentiality provision, that is being modified and relocated under section 8 of the bill.

Section 21 – Repeal of Business Assistance Program Sunset

This section repeals the existing July 1, 1998, sunset to the Authority’s existing Business Assistance program.

Background. Under current law, the Authority’s Business Assistance program will sunset on July 1, 1998. The sunset must be repealed to assure the continued operation of the program and to effect the integration of the Export Assistance program into an effective Business and Export Assistance program.

Section 22 – Transition Provision

Section 22 is a transition provision related to the elimination of the existing Export Assistance program and the integration of the program into the Business and Export Assistance program. The provision provides that any assets in the export insurance account are to be transferred into the Authority’s revolving fund.

Section 23 – Specific Project Authorization to Issue Bonds

As noted above, section 3 of the bill requires legislation for AIDEA to issue bonds in an amount greater than \$10 million if the proceeds of the bonds are to be used for an AIDEA Development Finance project. The bill provides legislative authorization for two projects. The first project is for proposed expansion, improvements, and modifications to AIDEA’s DeLong Mountain Transportation

System (DMTS) serving the Red Dog Mine. The second project is a proposed expansion and modification to the existing port facilities in the City of Nome.

Section 23(a) – Red Dog Direct Load Out Facilities- The bill authorizes AIDEA to issue up to \$80 million in bonds to finance the expansion, improvement and modification of the Authority's existing DMTS port facilities. The proposed project would extend the existing dock by approximately 2,500 feet and a 50-foot shipping channel would be excavated, allowing the direct loading of concentrates into ocean going vessels. In addition, part of the existing concentrate conveyor system would be improved and replaced.

Background. The DeLong Mountain Transportation System (DMTS), serving Cominco's Red Dog Mine, was AIDEA's first development finance project and has been a resounding success. The Red Dog Mine operation provide more than 450 jobs in an area of the state with high unemployment. In addition, the project provides \$2.75 million annually in taxes to the Northwest Arctic Borough. Expansion of the port facilities to increase capacity and throughput was authorized by the Legislature in 1996 and is now nearing completion.

Among the operational benefits of the proposed project are: 1) allows the shipping season to be extended to December, 2) eliminates handling of concentrates twice by eliminating barge relay, 3) lowers vessel loading time in half, and 4) reduces down time caused by poor weather conditions. In economic terms, the project will extend most seasonal jobs at the port and will lower the cost of shipping concentrates. Additionally, the regional port at Red Dog would no longer be used at 100% capacity, opening up shipping opportunities for other potential users.

AIDEA has not yet performed its due diligence with respect to the proposed project. The timing of the project, however, requires that legislative authorization for the project be obtained during the current legislative session. Until AIDEA's due diligence is complete, it is unclear if AIDEA will participate in the project and if so, what form AIDEA's participation might take. AIDEA has particular concerns regarding investing substantial additional assets in the DMTS in light of AIDEA's current investment in the project of \$229 million. With an additional investment of \$80 million, a major portion of AIDEA's total asset base of \$1.3 billion would be invested in one project. It is possible that the project could be structured as a revenue bond issuance that would not affect or rely on AIDEA's assets or credit. Before AIDEA could participate in the project under AIDEA's Development Finance program, all of the statutory requirements for such projects would need to be satisfied and the Authority's board would need be required to approve such participation.

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Section 23(b) – City of Nome Port Authorization- The bill authorizes AIDEA to issue up to \$30 million in bonds for the improvement and expansion of the existing port facilities in the City of Nome. The proposed project will create a new channel to the inner port in Nome. It includes a new 28-foot breakwater parallel to the existing causeway. The new entrance channel will improve navigational safety and reliability and the breakwater will create a protected turning basin. Part of the existing channel will be filled to provide a new access road to the sand spit which will be protected by a rip rap seawall connecting to the existing seawall in front of town. Additional port improvements are also anticipated.

Background. Nome's port has the second largest volume of incoming cargo in the state. At present, limited access, safety and situation problems significantly burden the port. Port improvements will increase economic activity and employment in fisheries and fuel and cargo that is distributed throughout the region on smaller vessels. It is anticipated that the U.S. Corp of Engineers will reimburse a significant portion of the costs following construction.

AIDEA has not yet performed its due diligence with respect to the proposed project. The timing of the project, however, requires that legislative authorization for the project be obtained during the current legislative session. Until AIDEA's due diligence is complete, it is unclear if AIDEA will participate in the project and if so, what form AIDEA's participation might take. It is possible that the project could be structured as a conduit bond issuance that would not affect or rely on AIDEA's assets or credit. Before AIDEA could participate in the project under AIDEA's Development Finance program, all of the statutory requirements for such projects would need to be satisfied and the Authority's board would need be required to approve such participation.

Section 24 – Effective Date

This section provides that section 21 (repeal of the Business Assistance program sunset) becomes effective June 30, 1998. The special effective dates are required to ensure that the sunset does not take effect creating confusion and possibly requiring the re-enactment of certain provisions.

Section 25 – Effective Date

This provision provides that (except for section 21) the bill becomes effective July 1, 1998. This allows the bills changes to become effective at the beginning of the fiscal year allowing a smooth transition into the new Business and Export Assistance program and ensuring continuity in AIDEA's bonding authority.

Alaska State Legislature

Mailing Address:
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North Pole, Alaska 99705
Ph: (907) 488-0862
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MIKE MILLER
President of the Senate

While in Juneau
State Capitol
Juneau, Alaska
99801-1182
Ph: (907) 465-4976
Fax: (907) 465-3883

Senate District Q

MEMORANDUM

TO: Senator Jerry Ward, Chairman
Senate Transportation Committee

FROM: Senator Mike Miller
President of the Senate

A handwritten signature in cursive script that reads "Mike Miller" with a horizontal line extending to the right.

