

HB

112

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
 MAY 18 2003
 SENATE FINANCE
 COMMITTEE

DATE: 3/12/03

FURTHER:

DATE TURNED
IN TO OFFICE: 18 May 2003

Finance Committee considered CS FOR HOUSE BILL NO. 112(FIN)

HB 112 AIDEA : BONDS & MUNICIPAL TAX EXEMPTION

"An Act relating to the authority of the Alaska Industrial Development and Export Authority to issue bonds and to a municipal tax exemption for certain assets and projects of the Alaska Industrial Development and Export Authority; and providing for an effective date."

and recommends:

- be replaced with S CS CS HB 112 (FIN)
- adopt previous _____ CS CS forthcoming (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

- Senate Bill:**
 same title
 new title
- House Bill:**
 same title
 technical title
 new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
<u>DCED</u>	<u>7/11/03</u>		<input checked="" type="checkbox"/>	<u>#1</u>

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<u>Adrienne Meyer</u>	<input checked="" type="checkbox"/>			
<u>Tom H.</u>	<input checked="" type="checkbox"/>			
<u>Thomas P. Allen</u>	<input checked="" type="checkbox"/>			
<u>T. B. Christ</u>			<input checked="" type="checkbox"/>	
<u>Ben Stevens</u>	<input checked="" type="checkbox"/>			
COCHAIR: <u>Lynne Greer</u>	<input checked="" type="checkbox"/>			
COCHAIR: <u>Ernie Wells</u>	<input checked="" type="checkbox"/>			

FISCAL NOTE

REPORTED OUT
MAY 18 2003
SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 112
(H) Publish Date: 2/19/03

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title AIDEA Bonding Authority BRU AIDEA (125)
Component AIDEA
Sponsor Rules
Requester Governor Component no. 1234

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation extends to July 1, 2007 the sunset of statutory authority for AIDEA to issue bonds that do not exceed \$10 million for development projects. Unless extended, AIDEA's general bonding authority would sunset on July 1, 2003.

Prepared by: Sara Fisher-Goad, Financial Analyst Phone 907-269-4623
Division: Alaska Industrial Development and Export Authority Date/Time 2/11/03 9:05 AM
Approved by: Edgar Blatchford, Commissioner Date 2/11/2003
Agency: Department of Community & Economic Development

SENATE CS FOR CS FOR HOUSE BILL NO. 112(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE 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 authority of the Alaska Industrial Development and Export
2 Authority to issue bonds and to a municipal tax exemption for certain assets and
3 projects of the Alaska Industrial Development and Export Authority; and providing for
4 an effective date."

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

6 * Section 1. AS 44.88.095(g) is amended to read:

7 (g) Before July 1, 2007 [2003], the authority may issue bonds in an amount
8 greater than \$10,000,000 to assist in the financing of a development project under
9 AS 44.88.172 - 44.88.177 only with legislative approval. Beginning July 1, 2007
10 [2003], and thereafter, without prior legislative approval, the authority may not issue
11 bonds, except refunding and conduit revenue bonds.

12 * Sec. 2. Section 19, ch. 117, SLA 2000, is amended to read:

13 Sec. 19. Section 3 of this Act takes effect July 1, 2007 [2004].

14 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 18 May 2003 TIME: 1:30 pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please

SCS CS HB 112

23-GH1018\U

Cook

5/17/03

no changes

Thx
Mindy

FAILED To BE ADOPTED 4/30/03

23-GH1018V
Cook
4/29/03

SENATE CS FOR CS FOR HOUSE BILL NO. 112(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

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

A BILL

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10 [2003], and thereafter, without prior legislative approval, the authority may not issue
11 bonds, except refunding and conduit revenue bonds.

12 * Sec. 2. Sections 3, ch. 117, SLA 2000, is repealed and reenacted to read:

13 Sec. 3. AS 29.45.030(a) is amended to read:

14 (a) The following property is exempt from general taxation:

Property owned by VA

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31

(1) municipal property, including property held by a public corporation of a municipality, or state property, or land that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, except that

(A) a private leasehold, contract, or other interest in the property is taxable to the extent of the interest; however, an interest created by a nonexclusive use agreement between the Alaska Industrial Development and Export Authority and a user of a roadway that may also be used by other persons [AN INTEGRATED TRANSPORTATION AND PORT FACILITY OWNED BY THE AUTHORITY AND INITIALLY PLACED IN SERVICE BEFORE JANUARY 1, 1999,] is taxable only to the extent of, and for the value associated with, the use for purposes other than motorized vehicular transportation by the user [THOSE SPECIFIC IMPROVEMENTS USED FOR LODGING PURPOSES];

(B) notwithstanding any other provision of law, property acquired by an agency, corporation, or other entity of the state through foreclosure or deed in lieu of foreclosure and retained as an investment of a state entity is taxable; this subparagraph does not apply to federal land granted to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land ^{conveyed} ~~granted~~ to the university by the state to replace land that had been granted under AS 14.40.380 or 14.40.390, ~~under AS 14.40.380~~ under AS 14.40.305

(C) an ownership interest of a municipality in real property located outside the municipality acquired after December 31, 1990, is taxable by another municipality; however, a borough may not tax an interest in real property located in the borough and owned by a city in that borough;

(2) household furniture and personal effects of members of a household;

(3) property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes;

(4) property of a nonbusiness organization composed entirely of persons with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the

L

Sec 2 (A) ⁱⁿ ^{existing} ^{statute}

1) elimination
of prop.

Page 2, line
2 owned
by UA

drafting error?

^{2nd}
Page 2 line

19

statute # omitted

stato

under

AS 14.40.365
2

1 property of an auxiliary of that organization;

2 (5) money on deposit;

3 (6) the real property of certain residents of the state to the extent and
4 subject to the conditions provided in (e) of this section;

5 (7) real property or an interest in real property that is exempt from
6 taxation under 43 U.S.C. 1620(d), as amended;

7 (8) property of a political subdivision, agency, corporation, or other
8 entity of the United States to the extent required by federal law; except that a private
9 leasehold, contract, or other interest in the property is taxable to the extent of that
10 interest;

11 (9) natural resources in place including coal, ore bodies, mineral
12 deposits, and other proven and unproven deposits of valuable materials laid down by
13 natural processes, unharvested aquatic plants and animals, and timber.

14 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

SENATE FINANCE COMMITTEE
4 / 30 / 2003 COMMITTEE ACTION

Bill Number	HB 112		
Amendment			
Motion	to ADOPT Version I		
<u>Motion by</u>	Bunde		
<u>Objection by</u>	Olson		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Stevens			✓
Senator Taylor			✓
Senator Bunde			✓
Senator Hoffman			✓
Senator Olson			✓
Co-Chair Green	✓		
Co-Chair Wilken	✓		
<u>Tally</u>			
Yea	2		
Nay	4		
Absent			
<u>MOTION</u>	FAILS		

CS HB 112 (FIN)

CS HB 112 (FIN) "An Act relating to the authority of the Alaska Industrial Development and Export Authority to issue bonds and to a municipal tax exemption for certain assets and projects of the Alaska Industrial Development and Export Authority; and providing for an effective date."

SECTION 1 – SUNSET EXTENTION FOR AIDEA BONDS

- ✓ CS HB112 (FIN) extends AIDEA's general bonding authority to July 1, 2007.
- ✓ Without the extension AIDEA would need legislative authorization to issue bonds for development projects under \$10,000,000.
- ✓ AIDEA would also be restricted from issuing any bonds to finance the purchase of loan participations without legislative authorization.
- ✓ Allowing the bond authority to sunset would eliminate a tool for AIDEA to use to assist projects that could provide an economic benefit to the state.

SECTION 2 – MUNICIPAL TAX EXEMPTION

- ✓ CS HB112 (FIN) includes a permanent extension of a tax exemption that applies to the Delong Mountain Transportation System.
- ✓ The Delong Mountain Transportation System is a publicly owned transportation facility.
- ✓ Although the current AIDEA board has not taken a position on this issue, historically AIDEA development projects have generally not been subject to local property taxes. Instead, AIDEA statutes authorize private users and the local political subdivision to enter into agreements providing for payments in lieu of taxes.
- ✓ Pursuant to a Payment in Lieu of Taxes Agreement, Teck Cominco Alaska makes annual payments to the Northwest Arctic Borough.
- ✓ Extending the tax exemption will continue the current levels of School Foundation Formula and state revenue sharing support provided to the Northwest Arctic Borough, as the amount of support under those programs is tied to the full value of taxable property within the Borough.

SECTION 3 – PROVIDES FOR AN IMMEDIATE EFFECTIVE DATE



Frank H. Murkowski, Governor

FAX Transmittal

TO: Sheila Peterson

DATE: 4-17-03

FAX NUMBER: 465-4714

FROM: Steve Van Sant,
State AssessorTotal # of pages
including cover 4

Attachment:

Sheila,

Attached are copies of a few pages from the agreements between AIDEA and Cominco. As you can see from Section b3 on page 10, Cominco will be paid by AIDEA if they do not use their allotted portion of the storage buildings and AIDEA allows another company to use it. That certainly tells me that there is a possessory interest in that facility. I will get an email to you today with a proposal to exempt any value for the road facilities such as the one at Red Dog which is supposed to become a state road and open to all. However, the possessory interest would remain for the ore storage buildings and the dock.