DATE: April 9, 1998

RE: Scheduling Request for HB386

Per our previous discussion, please schedule HB386 for a hearing at your earliest convenience. Thank you.

If you have questions regarding this request, please call me or Portia in my office at 4711.



Testimony Allowed
5 min. time limit

Lydia Fax 465-~~2832~~
3766

LEGISLATIVE TELECONFERENCE NETWORK SIGN-IN SHEET

80673

SPONSOR: Senair Transportation

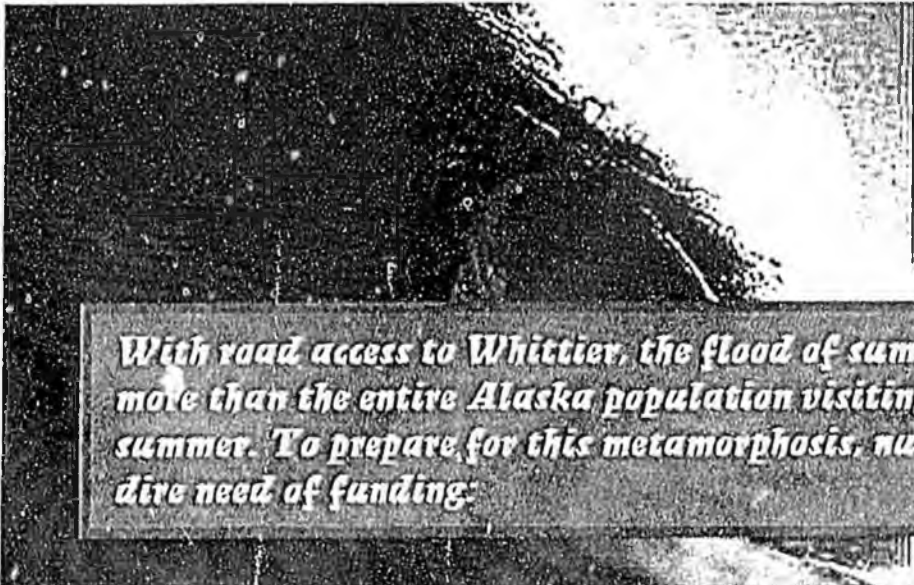
SUBJECT: HR 373 - HB 432

START/END TIME: 1:30 DATE: 4-16 HB 552

PLEASE PRINT

	Name/Representing	Address	Zip	Phone No.	Testify	Observe	Bill No.
1.	✓ Donn Ketner	Anch Int'l Airport		266-2532		✓	432
2.	✓ JOHN UNGAR	"		266-2541		✓	432
3.	TRAV STAFFORD / RISE ALASKA	880 H STREET ANCHORAGE	99501	276-8094		✓	432
4.	✓ JIM DOKOZIAN / Bagalra Hall	1700 Shore Dr Anchorage	99515	227-1124 cell 747-5637	✓		432
5.	✓ BOB LANCE	PO. BOX 190756 ANCHORAGE AK	99519	248-2625	✓		432
6.	✓ JOHN STEINER	10350 AGO		269-5161		✓	432
7.							
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9.							
10.							
11.							
12.							
13.							
14.							
15.							

266-2565



With road access to Whittier, the flood of summer visitors will be akin to more than the entire Alaska population visiting the 600-acre townsite every summer. To prepare for this metamorphosis, numerous improvements are in dire need of funding:

- **Planning Document Update**
- **Water/Sewer/Streets Upgrade**
- **Ferry Terminal Reconstruction**
- **Community Services Expansion**
- **Government Facility Improvements**
- **Small Boat Harbor Expansion**
- **Roadside Enhancements**
- **Environmental Stewardship**
- **Encouragement of Private Sector**