Thanks
Steve

If this FAX does not transmit properly,
please call the number listed immediately

If the information contained in this FAX is CONFIDENTIAL and/or PRIVILEGED. This FAX is intended to be reviewed by the individual named above. If the reader of this transmittal page is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this FAX or the information contained herein, is prohibited. If you received this FAX in error, please immediately notify the sender by telephone, and return this FAX to the sender at the above address. Thank you.

fax.doc

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

"Tons Produced from Mill", means all lead and zinc concentrate (and associated substances) produced from the Mill for the subject Year.

"Tons Shipped from Port by Cominco" means all tonnage shipped by Cominco from the DMTS Port during the subject Year.

"User" means Cominco and each Other User.

"Year" means a calendar year unless otherwise clearly indicated.

ARTICLE 2 OPERATION, MAINTENANCE AND USE OF DMTS

2.1 Duration of Cominco's Non-exclusive Rights.

(a) Initial Term. Cominco shall have the non-exclusive priority right to use the DMTS as provided in Section 2.2 hereof during the Initial Term and any extensions thereof. }

(b) Extensions. Cominco shall have the option to extend the Initial Term for five (5) additional ten (10)-year terms by notifying AIDEA at least one (1) year in advance of the expiration of the Initial Term and at least one (1) year in advance of the expiration of each subsequent ten (10)-year extended term; provided, however, that in no event shall the term of this Agreement extend beyond September 25, 2085, unless the Easement Agreement between NANA and the U.S. Department of the Interior, effective September 1985, has been extended and, provided, further, that Cominco shall not be entitled to extend the term for use of the Expansion Project unless Cominco concurrently elects to extend the term for use of the Original Project for the same period of time. The failure to timely exercise the option for any extended ten (10)-year term terminates the right to exercise the option for all subsequent extension periods. During any extended term, Cominco shall pay the same tolls on a value-adjusted basis (calculated in accordance with Section 3.5 herein) as are then being paid by other Non-Exempt Users of the DMTS. If at that time there are no other Non-Exempt Users, the parties shall negotiate in good faith to agree upon the amount of the toll fee to be paid by Cominco. If the parties cannot agree, Cominco's toll fee on a per ton basis shall be the same as the average per ton toll fee paid by Cominco during the last three (3) years of the term then expiring.

2.2 Non-exclusive Right of Cominco to Use DMTS.

(a) Non-exclusive Right to Use. In consideration of the Cominco Toll Fees and the covenants and conditions contained herein, AIDEA hereby grants to Cominco, and Cominco accepts from AIDEA, the non-exclusive right to use the DMTS, during the term provided herein, along with AIDEA and Other Users, subject however, to the priority rights in favor of Cominco described in the following subsection (b).

(b) Priority Rights of Cominco. Cominco shall during the term of this Agreement have the following priority rights:

(1) a priority right to utilize the concentrate storage, oil storage, and supply storage areas at the Port as designated in the Project designs and specifications.

(2) a priority right to use the other DMTS improvements constructed by AIDEA pursuant to this Agreement, to allow Cominco to commence, carry on and sustain activities related to development of the Red Dog Property and construction, operation and maintenance of the Mine and Mill located thereon including without limitation:

(i) The priority right to ship each Year, through the DMTS, 1,320,000 tons, plus any Allowable Base carryover tonnage computed in accordance with Section 3.4, up to a limit in any Year of one million five hundred thousand (1,500,000) tons in any Year. This limit applies only to the tonnage which Cominco may ship on a priority basis each year and does not affect Cominco's annual allowable tonnage as calculated for purposes of determining the CTF, if any, required to be paid pursuant to Section 3.4 hereof; and

(ii) The priority right to use the DMTS to move all construction equipment, fuel, supplies, materials, modules and the like needed for development of the Red Dog Property and construction, maintenance and sustained operation of the Mine and Mill and related facilities to produce 1,320,000 tons per Year.

(3) If at any time Cominco is not fully utilizing its priority right to use the DMTS concentrate and oil storage facilities to support development of the Red Dog property and operation and maintenance of the Mine and Mill, AIDEA may, with Cominco's consent (which consent shall not be unreasonably withheld), license others to use Cominco's unused portion of the DMTS's concentrate and oil storage capacity. AIDEA shall charge a commercially reasonable license fee for the use of such storage areas, which shall be paid to Cominco. Cominco shall have the right to direct AIDEA to cancel, upon reasonable notice, any license granted to Other Users and to increase its usage of the subject storage areas up to full capacity even if such increase displaces Other Users which have been licensed by AIDEA.

(c) Restrictions on Cominco's Use. AIDEA reserves the right, from time to time, to restrict or limit any usage by Cominco if ordered or directed to do so by a court or other governmental authority of competent jurisdiction; subject however, to payment to Cominco of all revenues received by AIDEA from Other Users who utilize, in lieu of Cominco, part or all of the DMTS that otherwise would have been utilized by Cominco absent such judicial or governmental order or directive. AIDEA shall not dispute Cominco's right to contest any such order or directive, and in the event that any such order or directive is not stayed or lifted within sixty (60) days from the date of issuance, AIDEA shall pursue with due diligence, and at no cost

to Cominco, the expansion of the capacity of the DMTS so as to accommodate the priority rights of Cominco and the requirements of Other Users.

2.3 Maintenance, Operation and Administration of DMTS.

(a) Maintenance. AIDEA shall keep and maintain the DMTS in good order and repair during the entire term of this Agreement, including any extensions thereof, in a manner which will assure reasonably proper functioning of the DMTS. Maintenance of the DMTS shall conform to the maintenance standards and specifications contained in the attached Exhibit A.

(b) Administration. AIDEA shall be responsible for the administration of the DMTS. For purposes of this Section "administration" means all general management functions, including scheduling, necessary to insure orderly operation of the DMTS.

(c) Operation. Except as otherwise provided in the last sentence of this subsection 2.3(c), AIDEA shall be responsible for operation of the DMTS which shall include operation of the power plant, sewage and water facilities, fuel storage facilities, all mechanical and mobile equipment and the conveyor system and all other Port facilities. However, all Users shall use their own vehicles and personnel for the transport of product, materials and equipment on the Road and to and from the Port. So long as Cominco is the predominant Non-Exempt User of the DMTS (meaning that during the preceding year other Non-Exempt Users did not in the aggregate use more than twenty-five percent (25%) of the DMTS's capacity), Cominco shall, at a commercially reasonable rate of compensation, operate and maintain the DMTS. }

(d) NANA Lease. Cominco shall observe and comply with the NANA Lease in accordance with its terms.

2.4 Sharing of Maintenance, Operation and Administrative Expenses ("M&O").

(a) Costs to be Apportioned. AIDEA is responsible for maintaining, operating and administering the DMTS in accordance with Section 2.3. The costs for maintenance, operation and administration activities ("M&O Expenses"), if not otherwise included in the Investment Base as provided herein, shall be apportioned among the Users of the DMTS. These costs will include the following items:

For the Road:

- (1) Maintenance and repair of roadway,
- (2) Maintenance facilities and the periodic repair and replacement of such facilities,

I N T E R

MEMO

O F F I C E

To: File No. 62880-10(J)
From: RBE
Subject: Teck Cominco Mill Rate / Comparison NWAB
Date: April 4, 2003

The latest (2002) FVD by the State Assessor for NWAB is \$382,000,000. For 2003 Teck Cominco pays \$5,850,000 in Payments in Lieu of Taxes ("PILOT") payments, 78% of which is schools. There is no other taxpayer in the Borough. The valuation breaks down approximately as follows:

Red Dog Mine	\$254,000,000
Port Lodging	10,000,000
Non Teck Cominco	<u>118,000,000</u>
	\$382,000,000

The road and port would be \$144,000,000. If there was a property tax the mill rates would be:

	<u>Schools</u>	<u>Total</u>
Teck Cominco –		
Mine and Lodging	17.3	22.2
Mine Lodging, Road and Port	11.2	14.3
Other Property Owners	0	0
Overall Rate for Mine, Lodging and Other (\$382 million)	11.9	15.3
Overall Rate for Assessor FVD including Road and Port (\$526 million)	8.7	11.1