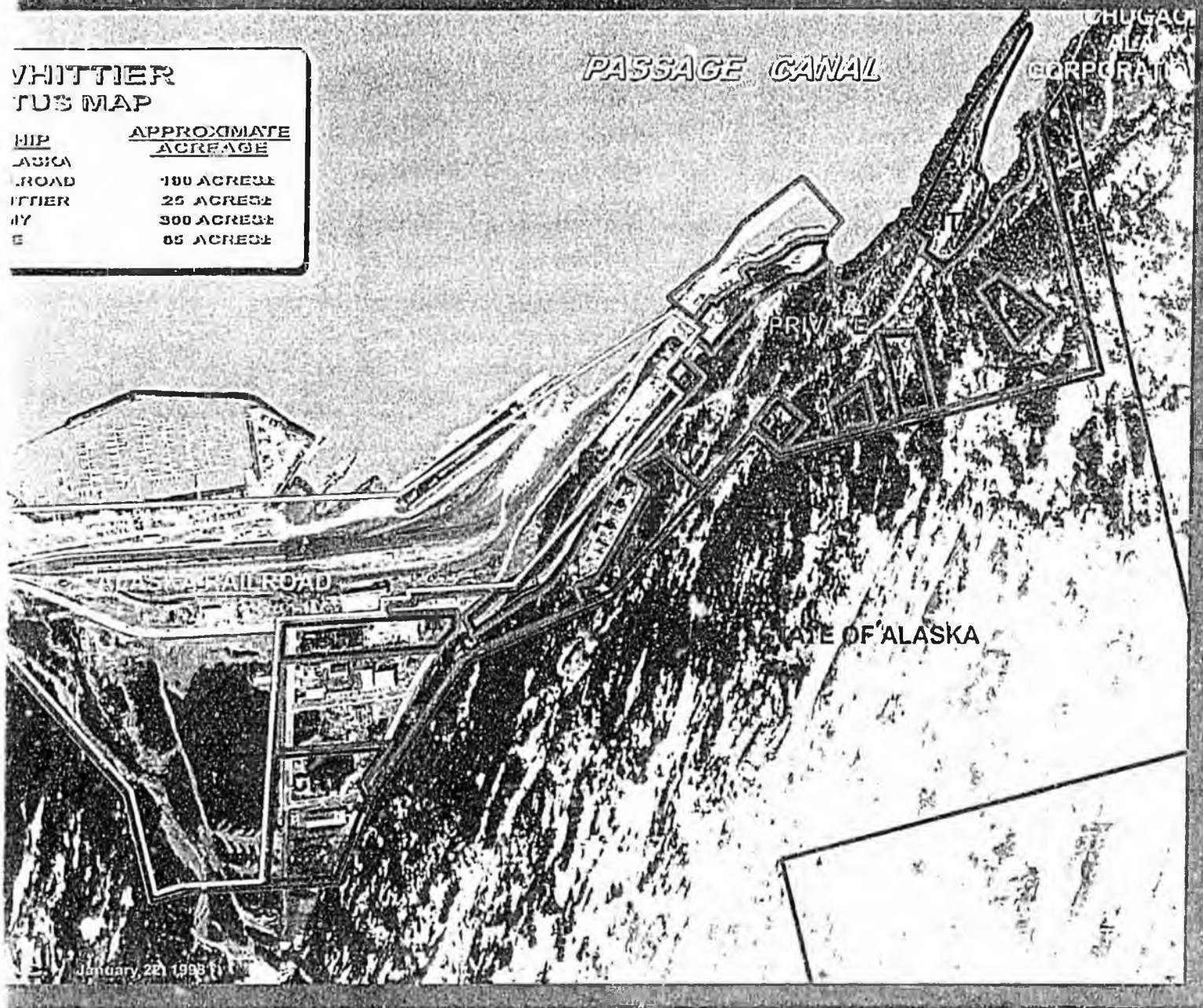
The City of Whittier

*Detailed documents on individual projects available on request.
For information contact:*

Carrie L. Williams, City Manager, City of Whittier
P.O. Box 608, Whittier, Alaska 99693
Tel.: (907) 472-2337 Fax: (907) 472-2404
E-mail: jqfv74a@prodigy.com