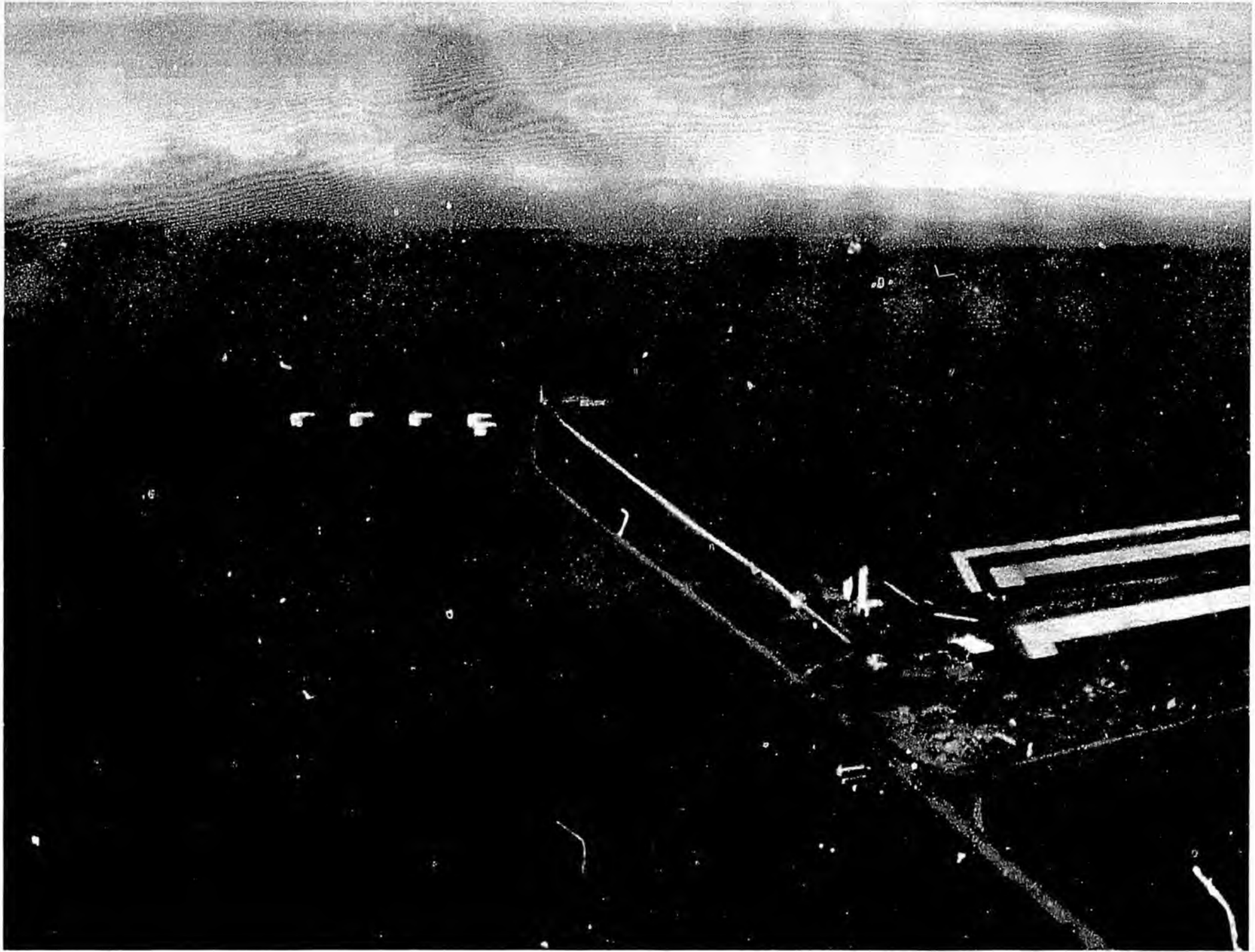
Provided by Gary Wilken 4/15/03

Comparable mill rates for schools:

Municipality of Anchorage	7.8
Fairbanks North Star Borough	8.0
Juneau Borough	6.0
Ketchikan Borough	6.2

Additional \$1,200,000 taxes to replace lost funds at:

	<u>Additional Mil Rate</u>		<u>Total Mil Rate</u>
\$526,000,000	2.3	or	13.4
\$408,000,000	2.9	or	17.2
\$264,000,000	4.5	or	26.7





March 27, 2003

The Honorable Gary Wilken, Co- Chair
The Honorable Lyda Green, Co-Chair
Senate Finance Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Re: CS HB 112(FIN) "An Act relating to the authority of the Alaska Industrial Development and Export Authority to issue bonds and to a municipal tax exemption for certain assets and projects of the Alaska Industrial Development and Export Authority; and providing for an effective date."