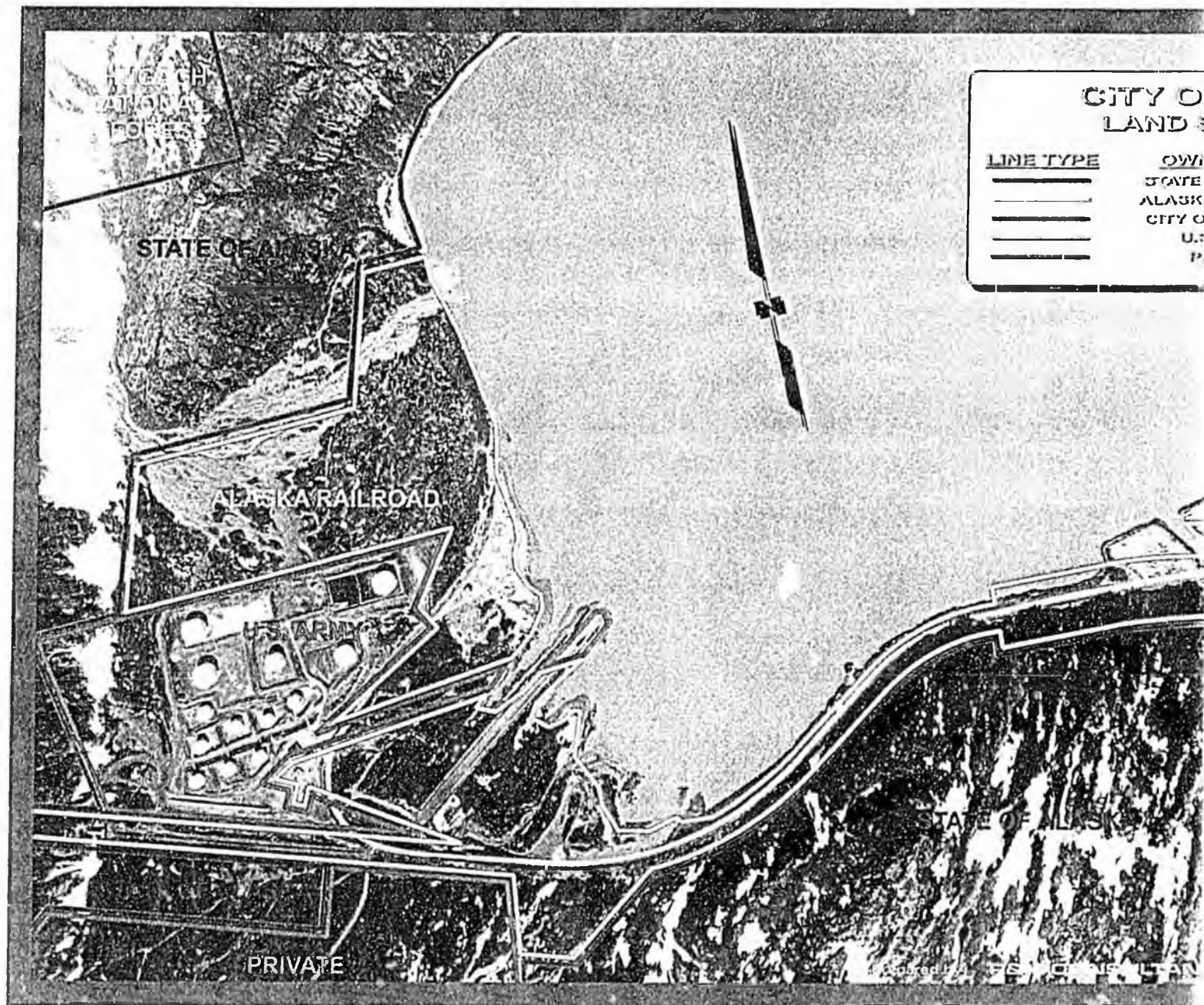
**WHITTIER
TUS MAP**

<u>HP</u>	<u>APPROXIMATE ACREAGE</u>
ALASKA	180 ACRES
ROAD	25 ACRES
WHITTIER	300 ACRES
BY	65 ACRES



*planned for completion in 2000. The road was funded primarily to
side the state. During the first year Whittier expects 897,000 visitors,
ic Facilities estimates that the average daily traffic count will reach
y needed infrastructure, services, and economic development.*

much more. The taxable land base and city sales tax proceeds are inadequate to fund the community services that will be needed. Annual City of Whittier revenue from all sources is approximately \$650,000. The core community area of about 600 acres includes only about 300 acres of private land. Available private properties in Whittier are steep, rocky lots on which construction is difficult and expensive. Railroad leasehold properties are taxable, but state and federal lands are not. Expected population increases with road access will not generate the taxes and other contributions needed to pay for police, fire, water, sewer, or emergency medical services.



A ROAD CONNECTING WHITTIER WITH ALASKA HIGHWAYS
open Prince William Sound to Southcentral Alaska and visitors from over a 10-fold increase, and the Alaska Department of Transportation & Public Safety has received 5,342 requests for road access. State encouragement of road access must be supported with critical

Whittier is on a delta on the south shore of Passage Canal in Prince William Sound. The town is bordered by mountain ridges, state and federal lands, and the Chugach National Forest. During the first year of road access, this community of 297 persons is expected to be inundated with 897,000 visitors, more than 10 times the average annual number of visitors received previously. Whittier will be unable to provide necessary services without major outside investment. Visitors will burden the already overloaded community with requirements for parking, rest areas, campsites, water, sewer, boat launches, trails, parks, lodging, transportation, boat dockage, public safety, health care, public information, food service, and

How will tiny Whittier cope with HUNDREDS OF THOUSANDS of visitors?

MILLIONS OF DEVELOPMENT DOLLARS MUST BE INVESTED SOON.

■ **Planning Document Update**

Update of the City of Whittier's 1995 comprehensive plan is crucial. Detailed outlines of goals and policies, public needs, anticipated growth, and necessary development are needed *now*.

\$0.2M

■ **Water/Sewer/Streets Upgrades**

Upgrade of water, sewer, and streets is urgent. Sewer and water services are in violation of EPA regulations. Easements for utility upgrades may be difficult to acquire: The Alaska Railroad Corporation (ARRC) has not granted easements for existing utility operations on its property. Whittier's 14 miles of main roads (10 miles paved) are ARRC-owned, and city employees must trespass to maintain them. Road erosion is reaching critical proportions, threatening to cut off the town from the railroad tunnel.

\$4.7M

■ **Ferry Terminal Reconstruction**

With road access, major reconstruction of the ferry terminal and dock will be needed. The city has requested regular service of the *MVs Bartlett* and *Kennicott* - if dock reconstruction can be completed.

\$4.5M

■ **Community Services Expansion**

Police protection, fire and rescue, health care, and recreation opportunities need to be expanded, and public parking and transportation should be instituted. There are 4 times as many calls for volunteer EMT assistance in summer than in winter, and volunteers cannot respond to all emergencies. Upon road completion, the Alaska Department of Transportation & Public Facilities will require the city to employ 2 EMT-3s and certified fire-fighting staff. A contract physician from Kenai is trying to provide service to the city clinic in Begich Towers 2 days a week.

\$1.5M

■ **Small Boat Harbor Expansion**

The Whittier Small Boat Harbor, with 332 berths and 100 parking spaces, operates beyond capacity and will need extensive improvements. More than 750 vessels are on the harbor wait list for permanent moorage, and the list is continuing to grow by about 21 vessels a month. Most wait list customers are Anchorage residents. The city will assume ownership of the harbor, and expansion will be needed to accommodate increased private, excursion, and charter traffic.

\$15.5M

■ **Government Facility Improvements**

New government facilities are needed to meet community requirements and comply with federal regulations. (*All city facilities contain asbestos and are non-ADA-compliant.*) City offices are in 4 apartments in Begich Towers, a residential building. Council chambers (in another building) with no telephone/teleconference capabilities also serve as courtroom, fire hall, and a meeting place for the planning commission, port and harbor commission, and emergency training. When the facility has been unusable because of roof leaks, lack of heat, or flooding, meetings have been held at a local bar.

\$2.5M

■ **Roadside Enhancements**

Day use is expected to increase from an annual average of 17,000 to 74,000 in the first year the road is open. Urgently needed enhancements include a third boat ramp and more and improved campsites. Bank fishing areas, bike paths, sidewalks, parking, picnic tables, waste facilities, and trash collection for visitors are necessary but *nonexistent*. Two existing boat ramps are over-utilized. Unimproved campsites behind Begich Towers accommodate only 12 medium-sized campers. There are no dumpstations or water/ electrical hookups for RVs. The state will complete 6 miles of hiking trails in Shotgun Cove in 1998, but more are needed. Areas that could be developed for enhancements are on state lands and would require site control.