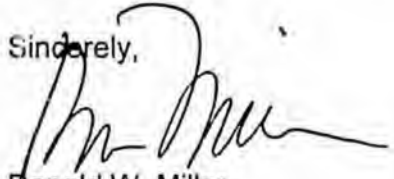
Dear Senator Wilken and Senator Green:

House Bill 112 was introduced by the Governor through the House Rules committee. This legislation will extend AIDEA's general bonding authority to July 1, 2007. Without the extension AIDEA would need legislative authorization to issue bonds for development projects under \$10,000,000. AIDEA would also be restricted from issuing any bonds to finance the purchase of loan participations without legislative authorization.

The House Finance Committee amended HB 112 by including a permanent extension of the Delong Mountain Transportation System tax exemption. CS HB 112 (FIN) passed the House unanimously on March 10, 2003.

We respectfully request you to schedule CS HB 112(FIN) for hearing in your committee, and we urge favorable action on this bill. We will be happy to meet with you and other members of the committee to provide any other information you may require. Thank you for considering our request.

Sincerely,



Ronald W. Miller
Executive Director

H:\2003 Legislation and Budget FY04\AIDEA BILL\Request for hearing - sfin.doc

Red Dog Mine Full Value Issue History

Brief Overview

In 1998, the Office of the State Assessor discovered that some assets used by Cominco, Inc. located at the Red Dog Mine in Northwest Arctic Borough (NWAB) had not been included in the full value determination (FVD). The assets, which are owned by AIDEA and used by Cominco, excluded from the FVD included the road that Red Dog Mine uses to transport the ore to the port facilities, the port facilities themselves, and two very large ore concentrate storage buildings located at the port. At that time, a new full value was being completed and the value of these assets was included in the final determination, the value of which was approximately \$155 million.

The NWAB and the legislature questioned the FVD inclusion of property that is owned by a state agency. It was explained to them that the property may be owned by AIDEA, but was built for the express purpose of Cominco at its Red Dog Mine operation. AIDEA is expressly exempt from property taxation under AS 44.88.140 which states that property of AIDEA is declared to be property of a political subdivision of the state, and therefore, is exempt from property tax. However, the statute goes on to say that :
"Nothing in this section effects or limits an exemption from license fees, property taxes, or excise income, or any other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the authority, in any property, assets, income, receipts, project, development project, or lease whether or not financed under this chapter." (emphasis added)

Clearly, any possessory interest Cominco may have in the property is taxable, yet, for some unknown reason, this value had been excluded from the full value in the past. This possessory interest concept is used to value most leasehold interest in the state and has been the subject of several Alaska Supreme Court cases, all of which have upheld the assessor and the possessory interest value. This is the same type issue we are facing in the Red Dog Mine valuation. The placement of the possessory interest value of AIDEA property on to the Red Dog Mine is no different than any other assessor in the state placing values on railroad and airport leases or mining interests, such as the Greens Creek Mine in Juneau or the Fort Knox Gold Mine in Fairbanks.

The Northwest Arctic Borough appealed the FVD and also went to the legislator in order to attempt to stop the increase in FVD. The legislature ultimately introduced and passed SB 248 which, among other things, exempted the Road, the port facilities and the storage buildings from the full value determination. The NWAB argued that the value increase due to the inclusion of these assets would cost the borough approximately \$1.1 million more for school funding. The legislature passed SB 248 which required these assets to be exempt for five years. According to a call received from Senator Halford at the time, I was told that various members of the legislature thought I was correct in including these assets in the FVD, but they had made a political decision to give a five year window of opportunity for the borough to come up with an alternative to raise the required revenue for the increase in educational funding. The current bill, HB 112, would remove the sunset clause in that bill and make the exemption permanent.

Provided by Steve Van Sant, State Assessor

Taxability Rationale

Article IX, Section 5 of the Alaska Constitution reads, "*Private leaseholds, contracts or interests in land or property owned or held by the United States, the State, or its political subdivisions, shall be taxable to the extent of the interests.*" The Alaska Statutes, prior to 2000, read that all interests in otherwise exempt land was taxable to the extent of those interests. Consequently, all cities and boroughs that levy a tax, do so on all private interests in state, federal, city, or any other exempt property.