\$3.0M

■ **Environmental Stewardship**

Environmental concerns are extensive and solutions will be costly. Increased human presence may complicate existing concerns, inhibiting private development and exacerbating regulatory compliance issues. Three FUDS (the harbor, the tank farm, and the former military power generation site) are designated for cleanup, and there are numerous potential cleanup sites.

\$25.0M

■ **Encouragement of Private Sector**

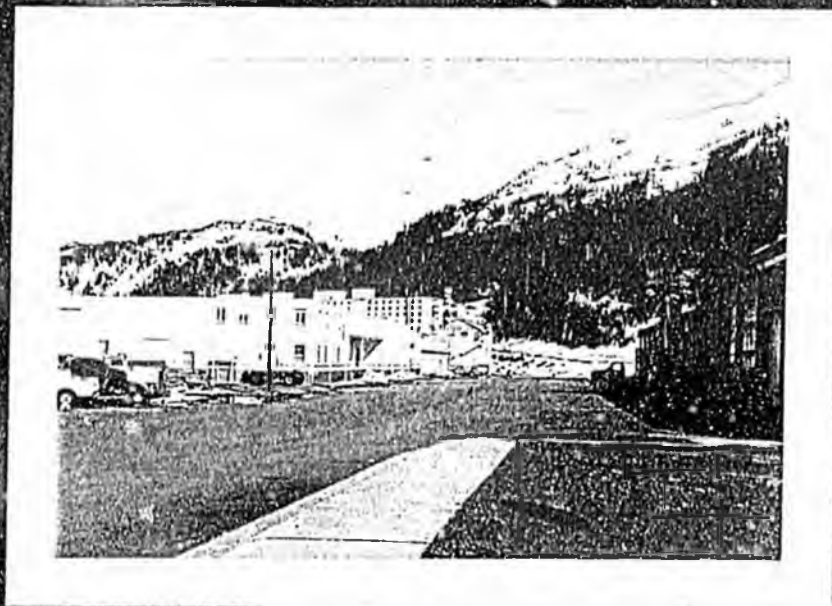
Programs such as marketing, promotion, grants, and loans would enable private businesses to undertake some of the development projects required in Whittier. Available lands are scant, and acquisition of state-owned land is crucial to allow leasing to support new enterprises. Development of food service, lodging, transportation, and community services will enhance the visitor's experience at Whittier.

\$1.5M

**Road access
to Whittier will**

DELUGE

**this small community
with needs for added
infrastructure.**



TONY KNOWLES
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 356
P O Box 11000
Juneau Alaska 99811-0000
(907) 465-3500
Fax (907) 465-3532

February 5, 1998

The Honorable Gail Phillips
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Phillips:

I am transmitting a bill to support economic development in Alaska and create jobs in the state by extending the bonding authority of the Alaska Industrial Development and Export Authority (AIDEA). The bill also merges AIDEA's export assistance program with its business assistance program to enable AIDEA to better serve Alaska businesses that export products and services. In addition, the bill clarifies provisions related to AIDEA's financing programs to make those programs more effective.

First, the bill extends AIDEA's general bonding authority which sunsets July 1, 1998. Bonding for development projects of \$10,000,000 or more would continue to require legislative approval. The ability of AIDEA to issue bonds is essential to fulfill the authority's statutory mission. Allowing AIDEA's bonding authority to expire would severely restrict its ability to assist in financing key development projects and also conduit revenue financing transactions that do not involve the credit of the AIDEA or the state. In 1997 alone, AIDEA issued tax-exempt conduit revenue bonds to help finance the Fort Knox gold mine (\$71 million) and the Goat Lake Hydroelectric project (\$23 million). These bonds helped lower the cost of financing for these projects without any financial risk to AIDEA or the state. The bill will ensure that AIDEA continues to have the ability to issue bonds that benefit Alaska businesses.

Second, the bill merges AIDEA's export assistance program with its business assistance program by repealing the export assistance program while modifying and continuing the business assistance program. AIDEA's 10-year old export assistance program does not meet the needs of the banks and businesses it was intended to serve and, in fact, has not been used by any Alaska business. While AIDEA has been able, in limited

The Honorable Gail Phillips
February 5, 1998
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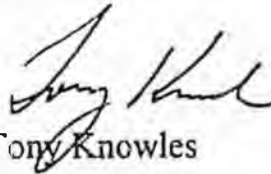
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circumstances, to support some export transactions through its business assistance program, the current structure is not effective for the types of Alaska export transactions prevalent today. This bill will create a business and export assistance program that can effectively support Alaska businesses that export goods and services.

The bill also clarifies other provisions of AIDEA's statutes, including strengthening AIDEA's ability to support economic development through its loan participation program and expanding the current limited confidentiality provision so it applies to all of AIDEA's financial programs.

It has been thirty years since our predecessors had the forethought to create AIDEA. Since that time, AIDEA has helped create thousands of jobs for Alaskans by forging public-private partnerships that strengthen the state's economic base. This bill will ensure that AIDEA has the tools to continue its vital mission to benefit Alaskans today and in future generations. I urge your prompt consideration and passage of this bill.

Sincerely,



Tony Knowles
Governor

CS HB 386(FIN)
AIDEA LEGISLATION
SECTIONAL ANALYSIS

Sections 1 and 2 - Technical Change Related to Integration of Export and Business Assistance Programs

Sections 1 and 2 eliminate references to AIDEA's existing Export Finance program in the general bonding provisions of AIDEA's statutes. These technical changes are needed as part of the integration of AIDEA's Export Assistance and Business Assistance programs.

Background. AIDEA's 10-year old Export Assistance Loan Guarantee program has never been utilized. While AIDEA has been able to finance export activities through its Loan Participation, Development Finance, and to a limited extent, its Business Assistance program, for a variety of reasons, the Export Assistance program does not meet the needs of the businesses it was intended to serve.