When the legislature passed SB 248, there is included an "intent clause" which reads, in part "*Sections 1 and 2 of this Act are not intended to express the legislature's intent with respect to the issues under appeal in Fairbanks North Star Borough Assessor's Office v. 04 Golden Heart Utilities, Inc., Case No. S-09120; 4 FA-981848 Civil.*" This language was necessary due to a pending court case dealing with the same basic issue and the legislature did not want to intervene in the case. This case dealt with a non-exclusive use lease agreement, which a private party had with the City of Fairbanks for use of portion of the city utilidor. This case was appealed to the Supreme Court and has now been concluded, with the Borough being the prevailing party. The Alaska Supreme Court stated, in part that "*...the assessor argues that the assessment reflects the value that Golden Heart derives from its ability to use the utilidor in its operations – its possessory interest. Even if Golden Heart cannot sell its lease contract for any significant sum, the assessor seeks to tax the benefit Golden Heart receives from its right to use the utilidor.....It was appropriate for the assessor to assess Golden Hearts possessory interest.....We agree with the assessor and conclude that the value to be taxed is the value of the right to use the property over a period of the lease.*" (emphasis added)

All assessors in Alaska utilize basically, the same methodology for assessing "possessory interests". Possessory Interest is defined as a private right to the possession or use of public or otherwise exempt property for a specified time period. This right of possession represents, normally, a large portion of the bundle of rights inherent to that property and, therefore, constitutes a value imputable to that private interest. (*Assessors Short Course on Possessory Valuations in Alaska, DCRA, AAAO, LGAD, 1980*)

There is no question in Alaska that property that may be otherwise exempt from taxation yet used by a non-exempt entity is taxable. This issue has been litigated many times over the years and the Alaskan Supreme Court has consistently found that these interests constitute a taxable interest. There are hundreds of millions of dollars of property value statewide that is added to local municipal assessment rolls and help pay for local government services. These properties range from airport leases to railroad leases and federal use permits to native allotment leases. In all cases it is the use and possession of the property that is being taxed. To allow some property to escape that liability would arguably, constitute an inequitable taxing scheme, by allowing some property users to compete with an unfair economic advantage.



**PROJECT FACT SHEET: DeLong Mountain Regional Transportation System (DMTS)
Road and Port serving mining district that includes the Red Dog Mine**

CURRENT STATUS: In the summer of 2001, Teck Cominco conducted field sampling to gain a better understanding of elevated levels of metals detected along the DMTS road by the National Park Service in 2000. Samples collected include road surface soil, road soil cores, fine-grained material on the road shoulder, dustfall collected along the road, and vegetation (moss, lichen, will and berries). Results released 2/01/02 indicated that the elevated metals concentrations occur primarily on the surface and near the edges of the road and show a fairly consistent pattern of elevated concentrations near each end of the DMTS road, and lower concentrations through the middle section. The most likely source appears to be the tracking of metals in the form of powdered concentrates by haul trucks. Efforts to eliminate the sources of metals and removal of the road surfaces at the port site with metals values above DEC cleanup levels are ongoing. In July, a test section about five miles in length starting at the port site has been hard surfaced. Additional cleanup efforts may be scheduled after completion of the ongoing "risk assessment."

PROJECT COST: DMTS investment base now approaches \$267 million.

SOURCE OF FUNDS: In 1987, \$103 million in tax-exempt bonds were sold by AIDEA to fund the original construction of the project. A state appropriation provided the remaining funding. The expansion was substantially funded from the proceeds of tax-exempt bonds sold by AIDEA in 1997.

PURPOSE: To provide employment opportunities in northwest Alaska through development of a transportation system to serve the world class lead/zinc mining district and the Red Dog Mine, 90 miles north of Kotzebue.

PARTICIPANTS: AIDEA owns the DMTS; Teck Cominco Alaska Incorporated, has a non-exclusive priority right to use the system until 2040 to ship ore concentrates over the road, store concentrates in the storage buildings, and transload concentrates onto ore ships. Teck Cominco pays a toll for use of the facilities and is obligated to operate and maintain the system at a commercially reasonable rate of compensation. The mine owner is NANA Regional Corporation.

BACKGROUND: The Red Dog Mine in the DeLong Mountains brought opportunity for economic growth to the cash poor region. In 1995, Cominco Alaska proposed a production rate increase to reduce the cost per pound of concentrate produced and to improve profitability. The mill throughput has increased by 35% (to 3.5 million tons/year), which results in a corresponding increase in lead and zinc concentrates (to 1.4 million tons/year). Increased mine output required additions and improvements to the ore concentrate storage and handling facilities owned by AIDEA at the port. Resources have been identified to maintain a 50-year mine life, even at the higher production output. In 2002, approximately 1,500,000 short wet tons of lead and zinc concentrates were exported through the port.

Construction to expand the port facilities began in September 1996. On March 27, 1997, AIDEA sold \$150 million in bonds, in part to finance the DMTS expansion. The insured bond sale was the largest bond sale in AIDEA's 30-year history, and the first time the Authority received a AAA rating on its general obligation bonds. The DMTS port expansion project is now complete.