In 1997, AIDEA commissioned a report examining AIDEA's role in Alaska's export activities. The report noted that while AIDEA's other programs support Alaska exporting, the Export Finance program is ineffective for the type of exporting transactions prevalent in Alaska today. The existing program is modeled on those from other states with strong manufacturing bases. The program does not deal effectively with Alaska's dominant export activities, including air cargo and the transshipment of goods and services produced elsewhere and shipped to Asia and Russia through Anchorage and Fairbanks.

While AIDEA's Business Assistance Loan Guarantee program has been able to support export transactions, from time to time, it was not designed for these transactions and is not useful for a wide variety of exporting activities.

In order to address the needs of the Alaska business and financial communities this bill integrates the existing Export Assistance program with the Business Assistance program and modifies the programs to create a new Business and Export Assistance program that can effectively support Alaskan businesses that export goods and services. Bill sections 1, 2, 4, 5, 7, and 9-22 accomplishes this integration and modification of AIDEA's Export and Business Assistance programs.

Section 3 – AIDEA Bonding Authority

Section 3 of the bill extends AIDEA's general bonding authority which sunsets on July 1, 1998. The bill extends the current sunset until July 1, 2003. Bonds for development finance projects in excess of \$10,000,000 will continue to require legislative authorization.

Background. Effective July 1, 1998, AIDEA's ability to issue bonds other than refunding bonds will sunset. The sunset would prevent AIDEA from issuing any new bonds (other than refunding bonds) without legislative approval and severely curtail AIDEA's ability to fulfill its statutory mission.

The sunset would prevent AIDEA from issuing bonds to assist key development projects and also conduit revenue financing transactions that do not involve the credit of AIDEA or the state. In 1997 alone, AIDEA issued tax-exempt conduit revenue bonds to help finance the Fort Knox gold mine (\$71 million) and the Goat Lake Hydroelectric project (\$23 million). These bonds helped lower the cost of financing for these projects without any financial risk to AIDEA or the state. The bill would extend the current sunset until July 1, 2003.

Sections 4 and 5 - Technical Change Related to Integration of Export and Business Assistance Programs

Sections 4 and 5 eliminate references to AIDEA's existing Export Finance program in general bonding provisions of AIDEA's statutes. These technical changes are needed as part of the integration of AIDEA's Export Assistance and Business Assistance programs.

Section 6 – Technical Changes to AIDEA's Loan Participation Program

Section 6 makes technical changes clarifying certain requirements of AIDEA's Loan Participation program. The bill clarifies that the Authority may not purchase loan participations if the loan exceeds 75% of the appraised value of the collateral securing the loan (AS 44.88.155(d)(3)). In addition, the bill provides that loans, under the program, may not exceed the amount necessary for new construction, expansion, acquisition and the amount necessary to refinance existing debt (AS 44.88.155(d)(3)). The bill also clarifies that the term of the Authority's participation may not exceed 75% of the useful life of the collateral provided as security for the loan (AS 44.88.155(d)(4)). Finally, the bill makes a technical change to AS 44.88.155(d)(7) to clarify that the collateral pledged by the borrower is to secure timely repayment of the obligations of the borrower under the loan documents.

Background. Questions have arisen as to how AIDEA's loan participation requirements apply when the proceeds of the loan are to be used for multiple purposes or if the loan is to be secured by several pieces of collateral. The bill clarifies AIDEA's statutes to specify that loans may not exceed 75% of the appraised value of all the collateral pledged and that the term may not exceed 75% of the useful life of the collateral pledged. Finally the bill clarifies that loans may not exceed the amount necessary for acquisition, construction, and debt refinancing for the project.

Sections 7 - Technical Change Related to Integration of Export and Business Assistance Programs

Section 7 eliminates a reference to AIDEA's existing Export Finance program in general provisions of AIDEA's statutes. This technical change is needed as part of the integration of AIDEA's Export Assistance and Business Assistance programs.

Section 8 - Confidentiality of Information

Section 8 adds a new confidentiality of information section in AIDEA's statutes that replaces the existing confidentiality provision that applies to AIDEA's Export Finance program. The new provision would apply to all of AIDEA's financial programs. The provision sets forth those categories of information that are to be kept confidential. Among the categories of confidential information specified in the bill are income tax returns, financial business plans, marketing strategy information, and information required by federal or state law to be kept confidential. Information compiled by the Authority from confidential information is also confidential. Information may only be kept confidential, however, if the person supplying the information or the project, bond, loan or guarantee applicant or borrower requests confidentiality. In addition, to be covered under this section the information could not have been a matter of public record before the information was submitted to AIDEA. Information that is determined to be confidential under the statutory requirements is not a public record.

Background. Participants in AIDEA's programs are often required to submit to the Authority proprietary and financial information regarding their projects, as well as their personal financial information. Applicants are often surprised to learn that this information may be subject to disclosure under the public records act. This is particularly true of banks that submit information on borrowers under the Authority's Loan Participation and Business Assistance programs. Banks are generally prohibited under state law from releasing any information regarding their borrowers.

AIDEA often receives public records requests seeking proprietary and financial information regarding applicants and borrowers. Under existing law, AIDEA is required to release the information unless the Authority determines that the privacy interest of the applicant or borrower outweighs the public interest in releasing the information. These are difficult standards to administer and provide little guidance for banks, borrowers, applicants, and those seeking release of the information. Under the public records act, the Authority is not permitted to inquire into the motivations of those seeking the information. Therefore, it is possible for a borrower's competitors to request proprietary information for the sole purpose of obtaining a competitive advantage.

While it is important to protect the proprietary and financial information of businesses that submit information to the Authority, it is also important that the public have full access to information necessary to understand AIDEA's activities and the transactions it undertakes. The bill modifies AIDEA's existing confidentiality statute and furthers both of these important interests.

The bill establishes categories of information that are to be kept confidential. For the confidentiality provision to be invoked, the person supplying the information or the applicant or borrower must request that the information be held in confidence. Information not within the statutory categories will continue to be public records. The statutory provision will allow those who participate in AIDEA's programs, as well as those who may seek information from the Authority, to clearly understand what information is and is not public.

Section 9 – Change Related to Integration of Export and Business Assistance Programs

Section 9 repeals and reenacts AS 44.88.500 to effect the integration of the Export Assistance program into the newly modified Business and Export Assistance Program. The section makes clear that, under the program, the Authority may guarantee both new and refinancing business and export assistance loans. The numbering of the subsections has also been changed.

Section 10 – Changes Related to Integration of Export and Business Assistance Programs

Section 10 creates a new section in AIDEA's statutes modifying AIDEA's existing Business Assistance program to create a new Business and Export Assistance program that can effectively support Alaskan businesses that export goods and services.

AS 44.88.502(a) and (b) incorporate and modify language from existing AS 44.88.370 and 44.88.360(a), respectively, which are repealed under section 20 of the bill. AS 44.88.502(a) provides that a guarantee issued under the program does not create a debt or liability of the state. AS 44.88.502(b) provides that guarantees under the program held by a financial institution are presumed valid and may not be terminated except as provided in the guarantee itself.

AS 44.88.502(c) incorporates and modifies provisions from the Authority's existing Export Assistance program into the newly integrated Business and Export Assistance program. AS 44.88.502(c) provides that guarantees issued under the program to support export transactions may guarantee against commercial and political losses. This provision is in existing AS 44.88.360(a) which is repealed under section 20 of the bill. AS 44.88.502(c) also allows the Authority to require insurance to cover some or all of the loss guaranteed under the program. "Political loss" is defined to mean losses that would be insurable under an export credit insurance policy issued by the Export-Import Bank or a risk that is actually insured under a policy the buyer obtains.

Background. AS 44.88.502(c) makes changes to AIDEA's existing Business Assistance program to create an effective Business and Export Assistance program. Under the Authority's existing Export Assistance program (AS 44.88.360) export credit insurance was always required. This requirement adds additional cost, time, and complexity to export transactions. Under the bill (AS 44.88.502(c)) AIDEA may exercise its discretion to determine if such insurance should be required for a particular export transaction. This discretion allows AIDEA to realistically assess the risks of a particular transaction to determine if export credit insurance is necessary.

AIDEA's existing Export Assistance program provided that the only political losses that could be guaranteed were those losses actually insured under an export credit insurance policy issued by the Export-Import Bank or other similar institution. This requirement severely detracted from the attractiveness of the program. AS 44.88.502(c) utilizes the Export-Import Banks export credit insurance policy to describe the types of losses that may be guaranteed under the Authority's program but does not require that such insurance be obtained for guarantees to be effective. Instead, the decision to require insurance and the type and amount is left to the discretion of the Authority.

Section 11 and 12 – Technical Changes Related to Integration of Export and Business Assistance Programs

These sections make minor technical changes related to the integration of the Export Assistance program and Business Assistance program. These sections change the numbering of the statutory cross reference to AS 44.88.500 to reflect

the renumbering of the subsections in that provision as a result of section 9 of the bill.

Sections 13 through 15 – Modifications to Effect Integration of Export and Business Assistance Programs

These sections modify AIDEA's existing Business Assistance program to create a new Business and Export Assistance program that can effectively support Alaskan businesses that export goods and services.

Section 13 eliminates a condition on debt refinancing guarantees that limits the refinancing to interim construction related debt.

Section 14 modifies the existing program to recognize that payment of guaranteed debt may come from the sale of the assets that are the collateral for the loan.

Section 15 modifies the existing program to allow the Authority to guarantee up to 180 days interest on post-shipment guarantees and up to 270 days on pre-shipment loan guarantees supporting export transactions.

Background. The changes made in these sections are intended to make the new Business and Export Assistance program effective for Alaska export transactions. The changes in sections 14 and 15 reflect the fact that many export transactions require payment upon the sale of the exported goods that are the security for the transaction. Typical export finance transactions do not require multiple payments but rather one payment (paying off the entire loan) upon the sale of the exported goods. Section 14 allows the Authority to recognize the sale of the goods as the source of payment in these transactions. Section 15 allows the Authority the limited ability to guarantee interest on these transactions pending receipt of the proceeds of the sale.

Sections 16 through 18 – Technical Changes to Business and Export Assistance Program

These sections make minor technical clarifications to AIDEA's statutes.

Section 16 clarifies that the total amount of outstanding AIDEA guaranteed indebtedness for an individual borrower may not exceed \$1 million.

Section 17 clarifies that amounts received toward a defaulted AIDEA guaranteed loan are to be allocated between the bank and AIDEA in accord with the percentage AIDEA guaranteed, until such time as all principal and accrued interest has been paid.

Section 18 makes a technical change allowing AIDEA to establish, by regulation, reasonable fees for the program. Under current statute AIDEA is to charge one percent of the amount guaranteed plus any other reasonable fee established in regulation. The bill will allow AIDEA to establish all fees for the program by regulation.

Section 19 – New Definitions for Business and Export Assistance Program

Section 19 creates a new definition for “export transaction.” This term is used elsewhere in the statutory provisions for the Business and Export Assistance program.

Section 20 – Repealers

This section repeals AS 44.88.085(h), AS 44.88.300, 44.88.310, 44.88.320, 44.88.330, 44.88.350, 44.88.360, 44.88.370, and 44.88.390 to effect the repeal of the existing Export Assistance program that is being integrated with the Business and Export Assistance program in other provisions of the bill. This section also repeals AS 44.88.340, the Authority’s existing confidentiality provision, that is being modified and relocated under section 8 of the bill.

Section 21 – Repeal of Business Assistance Program Sunset

This section repeals the existing July 1, 1998, sunset to the Authority’s existing Business Assistance program.

Background. Under current law, the Authority’s Business Assistance program will sunset on July 1, 1998. The sunset must be repealed to assure the continued operation of the program and to effect the integration of the Export Assistance program into an effective Business and Export Assistance program.

Section 22 – Transition Provision

Section 22 is a transition provision related to the elimination of the existing Export Assistance program and the integration of the program into the Business and Export Assistance program. The provision provides that any assets in the export insurance account are to be transferred into the Authority’s revolving fund.

Section 23 – Specific Project Authorization to Issue Bonds

As noted above, section 3 of the bill requires legislation for AIDEA to issue bonds in an amount greater than \$10 million if the proceeds of the bonds are to be used for an AIDEA Development Finance project. The bill provides legislative authorization for two projects. The first project is for proposed expansion, improvements, and modifications to AIDEA’s Delong Mountain Transportation

System (DMTS) serving the Red Dog Mine. The second project is a proposed expansion and modification to the existing port facilities in the City of Nome.

Section 23(a) – Red Dog Direct Load Out Facilities- The bill authorizes AIDEA to issue up to \$80 million in bonds to finance the expansion, improvement and modification of the Authority’s existing DMTS port facilities. The proposed project would extend the existing dock by approximately 2,500 feet and a 50-foot shipping channel would be excavated, allowing the direct loading of concentrates into ocean going vessels. In addition, part of the existing concentrate conveyor system would be improved and replaced.

Background. The DeLong Mountain Transportation System (DMTS), serving Cominco’s Red Dog Mine, was AIDEA’s first development finance project and has been a resounding success. The Red Dog Mine operations provide more than 450 jobs in an area of the state with high unemployment. In addition, the project provides \$2.75 million annually in taxes to the Northwest Arctic Borough. Expansion of the port facilities to increase capacity and throughput was authorized by the Legislature in 1996 and is now nearing completion.

Among the operational benefits of the proposed project are: 1) allows the shipping season to be extended to December, 2) eliminates handling of concentrates twice by eliminating barge relay, 3) lowers vessel loading time in half, and 4) reduces down time caused by poor weather conditions. In economic terms, the project will extend most seasonal jobs at the port and will lower the cost of shipping concentrates. Additionally, the regional port at Red Dog would no longer be used at 100% capacity, opening up shipping opportunities for other potential users.

AIDEA has not yet performed its due diligence with respect to the proposed project. The timing of the project, however, requires that legislative authorization for the project be obtained during the current legislative session. Until AIDEA’s due diligence is complete, it is unclear if AIDEA will participate in the project and if so, what form AIDEA’s participation might take. AIDEA has particular concerns regarding investing substantial additional assets in the DMTS in light of AIDEA’s current investment in the project of \$229 million. With an additional investment of \$80 million, a major portion of AIDEA’s total asset base of \$1.3 billion would be invested in one project. It is possible that the project could be structured as a revenue bond issuance that would not affect or rely on AIDEA’s assets or credit. Before AIDEA could participate in the project under AIDEA’s Development Finance program, all of the statutory requirements for such projects would need to be satisfied and the Authority’s board would need to be required to approve such participation.

Section 23(b) – City of Nome Port Authorization- The bill authorizes AIDEA to issue up to \$30 million in bonds for the improvement and expansion of the existing port facilities in the City of Nome. The proposed project will create a new channel to the inner port in Nome. It includes a new 28-foot breakwater parallel to the existing causeway. The new entrance channel will improve navigational safety and reliability and the breakwater will create a protected turning basin. Part of the existing channel will be filled to provide a new access road to the sand spit which will be protected by a rip rap seawall connecting to the existing seawall in front of town. Additional port improvements are also anticipated.

Background. Nome’s port has the second largest volume of incoming cargo in the state. At present, limited access, safety and situation problems significantly burden the port. Port improvements will increase economic activity and employment in fisheries and fuel and cargo that is distributed throughout the region on smaller vessels. It is anticipated that the U.S. Corp of Engineers will reimburse a significant portion of the costs following construction.

AIDEA has not yet performed its due diligence with respect to the proposed project. The timing of the project, however, requires that legislative authorization for the project be obtained during the current legislative session. Until AIDEA’s due diligence is complete, it is unclear if AIDEA will participate in the project and if so, what form AIDEA’s participation might take. It is possible that the project could be structured as a conduit bond issuance that would not affect or rely on AIDEA’s assets or credit. Before AIDEA could participate in the project under AIDEA’s Development Finance program, all of the statutory requirements for such projects would need to be satisfied and the Authority’s board would need be required to approve such participation.

Section 24 – Effective Date

This section provides that section 21 (repeal of the Business Assistance program sunset) becomes effective June 30, 1998. The special effective dates are required to ensure that the sunset does not take effect creating confusion and possibly requiring the re-enactment of certain provisions.

Section 25 – Effective Date

This provision provides that (except for section 21) the bill becomes effective July 1, 1998. This allows the bills changes to become effective at the beginning of the fiscal year allowing a smooth transition into the new Business and Export Assistance program and ensuring continuity in AIDEA’s bonding authority.