ECONOMIC/SOCIAL EFFECTS: The Red Dog Mine and DMTS currently provide 522 permanent, full-time jobs, and 59 temporary jobs, of which 292 are now staffed by NANA shareholders. These 580 full-time and temporary employees represent 32% of total non-governmental jobs in the NANA region. Teck Cominco is currently the only taxpayer in the NW Arctic Borough, providing approximately \$4 million annually to the Borough's \$7 million budget.

Reviewed: March 19, 2003

SCOPE OF ORIGINAL PROJECT: The original DMTS consists of a 52-mile, 30 foot wide, all weather industrial haul road, a shallow water dock, offshore conveyor concentrate loading facility, concentrate storage facility, fuel distribution and storage systems, and other port facilities. The DMTS road, designed to accommodate multiple users, leads from the mine that includes the Red Dog Mine to a port site located on the Chukchi Sea, about 12 miles from Kivalina. Initial construction was completed in 1990.

DMTS port expansion to handle increased concentrates production at the Red Dog Mine was completed in 2000.

FRANK H. MURKOWSKI
GOVERNOR
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HB 112
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 18, 2003

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room. 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would extend the sunset on the Alaska Industrial Development and Export Authority's (Authority) bonding authorization until July 1, 2007.

The bill would extend the Authority's bonding authorization for development projects of \$10,000,000 or less. The Authority's general bonding authorization will expire June 30, 2003, unless extended. Allowing that authorization to expire would severely restrict the Authority's ability to assist in key development projects.

In a time of dwindling state resources, this bill would further the Authority's mission to forge public-private partnerships that can strengthen the state's economic base.

I urge your prompt and favorable action on this measure.

Sincerely,

A large, stylized handwritten signature of Frank H. Murkowski in black ink.

Frank H. Murkowski
Governor

SENATE FINANCE COMMITTEE

SIGN-IN

HB 112-~~A~~IDEA : BONDS & MUNICIPAL TAX EXEMPTION

✓ NAME: ROBERT FLINT Subject/Bill No: HB 112
HARTIG RHODES HUGES & LEKISCH
Co./Dept./Title: for TECK CONNCO Phone: (907)345-6358
Address: 717 K&F ANCHORAGE Zip: 99501

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SITE: Offnets

COMMITTEE: SFIN

DATE: 4/30/03

SUBJECT OF MEETING:

HB112

UPDATE #:



PLEASE SIGN IN

PLEASE PRINT:

DO YOU WANT

NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

**TO TESTIFY?
Y OR N**

NAME	ADDRESS (MAILING & ZIP)	REPRESENTING	TO TESTIFY? Y OR N
✓ Steve Vasant		DCED	Ans. ?'s
✓ Ron Miller		AIDEA	Ans. ?'s

SENATE FINANCE COMMITTEE

SIGN-IN

HB 112-AIDEA : BONDS & MUNICIPAL TAX EXEMPTION

NAME: ROBERT FLINT Subject/Bill No: HB 112
Co./Dept./Title: HARTIG, RHODES FORTECH COMINCO Phone: 276-1592
Address: 717 K ST. ANCHORAGE AK Zip: 99501
Do you wish to testify? Yes No Respond To Questions

NAME: BOB JACKO Subject/Bill No: HB 112
Co./Dept./Title: TECH COMINCO ALASKA INC Phone: 266-4550
Address: 3105 Lakeshore Dr Anchorage Zip: 99517
Do you wish to testify? Yes No Respond To Questions

NAME: Steve Van Sant Subject/Bill No: HB 112
Co./Dept./Title: STATE ASSESSOR Phone: 269-4605
Address: 530 W. 7th Suite 1770 Anch Zip: 99501
Do you wish to testify? Yes No Respond To Questions

NAME: ROD MILLER Subject/Bill No: HB 112
Co./Dept./Title: AIDEA - Exec. Dir. Phone: 269-3000
Address: 813 W. Northen lts. Anch. Zip: 99501
Do you wish to testify? Yes No Respond To Questions

NAME: Mike Barry Subject/Bill No: HB 112

Co./Dept./Title: AIDEA Phone: 269 300

Address: 813 W. Northern Light Blvd Anch. Zip: 99501

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SENATE FINANCE COMMITTEE

SIGN-IN

HB 112-AIDEA : BONDS & MUNICIPAL TAX EXEMPTION

NAME: Mike Barry Subject/Bill No: 112

Co./Dept./Title: AIDEA Ch. B.O.D. Phone: 223 1614

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions