

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

SB 64 cont.

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1 that is legally provided for the same purposes for which the be-
 2 authorized except for any accrued interest paid on the bonds
 3 purchaser. The money in the construction fund is used to pay th-
 4 of acquiring, constructing, and equipping facilities authori-
 5 AS 37.15.720 and 37.15.730 and costs incidental to those activ-
 6 including costs of the authorization, issuance, and sale of the
 7 To the extent allowed in the bond resolution, money in the cer-
 8 tion fund may also be used for the payment of interest on the
 9 during the time of actual construction, and for any additional
 10 not exceeding one year after construction is completed. Money
 11 construction fund may also be transferred to the bond redemption
 12 as permitted by the bond resolution, to establish a reserve fo-
 13 payment of the principal and interest on the bonds.

14 (b) The bond resolution may provide for the investment of
 15 in the construction fund as the committee determines. The in-
 16 earned upon or any profit derived from the sale of the invest-
 17 deposited in the construction fund.

18 Sec. 37.15.630. REVENUE FUND. (a) The toll facilities
 19 fund is established and shall be set apart from all other money
 20 state. The toll facilities revenue fund is a trust fund for th-
 21 poses under AS 37.15.610 - 37.15.760, where all revenue, fees,
 22 charges, and rentals are deposited that are derived by the state
 23 the ownership, lease, use, and operation of the facilities auth-
 24 by AS 37.15.720 and 37.15.730. The revenue, fees, tolls, charge
 25 rentals may not include the proceeds of any state tax or license
 26 money in the revenue fund may only be used to

27 (1) pay or secure the payment of the principal of and
 28 est on the toll facilities bonds and principal of and interest
 29 other revenue bonds issued by authorization of the legislat

provide money to acquire, construct, and equip facilities authorized
 by AS 37.15.720 and 37.15.730 and to be payable out of the revenue
 fund;

(2) pay the normal and necessary costs of maintaining and
 operating the facilities acquired, constructed, or equipped under
 AS 37.15.610 - 37.15.760;

(3) pay the costs of renewals, replacements, and extra-
 ordinary repairs to facilities acquired, constructed, or equipped
 under AS 37.15.610 - 37.15.760;

(4) redeem before their fixed maturities any and all revenue
 bonds issued for the purpose of acquiring, constructing, and equipping
 facilities authorized by AS 37.15.720 and 37.15.730;

(5) provide money to acquire, construct, and equip necessary
 additions and improvements to facilities authorized by AS 37.15.720
 and 37.15.730; and

(6) provide money to pay any and all other costs relating to
 the ownership, use, and operation of the facilities.

(b) The investment of money in the revenue fund may be made as
 the committee determines. The interest earned upon or any profits
 derived from the sale of an investment under this subsection shall be
 deposited in the revenue fund.

Sec. 37.15.640. BOND REDEMPTION FUND. The toll facilities
 revenue bond redemption fund is established for deposit in trust of
 money for paying and securing the payment of principal of and interest
 and redemption premium, if any, on bonds and is set apart from all
 other money of the state. The committee, on behalf of the state,
 shall obligate the state to set aside and pay into the bond redemption
 fund from the revenue fund an amount of money sufficient to pay the
 principal of and interest and redemption premium, if any, on the bonds

1 as the payments become due and, if the committee considers it ne-
 2 cessary, to set aside and maintain a reserve for this purpose. The
 3 redemption fund is drawn upon for the purpose of paying the principal,
 4 of and interest and redemption premium, if any, on the bonds, and
 5 bonds do not constitute a general obligation of the state.

6 Sec. 37.15.650. BOND TERMS. (a) The toll facilities bonds
 7 sold in the amounts or series and at the time as determined by the
 8 committee. Before selling a series of bonds, the committee shall give
 9 notice inviting sealed bids. If satisfactory bids are received,
 10 bonds offered for sale are awarded to the highest responsible bidder.
 11 If the committee determines that a bid received is not satisfactory
 12 to price or responsibility of the bidder, the committee may reject
 13 the bid received. Bonds, or a series of bonds, may not be sold if
 14 the effective interest rate over the life of the bonds exceeds 11 percent
 15 per year or that rate of interest that is 125 percent of the rate of
 16 the Bond Buyer Index of 20 Municipal Bond Average Yields for the week
 17 previous to the date of sale of the bonds, whichever is higher.
 18 Interest is payable annually or semiannually.

19 (b) The bonds mature at the time fixed by the committee. The
 20 bonds may be subject to redemption before their fixed maturities as
 21 determined by the committee and with the premium fixed by the committee,
 22 but a bond may not be subject to redemption before its fixed
 23 maturity date unless the right to redeem that bond is expressly
 24 provided on the face of the bond. The bonds

25 (1) may be in denominations determined by the committee;

26 (2) may be issued in coupon form or in fully registered
 27 form, and may be registrable as to principal or both principal and
 28 interest, all under regulations and conditions the committee provides;

29 (3) are payable as to principal and interest at the place

determined by the committee;

(4) shall be signed on behalf of the state by the governor
 and shall be attested to by the lieutenant governor, both of which
 signatures may be facsimile signatures, and each of the interest
 coupons attached to them shall be signed by the facsimile signatures
 of these officials;

(5) shall have the seal of the state impressed, printed, or
 lithographed on them; and

(6) shall be issued under and subject to the terms, conditions,
 and covenants, providing for the payment of the principal of
 and interest on the bonds and the other terms, conditions, covenants,
 and protective features safeguarding this payment and relating to the
 maintenance, operation, and improvement of the toll facilities as
 found necessary by the committee, which covenants may include a provision
 requiring the setting aside and maintenance of certain reserves
 to secure the payment of the principal and interest.

(c) If found reasonably necessary, the committee may select a
 trustee or trustees for the holders of the bonds or any series of the
 bonds, for the safeguarding and disbursement of any of the money in
 any of the funds created by AS 37.15.620, 37.15.630, and 37.15.640, or
 for the duties for authentication, delivery, and registration of the
 bonds as the committee may determine. The committee shall also fix
 the rights, duties, powers, and obligations of the trustee or trustees.

(d) In the committee's determination of all of the matters and
 questions relating to the issuance and sale of the bonds and the
 fixing of the maturities, terms, conditions, and covenants of the
 bonds as provided in (a) - (c) of this section, the decisions of the
 committee shall be those found to be reasonably necessary for the best

interests of the state and its inhabitants, and those that will
 plish the most advantageous sale of the bonds, with due re-
 however, (1) to necessary or normal costs of maintenance and
 tion; (2) to renewals and replacements of and repairs to the
 facilities; (3) to all improvements to toll facilities and proper
 toll facilities owned, used, operated, or leased in connection
 toll facilities; and (4) to the future growth and expansion of
 the facilities and the possibility of additional revenue bond fin-
 ing for toll facilities purposes. A decision of the committee
 expressed in any bond resolution, is final when any bonds have
 issued under the bond resolution.

(e) A bond resolution may provide that the bonds issued con-
 a recital that they are issued under AS 37.15.610 - 37.15.760, and
 bonds containing this recital are conclusively considered to be
 and to have been issued in conformity with AS 37.15.610 - 37.15.760

(f) The validity of the authorization and issuance of bonds
 not affected by any proceeding for the acquisition or construction
 the additions, improvements, or facilities for which the bonds
 been issued or by any contract in connection with the acquisition
 construction.

Sec. 37.15.660. BOND RESOLUTION. The committee is authorized
 and directed to adopt the bond resolution and prepare all other doc-
 uments and proceedings necessary for the issuance, sale, and delivery
 of the bonds or any part or series of them. The bond resolution shall
 fix the principal amount, denomination, date, maturities, places
 places of payment, rights of redemption, if any, terms, form, con-
 ditions, and covenants of the bonds or each series of them. The com-
 mittee shall also determine and provide for the date and manner of sale
 of the bonds, and shall provide whether the notice of sale is to be

published elsewhere in addition to the publication required by AS 37.-
 15.650.

Sec. 37.15.670. ENFORCEMENT BY HOLDEE. The holder of any bonds
 or the trustee for the holders of the bonds or any series of them,
 may, by appropriate proceedings in the courts of record of the state,
 compel the transfer, setting aside, and payment of money and the
 enforcement of all of the terms, conditions, and covenants as required
 and provided in AS 37.15.610 - 37.15.760 and in the bond resolution.

Sec. 37.15.680. AMOUNTS REQUIRED FOR PAYMENTS. The committee
 shall, before December 31 of each year, commencing with the year in
 which the bonds are issued, certify to the commissioner of revenue and
 the commissioner of transportation and public facilities the amounts
 required in the next ensuing calendar year by a bond resolution to be
 paid out of the revenue fund into the bond redemption fund and to be
 paid into and maintained in any reserve fund or account or any other
 fund or account created by a bond resolution. The committee shall
 also certify to the commissioners the last date upon which payments
 may be made.

Sec. 37.15.690. BOND NEGOTIABILITY. The bonds and the coupons
 attached to them are fully negotiable instruments under the laws of
 the state.

Sec. 37.15.700. REFUNDING. (a) The bonds or any part of them
 may be refunded at or before their maturity by the issuance of refund-
 ing revenue bonds of the state if in the opinion of the committee
 refunding is advantageous to and in the best interest of the state and
 its inhabitants.

(b) The issuance of refunding bonds need not be authorized by an
 act of the legislature, and the committee shall adopt the resolution
 and prepare all other documents and proceedings necessary for the

1 issuance, exchange or sale, and delivery of the bonds. All provisions
2 of AS 37.15.610 - 37.15.760 applicable to revenue bonds are applicable
3 to the refunding bonds and to the issuance, sale, or exchange of the
4 bonds, except as otherwise provided in this section.

5 (c) Refunding bonds may be issued in a principal amount suffi-
6 cient to provide money for the payment of all bonds to be refunded by
7 them, and, in addition, for the payment of all expenses incident to
8 the calling, retiring, or paying of the outstanding bonds, and the
9 issuance of the refunding bonds. These expenses include the differ-
10 ence in amount between the par value of the refunding bonds and any
11 amount less than par for which the refunding bonds are sold, any
12 amount necessary to be made available for the payment of interest on
13 the refunding bonds from the date of sale of them to the date of
14 payment of the bonds to be refunded or to the date upon which the
15 bonds to be refunded will be paid under the call of the bonds or
16 agreement with the holders of them; and the premium, if any, necessary
17 to be paid in order to call or retire the outstanding bonds and the
18 interest accruing on the outstanding bonds to the date of the call or
19 retirement.

20 Sec. 37.15.710. BONDS AS LEGAL INVESTMENTS. Toll facilities
21 bonds are legal investments for all banks, trust companies, savings
22 banks, savings and loan associations, and other persons carrying on a
23 banking business, all insurance companies and other persons carrying
24 on an insurance business, and all executors, administrators, trustees,
25 and other fiduciaries. The bonds may be accepted as security for
26 deposits of all money of the state and its political subdivisions.

27 Sec. 37.15.720. STATE TOLL FACILITIES. The state is authorized
28 to acquire, construct, equip, and maintain toll bridges, highways,
29 roads, crossings, and causeways found to be necessary by the

1 commissioner of transportation and public facilities.

2 Sec. 37.15.730. KNIK ARM CROSSING. Notwithstanding the provi-
3 sions of AS 37.15.720 the first state toll facility to be financed
4 under this article is the Knik Arm Crossing near Anchorage if the
5 following conditions are met:

6 (1) the department submits to the governor and the legisla-
7 ture a feasibility study that finds that the crossing is financially
8 feasible and able to produce revenue adequate to repay the bonds with
9 which it is financed;

10 (2) if financing in addition to revenue bonds is anticipat-
11 ed, the department submits to the governor and legislature a finance
12 plan to include an estimate of the total cost of the project and a
13 description of the sources of money that will be used to finance the
14 total cost of the project; and

15 (3) the office of management and budget reviews the feasi-
16 bility study and the finance plan, if required, and reports its find-
17 ings and recommendations to the governor and legislature not later
18 than 90 days after the study and plan are received by the office.

19 Sec. 37.15.740. TOLL FACILITY CHARGES. The commissioner of
20 transportation and public facilities shall fix and collect the fees,
21 charges, tolls, and rentals derived by the state from the ownership,
22 lease, use, and operation of the facilities authorized by AS 37.15.720
23 and 37.15.730 and improvements of the facilities as will provide
24 revenues sufficient to comply with all of the covenants of the bond
25 resolution.

26 Sec. 37.15.750. STATUTORY CONSTRUCTION. AS 37.15.610 - 37.15.-
27 760 shall be liberally construed in order to carry out the purposes
28 for which the provisions were enacted, and all existing laws in con-
29 flict with AS 37.15.610 - 37.15.760 are superseded as necessary to

accomplish the purposes of AS 37.15.610 - 37.15.760.

Sec. 37.15.760. DEFINITIONS. In AS 37.15.610 - 37.15.760, unless the context requires otherwise

(1) "bond redemption fund" means the toll facilities revenue bond redemption fund created by ~~AS 37.15.640~~, including any accounts that are created in that fund after the effective date of this Act;

(2) "bond resolution" means the resolution authorizing the issuance of bonds, adopted by the committee under AS 37.15.660;

(3) "bonds" means the toll facilities revenue bonds authorized by AS 37.15.610 - 37.15.760;

(4) "committee" means the state bond committee created by AS 37.15.110, or any other committee, body, department, or officer of the state that or who succeeds to the rights, powers, duties, and obligations of the state bond committee by act of the legislature;

(5) "construction fund" means the toll facilities construction fund created by AS 37.15.620;

(6) "revenue fund" means the toll facilities revenue fund created by AS 37.15.630;

(7) "toll facilities" means highways, roads, bridges, crossings, and causeways upon which tolls, charges, rentals, or other user fees are placed by the commissioner of transportation and public facilities.

* Sec. 2. AS 19.05.040 is amended to read:

Sec. 19.05.040. POWERS OF DEPARTMENT. The department may

(1) acquire property;

(2) exercise the power of eminent domain;

(3) take immediate possession of real property, or any interest in it under a declaration of taking or by other lawful means;

(4) acquire rights-of-way for present or future use;

(5) control access to highways;

(6) regulate roadside development;

(7) preserve and maintain the scenic beauty along state highways;

(8) dispose of property acquired for highway purposes;

(9) accept and dispose of federal funds or property available for highway construction, maintenance, or equipment;

(10) enter into contracts or agreements relating to highways with the federal government, municipalities, a political subdivision, or with a foreign government, if the contract is approved by the federal government; [AND]

(11) establish, levy, and collect tolls, fees, charges, and rentals for the use of state roads, highways, bridges, crossings, and causeways; and

(12) exercise any other power necessary to carry out the purpose of AS 19.05 - 19.25.

* Sec 3. AS 44.88.010(a) is amended to read:

(a) The legislature finds, determines and declares that

(1) there exist areas of the state in which seasonal and nonseasonal unemployment exist;

(2) this unemployment is a serious menace to the health, safety and general welfare, not only to the people in those areas, but also to the people of the entire state;

(3) the state lacks the basic manufacturing, industrial, and business enterprises and the other facilities referred to in (5) of this subsection necessary to permit adequate development of its natural resources and the balanced growth of its economy;

(4) the establishment and expansion of industrial,

1 manufacturing, and business enterprises in Alaska and the other fac-
 2 ities referred to in (5) of this subsection are essential to the
 3 development of the natural resources and the long-term economic growth
 4 of the state, and will directly and indirectly alleviate unemployment
 5 in the state;

6 (5) the achievement of the goal of full employment, and of
 7 establishment and continuing operation and development of industrial,
 8 manufacturing, and business enterprises in the state, including,
 9 without limitation, facilities for [AIR AND WATER] transportation,
 10 facilities for pollution control and waste disposal, facilities for
 11 the local furnishing of gas, facilities for water, [AND] facilities
 12 for industrial parks, mass commuting vehicles, facilities for local
 13 district heating or cooling, parking facilities, or a storage or
 14 training facility relating to a plant or facility, will be accelerated
 15 and facilitated by the creation of an instrumentality of the state
 16 with powers to incur debt, to own and operate facilities, (AND) to
 17 make and insure loans to finance, and to assist private lenders to
 18 make loans to finance, the establishment, operation, and development
 19 of industrial, manufacturing, and business enterprises, including,
 20 without limitation, facilities for [AIR AND WATER] transportation,
 21 facilities for pollution control and waste disposal, facilities for
 22 the local furnishing of gas, facilities for water, [AND] facilities,
 23 for industrial parks, mass commuting vehicles, facilities for local
 24 district heating or cooling, parking facilities, or a storage or
 25 training facility relating to a plant or facility;

26 (6) it is in the public interest to promote the prosperity
 27 and general welfare of all citizens of the state by stimulating com-
 28 mercial and industrial growth and expansion by encouraging an increase
 29 of private investment by banks, investment houses, insurance

1 companies, and other financial institutions, including pension and re-
 2 tirement funds, to help satisfy the need for economic expansion;

3 (7) it is in the state's interest to import private capital
 4 to create new economic activity which would not otherwise take place
 5 in the state.

6 * Sec. 4. AS 44.88.070 is amended to read:

7 Sec. 44.88.070. PURPOSE OF THE AUTHORITY. The purpose of the
 8 authority is to promote, develop and advance the general prosperity
 9 and economic welfare of the people of Alaska, to relieve problems of
 10 unemployment, and to create additional employment by providing various
 11 means of financing and means of facilitating the financing of indus-
 12 trial, manufacturing, and business enterprises and the other fac-
 13 ities referred to in AS 44.88.010(a)(5) within the state, and by own-
 14 ing and operating the enterprises and other facilities.

15 * Sec. 5. AS 44.88.080 is amended to read:

16 Sec. 44.88.080. POWERS OF THE AUTHORITY. In furtherance of its
 17 corporate purposes, the authority has the following powers in addition
 18 to its other powers:

- 19 (1) to sue and be sued;
- 20 (2) to have a seal and alter it at pleasure;
- 21 (3) to make and alter bylaws for its organization and
 22 internal management;
- 23 (4) to adopt regulations governing the exercise of its
 24 corporate powers;
- 25 (5) to acquire an interest in a project as necessary or
 26 appropriate to provide financing for the project, whether by purchase,
 27 gift or lease;
- 28 (6) to lease to others a project acquired by it for the
 29 rentals and upon the terms and conditions the authority may consider

advisable, including, without limitation, provisions for options to purchase or renew;

(7) to issue bonds, in accordance with AS 44.88.090, to pay the cost of a project and to secure payment of the bonds as provided in this chapter;

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

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

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

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

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

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

(14) to acquire, manage, and operate projects as the authority considers [A PROJECT WHEN IT BECOMES] necessary or appropriate [DESIRABLE] to serve a public purpose [DO SO TO SAFEGUARD THE

AUTHORITY FROM LOSSES);

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

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

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

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

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

* Sec. 6. AS 44.88.105 is amended by adding a new subsection to read:

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

1 permit the state to use or occupy a majority of the project, the
 2 authority may only establish a reserve fund under (g) of this section
 3 to secure bonds issued to finance a project.

4 * Sec. 7. AS 44.88.155 is amended by adding a new subsection to read:

5 (g) Notwithstanding any other provision of this section, the
 6 authority may waive or modify the requirements of this section as it
 7 considers appropriate and prudent in order to finance a project if the
 8 authority intends to own the project.

9 * Sec. 8. AS 44.88 is amended by adding new sections to read:

10 Sec. 44.88.172. ECONOMIC DEVELOPMENT FUND. (a) The economic
 11 development fund is established in the authority. The fund consists
 12 of money or assets appropriated, loaned, or transferred to the author-
 13 ity, and other money or assets deposited in the fund by the authority.
 14 The fund may only be used to finance, acquire, manage, and operate
 15 projects that the authority intends to own and operate. The term
 16 "operate" includes operation directly by the authority, or by an agent
 17 of the authority.

18 (b) If a project is financed or developed through use of the
 19 assets of the economic development fund, the authority may not pledge
 20 or use other assets of the authority to assist in the financing,
 21 development, or operation of the project. However, whether or not the
 22 authority uses the economic development fund, it may issue bonds to
 23 finance a project and may secure the bonds with a mortgage, pledge, or
 24 assignment of the project or of revenue, money, or agreements attrib-
 25 utable to the project or the bonds as provided in sec. 10 of this Act.

26 Sec. 44.88.173. FINANCE PLAN. (a) Before approving a project
 27 financed under AS 44.88.172, the authority shall prepare a finance
 28 plan. The finance plan must include an estimate of the total cost of
 29 the project, and a description of the sources of money that will be

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

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

(c) The authority shall submit a finance plan prepared under
 this section to the state bond committee, the governor, and the legis-
 lature before issuing bonds or otherwise incurring debt for the proj-
 ect. If a project requires financial assistance from the state, the
 state financial assistance must be available before bonds are issued
 for the project.

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

(b) A Regional Resource Advisory Council consists of five mem-
 bers registered to vote in the region. The governor shall appoint the

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

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

Sec. 44.88.175. REQUIREMENTS PRIOR TO APPROVAL OF PROJECTS. (a) Before entering into an agreement to finance or to develop a proposed project with a cost in excess of \$10,000,000 that is financed under AS 44.88.172, the authority shall obtain the approval of each Regional Resource Advisory Council or municipality in the area in which the proposed project is to be located. Approval under this subsection must be evidenced by a certified copy of a resolution of the council or of the governing body of the municipality.

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

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

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

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

(B) the project applicant is financially responsible;

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

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

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

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

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

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

Sec. 44.88.176. HEARING TO CONSIDER PROPOSED PROJECT. Before considering a resolution regarding the approval or rejection of the development or financing of a proposed project with a cost in excess of \$10,000,000, that is financed under AS 44.88.172, a Regional Resource Advisory Council shall conduct a public hearing within the region. If a proposed project is located within a municipality, the governing body of a municipality shall conduct a hearing on the proposed project.

Sec. 44.88.177. OPERATION OF PROJECTS. If a project is financed under AS 44.88.172, the authority shall solicit the review and advice of the Regional Resource Advisory Council or governing body in the

1 area in which a project is located before the execution of contracts,
2 agreements, resolutions, or other matters that directly concern the
3 development, maintenance, and operation of a project.

4 * Sec. 9. AS 44.88.220(5) is amended to read:

5 (5) "project" means

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

7 (i) in connection with making, processing, pre-
8 paring, or producing in any manner, goods, products or
9 substances of any kind or nature or in connection with
10 developing or utilizing a natural resource, or extracting,
11 smelting, transporting, converting, assembling or producing
12 in any manner, minerals, raw materials, chemicals, com-
13 pounds, alloys, fibers, commodities and materials, products
14 or substances of any kind or nature;

15 (ii) [, ANY PLANT OR FACILITY USED OR INTENDED
16 FOR USE] as an industrial park; [OR] in connection with [AIR
17 AND WATER] transportation; [, OR ANY PLANT OR FACILITY] for
18 the prevention, limitation or control of [AIR OR WATER]
19 pollution; [,] for the disposal of sewage or solid waste;
20 [,] for the local furnishing of gas; [, OR] for the furnishing
21 of water; as or in connection with mass commuting vehi-
22 cles; for local district heating or cooling; as a parking
23 facility; or as a storage or training facility directly
24 related to a plant or facility described in this paragraph;

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

27 (C) commercial activity by a small enterprise;

28 * Sec. 10. The authority may not issue bonds to assist in the acquisi-
29 tion, financing, or operation of projects under AS 44.88.172 enacted by

1 sec. 8 of this Act without prior legislative approval.

2 * Sec. 11. It is the intent of the legislature to minimize the cost of
3 state financial assistance for projects funded under AS 44.88.172, enacted
4 by sec. 6 of this Act. To the extent possible, financial assistance shall
5 be extended in the form of loans.

Original sponsors: Kelly, Kerttula,
Faiks, et al.

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2

CS FOR SENATE BILL NO. 64 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the Alaska Industrial Development

7

Authority and providing for an effective date."

8

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

9

* Section 1. AS 44.88.010 is amended to read:

10

Sec. 44.88.010. LEGISLATIVE FINDING AND POLICY. (a) The legis-

11

lature finds, determines, and declares that

12

(1) there exist areas of the state in which seasonal and
13 nonseasonal unemployment exist;

14

(2) this unemployment is a serious menace to the health,
15 safety, and general welfare, not only to the people in those areas,
16 but also to the people of the entire state;

17

(3) the state lacks the basic manufacturing, industrial,
18 export, entrepreneurial, small business, and business enterprises and
19 the other facilities referred to in [(5) OF] this subsection necessary
20 to permit adequate development of its natural resources and the bal-
21 anced growth of its economy;

22

(4) the establishment and expansion of industrial, manu-
23 facturing, export, entrepreneurial, small business, and business
24 enterprises in Alaska and the other facilities referred to in [(5) OF]
25 this subsection are essential to the development of the natural re-
26 sources and the long-term economic growth of the state, and will
27 directly and indirectly alleviate unemployment in the state;

28

(5) the expansion of export trade is vital to the health
29 and growth of the state's economy;

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

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

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

13 (9) the achievement of the goal of full employment, and of
14 establishment and continuing operation and development of industrial,
15 manufacturing, export, entrepreneurial, small business, and business
16 enterprises in the state, including, without limitation, facilities
17 for transportation, facilities for pollution control and waste dis-
18 posal, facilities for the local furnishing of gas, facilities for
19 water, facilities for industrial parks, mass commuting vehicles,
20 facilities for local district heating or cooling, parking facilities,
21 or a storage or training facility relating to a plant or facility,
22 will be accelerated and facilitated by the creation of an instrumen-
23 tality of the state with powers to incur debt, to own and operate
24 facilities, to make and insure loans to finance, and to assist private
25 lenders to make loans to finance, the establishment, operation, and
26 development of industrial, manufacturing, export, entrepreneurial,
27 small business, and business enterprises, including, without limita-
28 tion, facilities for transportation, facilities for pollution control
29 and waste disposal, facilities for the local furnishing of gas,

1 facilities for water, facilities for industrial parks, mass commuting
2 vehicles, facilities for local district heating or cooling, parking
3 facilities, or a storage or training facility relating to a plant or
4 facility;

5 (10) [(6)] it is in the public interest to promote the
6 prosperity and general welfare of all citizens of the state by

7 (A) stimulating commercial and industrial growth and
8 expansion by encouraging an increase of private investment by
9 banks, investment houses, insurance companies, and other finan-
10 cial institutions, including pension and retirement funds, to
11 help satisfy the need for economic expansion;

12 (B) encouraging the production of raw materials and
13 goods for export, the expansion of exports of raw materials and
14 goods, and the rendering of services abroad by residents of the
15 state through the establishment of a program that provides finan-
16 cial assistance in cooperation with federal, state, and private
17 institutions for these purposes in the form provided in this
18 chapter;

19 (C) creating the Alaska Industrial Development Author-
20 ity with the powers necessary to accomplish the objectives stated
21 in this paragraph, including the power to issue taxable and
22 tax-exempt bonds and to acquire ownership interests in projects
23 as provided in this chapter;

24 (11) [(7)] it is in the state's interest to import private
25 capital to create new economic activity which would not otherwise take
26 place in the state.

27 (b) It is declared to be the policy of the state, in the inter-
28 ests of promoting the health, security, and general welfare of all the
29 people of the state, and a public purpose, to increase job

1 opportunities and otherwise to encourage the economic growth of the
2 state, including the development of its natural resources, through the
3 establishment and expansion of manufacturing, industrial, export,
4 entrepreneurial, small business, and business enterprises and the
5 other facilities referred to in (a) [(a)(5)] of this section by creat-
6 ing the Alaska Industrial Development Authority [PUBLIC CORPORATION]
7 with the powers [POWER], duties, and functions [AS] provided in this
8 chapter [AS 44.88.010 - 44.88.220].

9 * Sec. 2. AS 44.88.010 is amended by adding a new subsection to read:

10 (c) It is further declared to be the policy of the state, in the
11 interests of promoting the health, security, and general welfare of
12 all the people of the state, and a public purpose of the state, to
13 accomplish the objectives set out in (b) of this section through the
14 provision of financial support in cooperation with federal, state, and
15 private institutions for the purpose of increasing the export of
16 Alaska goods, entrepreneurial talent, raw materials, and services.

17 * Sec. 3. AS 44.88 is amended by adding a new section to article 1 to
18 read:

19 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY REVOLV-
20 ING FUND. The Alaska Industrial Development Authority revolving fund
21 is established in the authority. The revolving fund consists of
22 appropriations made to the revolving fund by the legislature, money or
23 other assets transferred to the revolving fund by the authority, and
24 unrestricted payments on loans made or purchased by the authority.
25 Amounts deposited in the revolving fund may be pledged to the payment
26 of bonds of the authority or expended for the purposes of the au-
27 thority under this chapter.

28 * Sec. 4. AS 44.88.070 is amended to read:

29 Sec. 44.88.070. PURPOSE OF THE AUTHORITY. The purpose of the

1 authority is to promote, develop, and advance the general prosperity
2 and economic welfare of the people of Alaska, to relieve problems of
3 unemployment, and to create additional employment by

4 (1) providing various means of financing and means of
5 facilitating the financing, in cooperation with federal, state, and
6 private institutions, of industrial, manufacturing, export, entrepre-
7 neurial, small business, and business enterprises and the other facil-
8 ities referred to in AS 44.88.010(a) in [AS 44.88.010(a)(5) WITHIN]
9 the state;

10 (2) [, AND BY] owning and operating the enterprises and
11 other facilities described in AS 44.88.172;

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

14 (4) cooperating and acting in conjunction with other orga-
15 nizations, public and private, the objects of which are the promotion
16 and advancement of export trade activities in the state;

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

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

23 * Sec. 5. AS 44.88.080(7) is amended to read:

24 (7) to issue bonds and otherwise to incur indebtedness, in
25 accordance with AS 44.83.090, in order to pay the cost of a project or
26 development projects or in order to provide money for the authority's
27 purposes under this chapter; the authority may also [AND TO] secure
28 payment of the bonds or other indebtedness as provided in this chap-
29 ter;

1 * Sec. 6. AS 44.88.080 is amended by adding new paragraphs to read:

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

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

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

17 (23) to guarantee loans related to qualified export trans-
18 actions under regulations adopted by the authority;

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

22 * Sec. 7. AS 44.88.085(a) is amended to read:

23 (a) Except for AS 44.62.310 and 44.62.312 regarding public
24 meetings, and except for AS 44.62.320(a) regarding legislative review
25 of regulations, the provisions of the Administrative Procedure Act
26 regarding the adoption of regulations (AS 44.62.040 - 44.62.320) do
27 not apply to the authority. The authority shall make available to
28 members of the public copies of the regulations adopted under [(b) -
29 (e) OF] this section. Within 45 days after adoption of a regulation

1 under [(b) - (e) OF] this section, the chairman of the authority shall
2 submit the regulation adopted to the chairman of the Administrative
3 Regulation Review Committee under AS 24.20.400 - 24.20.460.

4 * Sec. 8. AS 44.88.085(c) is repealed and reenacted to read:

5 (c) The authority may adopt regulations to carry out the pur-
6 poses of this chapter and shall adopt regulations as provided in (g)
7 and (h) of this section.

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

9 (d) Except as provided in (e) of this section, at least 15 days
10 before the adoption, amendment, or repeal of a regulation [ON A SUB-
11 JECT SPECIFIED IN (c) OF THIS SECTION], the authority shall give
12 public notice of the proposed action by publishing the notice in at
13 least three newspapers of general circulation in the state and by
14 mailing a copy of the notice to every person who has filed a request
15 for notice of proposed regulations with the authority. The public
16 notice must include a statement of the time, place, and nature of the
17 proceedings for the adoption, amendment, or repeal of the regulation
18 and must include an informative summary of the subject of the proposed
19 action. On the date and at the time and place designated in the
20 notice, the authority shall give each interested person or an autho-
21 rized representative of the person, or both, the opportunity to pre-
22 sent statements, arguments, or contentions orally or in writing and
23 shall give members of the public an opportunity to present oral state-
24 ments, arguments, or contentions for a total period of at least one
25 hour. The authority shall consider all relevant matter presented to
26 it before taking the proposed action on the regulation. At a hearing
27 under this subsection, the authority may continue or postpone the
28 hearing to a time and place determined by the authority and announced
29 at the hearing before taking the action to continue or postpone the

1 hearing. A regulation adopted, amended, or repealed by the authority
2 may vary from the informative summary specified in this subsection if
3 the subject matter of the action taken on the regulation remains the
4 same and if the original notice of the proposed action was written so
5 as to assure that members of the public are reasonably notified of the
6 subject matter of the proposed action in order for them to determine
7 whether their interests could be affected by the authority's proposed
8 action on that subject.

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

10 (e) The adoption, amendment, or repeal of a regulation [ON A
11 SUBJECT SPECIFIED IN (c) OF THIS SECTION] may be made as an emergency
12 regulation if, in the order of adoption, the authority states the
13 facts constituting the emergency and makes a finding that the adoption
14 of the regulation is necessary for the immediate preservation of the
15 orderly operation of the authority's [LOAN AND BONDING] programs. The
16 requirements of (d) of this section do not apply to the initial adop-
17 tion of an emergency regulation [COVERING A SUBJECT SPECIFIED IN (c)
18 OF THIS SECTION]; however, upon adoption of an emergency regulation
19 under this subsection, the authority shall, within 10 days after that
20 adoption, publish notice of the adoption in accordance with the notice
21 procedures specified in (d) of this section. An emergency regulation
22 adopted under this subsection may not remain in effect for more than
23 120 days unless, before the expiration of that period, the authority
24 adopts that regulation as a permanent regulation in accordance with
25 the procedures specified in (d) of this section.

26 * Sec. 11. AS 44.88.085(f) is amended to read:

27 (f) A regulation adopted under [(b) - (e) OF] this section takes
28 effect immediately upon its adoption by the authority or at another
29 [SUCH OTHER] time [AS] specified by the authority in its order of

1 adoption.

2 * Sec. 12. AS 44.88.085 is amended by adding new subsections to read:

3 (g) The authority shall adopt regulations necessary for the
4 following purposes in connection with its programs for the financing
5 of projects under AS 44.88.155 - 44.88.159:

6 (1) determination of borrower eligibility;

7 (2) loan guidelines and terms including, but not limited
8 to, maximum loan amounts and required loan-to-value ratios, but ex-
9 cluding loan interest rates;

10 (3) characteristics of projects eligible for loans or
11 purchase of loans; and

12 (4) the qualifications of loan originators and servicers
13 and the method of allocating amounts available for the purchase of
14 loans.

15 (h) The authority shall adopt regulations necessary for the
16 following purposes in connection with its program for encouraging the
17 exportation of Alaska goods, services, and raw materials under AS 44.-
18 88.300 - 44.88.390:

19 (1) establishing criteria for the eligibility of exporters
20 and export transactions for the loan guarantees provided in AS 44.88.-
21 300;

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

25 (3) adoption of collateral or security requirements to
26 ensure the full repayment of loan guarantees and solvency of an insur-
27 ance program established under AS 44.88.300 - 44.88.390;

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

1 (5) setting out the maximum aggregate amount of guaranteed
2 financing available to an exporter and the maximum amount of guaran-
3 teed financing available for a transaction eligible for guaranteed
4 financing;

5 (6) establishing the limits on the interest that may be
6 charged for guaranteed financings, the maximum fees that a participat-
7 ing financial institution may charge for making a loan that will be
8 guaranteed under AS 44.88.300 - 44.88.390, and the terms of and proce-
9 dures for repayment of a guaranteed financing; and

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

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

13 (a) Subject to (g) of this section, the authority may borrow
14 money and may issue bonds, including but not limited to bonds on which
15 the principal and interest are payable[.],

16 (1) exclusively from the income and receipts or other money
17 derived from the project or development project financed with the
18 proceeds of the bonds or derived from the exporter or exporting trans-
19 action financed, guaranteed, or insured with the proceeds of the
20 bonds; [.]

21 (2) exclusively from the income and receipts or other money
22 derived from designated projects or development projects or other
23 sources whether or not they are financed, insured, or guaranteed in
24 whole or in part with the proceeds of the bonds; [.] or

25 (3) from its income and receipts or other assets generally,
26 or a designated part or parts of them.

27 * Sec. 14. AS 44.88.090(e) is repealed and reenacted to read:

28 (e) Before issuing bonds, the authority shall provide for con-
29 sideration at least sufficient, in the judgment of the authority, to

1 pay the principal of and interest on the bonds as they become due and
2 to create and maintain the reserves for the payments that the authori-
3 ty considers necessary or desirable, and to meet all obligations in
4 connection with the lease or agreement and all costs necessary to
5 service the bonds, unless the lease or agreement provides that the
6 obligations are to be met or costs are to be paid by a party other
7 than the authority. If the bonds are being issued to finance a
8 project or projects under AS 44.88.155 - 44.88.159, then the con-
9 sideration shall be provided by lease or other agreement regarding the
10 project or projects. If the bonds are being issued to finance a
11 development project or development projects under AS 44.88.172 -
12 44.88.177, then the consideration shall be provided by lease or other
13 agreement regarding the development project or development projects.
14 If the bonds are being issued to provide money to finance, guarantee,
15 or insure an exporting transaction under AS 44.88.300 - 44.88.390,
16 then the consideration shall be provided by agreement with the ex-
17 porter.

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

19 (g) The authority may not

20 (1) issue bonds, other than refunding bonds, in any 12-
21 month period beginning after June 30, 1982, in an amount that exceeds
22 the amount of bonds authorized to be issued during the preceding
23 12-month period, unless a different amount is authorized by the legis-
24 lature; or

25 (2) issue revenue bonds other than refunding bonds for a
26 project under AS 44.88.155 - 44.88.159, for a development project
27 under AS 44.88.172 - 44.88.177, or to provide money to finance,
28 guarantee, or insure an exporting transaction under AS 44.88.300 -
29 44.88.390, [THIS CHAPTER] in an amount greater than \$50,000,000 during

1 any 12-month period beginning after June 30, 1981, unless the issuance
2 is included separately in the estimates required in the report of the
3 authority under AS 44.88.210(b) and unless the legislature, by law,
4 approves the issuance.

5 * Sec. 16. AS 44.88.090(h) is amended to read:

6 (h) The authority may combine, for the purposes of a single
7 offering, bonds financing more than one project or development project
8 under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, and bonds
9 issued to provide money to finance, guarantee, or insure an exporting
10 transaction under AS 44.88.300 - 44.88.390 [AS 44.88.010 - 44.88.220].

11 * Sec. 17. AS 44.88.100 is amended to read:

12 Sec. 44.88.100. TRUST INDENTURES AND TRUST AGREEMENTS. In the
13 discretion of the authority, an issue of bonds may be secured by a
14 trust indenture or trust agreement between the authority and a corpo-
15 rate trustee (which may be a trust company, bank, or national banking
16 association, with corporate trust powers, located inside or outside
17 the state) or by a secured loan agreement or other instrument or under
18 a resolution giving powers to a corporate trustee (hereinafter in this
19 section referred to as "trust agreement") by means of which the auth-
20 ority may:

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

26 (A) the application, investment, deposit, use and
27 disposition of the proceeds of bonds of the authority or of money
28 or other property of the authority or in which it has an inter-
29 est;

1 (B) the fixing and collection of rents or other con-
2 sideration for, and the other terms to be incorporated in, a
3 lease or contract of sale of a project or development project
4 financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177,
5 or of a facility that is part of an exporting transaction fi-
6 nanced, guaranteed, or insured under AS 44.88.300 - 44.88.390;

7 (C) the assignment by the authority of its rights in
8 the lease or contract of sale of a project or development project
9 financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177,
10 or of a facility that is part of an exporting transaction fi-
11 nanced, guaranteed, or insured under AS 44.88.300 - 44.88.390 or
12 in a mortgage or other security interest created with respect to
13 a project or development project financed under AS 44.88.155 -
14 44.88.159 or 44.88.172 - 44.88.177, or with respect to a facility
15 that is part of an exporting transaction financed, guaranteed, or
16 insured under AS 44.88.300 - 44.88.390 to a trustee for the
17 benefit of the bondholders;

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

20 (E) the vesting in a trustee of rights, powers,
21 duties, funds or property in trust for the benefit of bond-
22 holders, including, without limitation, the right to enforce
23 payment, performance and all other rights of the authority or of
24 the bondholders [,] under a lease, contract of sale, mortgage,
25 security agreement, or trust agreement with respect to a project
26 or development project financed under AS 44.88.155 - 44.88.159 or
27 44.88.172 - 44.88.177, or with respect to a facility that is part
28 of an exporting transaction financed, guaranteed, or insured
29 under AS 44.88.300 - 44.88.390 by mandamus or other proceeding or

1 by taking possession of by agent or otherwise and operating a
2 project or facility and collecting rents or other consideration
3 and applying the same in accordance with the trust agreement;

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

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

10 * Sec. 18. AS 44.88.105(f) is amended to read:

11 (f) The authority may not establish a capital reserve fund to
12 secure an issue of bonds in an amount in excess of \$1,000,000 unless
13 at least 20 percent of the principal amount of the loan for the proj-
14 ect or development project being financed under AS 44.88.155 -
15 44.88.159 or 44.88.172 - 44.88.177, or of the loan to finance, guaran-
16 tee, or insure an exporting transaction under AS 44.88.300 - 44.88.390
17 is retained by a federal or state chartered financial institution or
18 the Alaska Commercial Fishing and Agriculture Bank.

19 * Sec. 19. AS 44.88.130 is amended to read:

20 Sec. 44.88.130. PLEDGE OF THE STATE. The state pledges to and
21 agrees with the holders of bonds issued under this chapter and with
22 the federal agency that lends [WHICH LOANS] or contributes funds in
23 respect to a project or development project financed under AS 44.88.-
24 155 - 44.88.159 or 44.88.172 - 44.88.177, or in respect to an export-
25 ing transaction financed, guaranteed, or insured under AS 44.88.300 -
26 44.88.390 [,] that the state will not limit or alter the rights and
27 powers vested in the authority by this chapter to fulfill the terms of
28 a contract made by the authority with the holders or federal agency
29 and that the state will not [, OR] in any way impair the rights and

1 remedies of the holders until the bonds, together with the interest on
2 them with interest on unpaid installments of interest, and all costs
3 and expenses in connection with an action or proceeding by or on
4 behalf of the holders [,] are fully met and discharged. The authority
5 is authorized to include this pledge and agreement of the state,
6 insofar as it refers to holders of bonds of the authority, in a con-
7 tract with the holders [,] and, insofar as it relates to a federal
8 agency, in a contract with the federal agency.

9 * Sec. 20. AS 44.88.140 is amended to read:

10 Sec. 44.88.140. EXEMPTION FROM TAXATION. (a) The real and
11 personal property of the authority and its assets, income, and re-
12 ceipts are declared to be the property of a political subdivision of
13 the state and, together with any project or development project fi-
14 nanced under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, [THIS
15 CHAPTER] and a leasehold interest created in a project or development
16 project financed [APPLICANT OR OTHER PERSON] under AS 44.88.155 -
17 44.88.159 or 44.88.172 - 44.88.177 [THIS CHAPTER], devoted to an
18 essential public and governmental function and purpose, and the
19 property, assets, income, receipts, project, development project, and
20 leasehold interests shall be exempt from all taxes and special assess-
21 ments of the state or a political subdivision of the state, including,
22 without limitation, all boroughs, cities, municipalities, school
23 districts, public utility districts and other taxing units. All bonds
24 of the authority are declared to be issued by a political subdivision
25 of the state and for an essential public and governmental purpose and
26 to be a public instrumentality, and the bonds, and the interest on
27 them, the income from them and the transfer of the bonds, and all
28 assets, income and receipts pledged to pay or secure the payments
29 [PAYMENT] of the bonds, or interest on them, shall at all times be

1 exempt from taxation by or under the authority of the state, except
2 for inheritance and estate taxes and taxes on transfers by or in
3 contemplation of death. Nothing in this section affects or limits an
4 exemption from license fees, property taxes, or excise, income or any
5 other taxes, provided under any other law, nor does it create a tax
6 exemption with respect to the interest of any business enterprise or
7 other person, other than the authority, in any property, assets,
8 income, receipts, project, development project, or lease whether or
9 not financed under this chapter.

10 (b) The authority may enter into agreements with an applicant or
11 [A] proposed [PROJECT] applicant under this chapter [OR PROJECT APPLI-
12 CANT] providing for payments, computed on a formula basis or otherwise
13 [,] in lieu of taxes, which the authority may consider appropriate.
14 The agreement may provide that the payments be made to the political
15 subdivision of the state in which a project or development project is
16 or is to be located or to any other taxing unit of the state includ-
17 ing, without limitation, a borough, city, municipality, school dis-
18 trict or public utility district, the area of which is coterminous in
19 whole or in part with that of the political subdivision.

20 * Sec. 21. AS 44.88.155(a) is amended to read:

21 Sec. 44.88.155. ENTERPRISE DEVELOPMENT ACCOUNT [FUND]. (a) The
22 enterprise development account [FUND] is established in the revolving
23 fund [AUTHORITY]. The enterprise development account [FUND] is a
24 trust fund for the uses and purposes of this chapter [AS 44.88.010 -
25 44.88.220]. The enterprise development account [FUND] consists of
26 money or assets appropriated or transferred to the authority and other
27 money or assets deposited in it by the authority.

28 * Sec. 22. AS 44.88.155(b) is amended to read:

29 (b) The authority may establish in the enterprise development

1 account [FUND] a small enterprise loan account, a loan insurance
2 account, and other accounts it considers appropriate.

3 * Sec. 23. AS 44.88.155(c) is amended to read:

4 (c) Money and other assets of the enterprise development account
5 [FUND] may be used to secure bonds of the authority issued to finance
6 the purchase of loans for projects [,] and shall be held and invested
7 by the authority in the types of investments described in AS 37.10.-
8 070(a) and AS 39.35.110(a)(9) and (14) or shall be used to purchase
9 loans for projects [AS DEFINED IN AS 44.88.220].

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

11 (d) A loan purchased in whole or in part by the authority with
12 assets of the enterprise development account or with proceeds of bonds
13 secured by assets of the enterprise development account, other than a
14 loan which is financed with the proceeds of bonds of the authority and
15 secured only by a project applicant or a project,

16 (1) may not exceed

17 (A) \$10,000,000; or

18 (B) \$500,000 if the loan is purchased under AS 44.88.-
19 158;

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

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

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

29 (5) shall be in the form and contain the terms and

1 provisions with respect to insurance, repairs, alterations, payment of
2 taxes and assessments, default reserves, delinquency charges, default
3 remedies, acceleration of maturity, secondary liens, and other matters
4 the authority prescribes;

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

9 (7) may not be made unless

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

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

15 (8) must be

16 (A) at least partially guaranteed by the United States
17 or an agency or instrumentality of the United States, subject to
18 the provisions of AS 44.88.158; [OR]

19 (B) financed from the proceeds of bonds; or

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

22 * Sec. 25. AS 44.88.155(e) is amended to read:

23 (e) The authority may adopt regulations for the administration
24 of the enterprise development account including [FUND WHICH MAY IN-
25 CLUDE], without limitation, provisions for fees and agreements re-
26 lating to application, loan commitment, servicing, and origination of
27 loans by other lenders.

28 * Sec. 26. AS 44.88.155(f) is amended to read:

29 (f) The authority may enter into agreements as to the use of the

1 money in the enterprise development account [FUND], including without
2 limitation, trust or custody arrangements with banks or trust com-
3 panies. It may also pledge, assign, or grant the agreement, interests
4 under an agreement, or interests in the enterprise development account
5 [FUND] as may be necessary or appropriate to provide for payment and
6 security for bonds of the authority issued to finance the purchase by
7 the authority of loans for projects.

8 * Sec. 27. AS 44.88.155 is amended by adding a new subsection to read:

9 (h) The provisions of this section apply only with respect to
10 loans purchased or made by the authority for projects under AS 44.88.-
11 155 - 44.88.159.

12 * Sec. 28. AS 44.88.157(a) is amended to read:

13 (a) The loan insurance account is established in the revolving
14 fund. The purpose of the loan insurance account is to provide insur-
15 ance of mortgage loans and other loans made or purchased by the au-
16 thority under AS 44.88.155, or made by others and approved for insur-
17 ance by the authority, for a project. The authority may enter into
18 agreements as to the use of money in the loan insurance account and
19 may pledge, assign, or grant interests in the loan insurance account
20 as provided in this section. The authority may adopt regulations and
21 enter into agreements with respect to the exercise of any power or
22 approval relating to the loan insurance account under this section,
23 including, without limitation, agreements as to the use of money in
24 the loan insurance account, agreements with respect to the terms and
25 conditions upon which payments from the loan insurance account will be
26 made with respect to a loan insured under this section, agreements as
27 to separate subaccounts in the loan insurance account for different
28 categories of loans or as to loans made by the authority or any other
29 person, and agreements regarding the payment of and security for bonds

1 issued by the authority. An agreement, the rights of the authority
2 under an agreement, or payments received or to be received under an
3 agreement may be pledged or assigned by the authority for the benefit
4 of the holders of bonds issued by the authority.

5 * Sec. 29. AS 44.88.157(b) is amended to read:

6 (b) The authority may, upon application of a borrower or pro-
7 posed borrower, insure and make advance commitments to insure loan
8 repayments required under the terms of a loan made by it or by another
9 lender with respect to a project, upon the terms and conditions the
10 authority prescribes. To be eligible for insurance under this section
11 [AS 44.88.010 - 44.88.220], a loan for a project

12 (1) shall be held by the authority or by a lender approved
13 by the authority as responsible and able to service the loan;

14 (2) may not exceed \$10,000,000 for a project, or 90 percent
15 of the cost of the project or 90 percent of the appraised value of the
16 project, whichever is less;

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

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

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

28 * Sec. 30. AS 44.88.157(k) is amended to read:

29 (k) A loan may not be insured under this section [FROM A LOAN

1 INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOPMENT FUND] if the loan
2 is for a project the cost of which exceeds \$10,000,000.

3 * Sec. 31. AS 44.88.157(1) is amended to read:

4 (1) A loan in excess of \$1,000,000 may not be insured under this
5 section [FROM A LOAN INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOP-
6 MENT FUND] unless at least 20 percent of the principal amount of the
7 loan is retained by a federal or state chartered financial institution
8 or the Alaska Commercial Fishing and Agriculture Bank.

9 * Sec. 32. AS 44.88.158(a) is amended to read:

10 Sec. 44.88.158. ENTREPRENEURIAL AND SMALL BUSINESS ENTERPRISE
11 LOAN ACCOUNT. (a) An entrepreneurial and [A] small business enter-
12 prise loan account is established in the revolving [ENTERPRISE DE-
13 VELOPMENT] fund. The account may be composed of money or assets
14 appropriated or transferred to the authority, interest on investments
15 and loans of the entrepreneurial and small business enterprise loan
16 account, the unpledged income of the revolving [ENTERPRISE DEVELOP-
17 MENT] fund, and other money or assets deposited in it by the authori-
18 ty.

19 * Sec. 33. AS 44.88.158(b) is amended to read:

20 (b) The authority may use money in the entrepreneurial and small
21 business enterprise loan account to purchase or participate in the
22 purchase of loans to entrepreneurial and small business enterprises
23 and to purchase the guaranteed portion of a loan made by a private
24 financial institution after June 30, 1981, to an entrepreneurial or
25 [A] small business enterprise to pay the cost of a project or ex-
26 porting transaction [, AS DEFINED IN AS 44.88.220], if the loan is
27 guaranteed by the United States or an agency or instrumentality of the
28 United States, including, but not limited to, the Small Business
29 Administration, the National Marine Fisheries Service, and the Farmers

1 Home Administration.

2 * Sec. 34. AS 44.88.159 is amended by adding a new subsection to read:

3 (d) The provisions of this section apply only to loans financed
4 under AS 44.88.155 - 44.88.159.

5 * Sec. 35. AS 44.88.172 is amended to read:

6 Sec. 44.88.172. ECONOMIC DEVELOPMENT ACCOUNT [FUND]. (a) The
7 economic development account [FUND] is established in the revolving
8 fund [AUTHORITY]. The account [FUND] consists of money or assets
9 appropriated, loaned, or transferred to the authority, and other money
10 or assets deposited in the account [FUND] by the authority. The
11 account [FUND] may [ONLY] be used only to finance, acquire, manage,
12 and operate development projects that the authority intends to own and
13 operate. The term "operate" includes operation directly by the au-
14 thority, or by an agent of the authority.

15 (b) If a development project is financed or developed through
16 use of the assets of the economic development account [FUND], the
17 authority may not pledge or use [OTHER] assets of the enterprise de-
18 velopment account established in AS 44.88.155 [AUTHORITY] to assist in
19 the financing, development, or operation of the development project.
20 However, whether or not the authority uses the economic development
21 account [FUND], it may issue bonds to finance a development project
22 and may secure the bonds with a mortgage, pledge, or assignment of the
23 development project or of revenues, money, or agreements attributable
24 to the development project or the bonds. Financing assistance pro-
25 vided with respect to a development project under this section shall,
26 to the maximum extent reasonable under the circumstances, be made in
27 the form of a loan to the project [AS PROVIDED IN SEC. 10 OF THIS
28 ACT].

29 * Sec. 36. AS 44.88.190 is amended by adding a new subsection to read:

1 (c) A loan purchased or financed by the authority in whole or in
2 part is exempt from the provisions of AS 45.45.010. A guarantee
3 extended under AS 44.88.300 or insurance provided under AS 44.88.390
4 does not constitute insurance for the purposes of AS 21.03.010.

5 * Sec. 37. AS 44.88.220 is amended by adding new paragraphs to read:

6 (13) "development project" means a plant or facility used or
7 intended for use in connection with making, processing, preparing, or
8 producing goods, products, or substances, or in connection with de-
9 veloping or utilizing a natural resource, or extracting, smelting,
10 transporting, converting, assembling, or producing minerals, raw
11 materials, chemicals, compounds, alloys, fibers, commodities and
12 materials, products, or substances;

13 (14) "entrepreneurial enterprise" means an enterprise in
14 which one or more individuals have an ownership interest in an innova-
15 tive venture or ventures;

16 (15) "revolving fund" means the Alaska Industrial Develop-
17 ment Authority revolving fund created in AS 44.88.060.

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

19 ARTICLE 5. EXPORT ASSISTANCE.

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

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

28 (1) promotes the sale abroad of raw materials extracted in
29 the state, or goods whose final stage of production occurs in the

1 state, that constitutes 25 percent or more of the contract price;

2 (2) provides for the rendering of services abroad by a
3 business located in the state if 25 percent or more of the contract
4 price consists of wages or other payments made to persons normally
5 residing in the state;

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

8 (A) 25 percent or more of the contract price consists
9 of wages or other payments made to persons or businesses normally
10 residing or located in the state; or

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

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

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

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

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

20 (4) provides both for the sale abroad of raw materials
21 extracted in the state or goods whose final stage of production occurs
22 in the state, and for the rendering of services abroad by state resi-
23 dents, the aggregate value of which is 25 percent or more of the
24 contract price.

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

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

1 exporting transaction.

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

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

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

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

28 (b) In this section, "political loss" means a loss incurred as a
29 result of a political risk insured under an export credit insurance

1 umbrella policy, or a comparable policy or agreement, issued by the
2 Export-Import Bank of the United States.

3 Sec. 44.88.370. GUARANTEE NOT A GENERAL OBLIGATION OF THE STATE.
4 A guarantee under AS 44.88.300 is not a general obligation of the
5 state.

6 Sec. 44.88.380. PERSONAL LIABILITY. An officer, employee, or
7 agent of the authority may not be held personally liable on a contract
8 or agreement entered into with respect to a guarantee under AS 44.88.-
9 300, or for damage or injury resulting from the performance of duties
10 under AS 44.88.300 - 44.88.390.

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

1 account, or by the trustees in its behalf, shall immediately be sub-
2 ject to the lien of the pledge. The pledge shall be valid and binding
3 against parties having claims against the account, irrespective of
4 whether the parties have notice of the pledge.

5 (b) The authority may use proceeds of bonds issued for the
6 purposes of AS 44.88.300 - 44.88.390 to purchase insurance, which may
7 be pledged for the security of the holders of the bonds. If insurance
8 is pledged as security, whether obtained through the export insurance
9 account or purchased with bond proceeds, a description of the insur-
10 ance shall expressly indicate the limitation of the liability of the
11 authority and that neither the credit nor the taxing power of the
12 state or a political subdivision of the state is available to satisfy
13 obligations with respect to the insurance.

14 * Sec. 39. AS 44.88.156, 44.88.158(c), and secs. 10 and 11, ch. 162,
15 SLA 1984, are repealed.

16 * Sec. 40. This Act takes effect immediately under AS 01.10.070(c).

Original sponsors: Kelly, Kerttula,
Faiks, et al.

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2

CS FOR SENATE BILL NO. 64 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the Alaska Industrial Development

7

Authority; and providing for an effective date."

8

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

9

* Section 1. AS 44.88.010 is amended to read:

10

Sec. 44.88.010. LEGISLATIVE FINDING AND POLICY. (a) The legis-

11

lature finds, determines, and declares that

12

(1) there exist areas of the state in which seasonal and
13 nonseasonal unemployment exist;

14

(2) this unemployment is a serious menace to the health,
15 safety, and general welfare, not only to the people in those areas,
16 but also to the people of the entire state;

17

(3) the state lacks the basic manufacturing, industrial,
18 export, entrepreneurial, small business, and business enterprises and
19 the other facilities referred to in [(5) OF] this subsection necessary
20 to permit adequate development of its natural resources and the bal-
21 anced growth of its economy;

22

(4) the establishment and expansion of industrial, manu-
23 facturing, export, entrepreneurial, small business, and business
24 enterprises in Alaska and the other facilities referred to in [(5) OF]
25 this subsection are essential to the development of the natural re-
26 sources and the long-term economic growth of the state, and will
27 directly and indirectly alleviate unemployment in the state;

28

(5) the expansion of export trade is vital to the health

29

and growth of the state's economy;

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

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

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

13 (9) the achievement of the goal of full employment, and of
14 establishment and continuing operation and development of industrial,
15 manufacturing, export, entrepreneurial, small business, and business
16 enterprises in the state, including, without limitation, facilities
17 for transportation, facilities for pollution control and waste dis-
18 posal, facilities for the local furnishing of gas, facilities for
19 water, facilities for industrial parks, mass commuting vehicles,
20 facilities for local district heating or cooling, parking facilities,
21 or a storage or training facility relating to a plant or facility,
22 will be accelerated and facilitated by the creation of an instrumen-
23 tality of the state with powers to incur debt, to own and operate
24 facilities, to make and insure loans to finance, and to assist private
25 lenders to make loans to finance, the establishment, operation, and
26 development of industrial, manufacturing, export, entrepreneurial,
27 small business, and business enterprises, including, without limita-
28 tion, facilities for transportation, facilities for pollution control
29 and waste disposal, facilities for the local furnishing of gas,

1 facilities for water, facilities for industrial parks, mass commuting
2 vehicles, facilities for local district heating or cooling, parking
3 facilities, or a storage or training facility relating to a plant or
4 facility;

5 (10) [(6)] it is in the public interest to promote the
6 prosperity and general welfare of all citizens of the state by

7 (A) stimulating commercial and industrial growth and
8 expansion by encouraging an increase of private investment by
9 banks, investment houses, insurance companies, and other finan-
10 cial institutions, including pension and retirement funds, to
11 help satisfy the need for economic expansion;

12 (B) encouraging the production of raw materials and
13 goods for export, the expansion of exports of raw materials and
14 goods, and the rendering of services abroad by residents of the
15 state through the establishment of a program that provides finan-
16 cial assistance in cooperation with federal, state, and private
17 institutions for these purposes in the form provided in this
18 chapter;

19 (C) creating the Alaska Industrial Development Author-
20 ity with the powers necessary to accomplish the objectives stated
21 in this paragraph, including the power to issue taxable and
22 tax-exempt bonds and to acquire ownership interests in projects
23 as provided in this chapter;

24 (11) [(7)] it is in the state's interest to import private
25 capital to create new economic activity which would not otherwise take
26 place in the state.

27 (b) It is declared to be the policy of the state, in the inter-
28 ests of promoting the health, security, and general welfare of all the
29 people of the state, and a public purpose, to increase job

1 opportunities and otherwise to encourage the economic growth of the
2 state, including the development of its natural resources, through the
3 establishment and expansion of manufacturing, industrial, export,
4 entrepreneurial, small business, and business enterprises and the
5 other facilities referred to in (a) [(a)(5)] of this section by creat-
6 ing the Alaska Industrial Development Authority [PUBLIC CORPORATION]
7 with the powers [POWER], duties, and functions [AS] provided in this
8 chapter [AS 44.88.010 - 44.88.220].

9 * Sec. 2. AS 44.88.010 is amended by adding a new subsection to read:

10 (c) It is further declared to be the policy of the state, in the
11 interests of promoting the health, security, and general welfare of
12 all the people of the state, and a public purpose of the state, to
13 accomplish the objectives set out in (b) of this section through the
14 provision of financial support in cooperation with federal, state, and
15 private institutions for the purpose of increasing the export of
16 Alaska goods, entrepreneurial talent, raw materials, and services.

17 * Sec. 3. AS 44.88 is amended by adding a new section to article 1 to
18 read:

19 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY REVOLV-
20 ING FUND. The Alaska Industrial Development Authority revolving fund
21 is established in the authority. The revolving fund consists of
22 appropriations made to the revolving fund by the legislature, money or
23 other assets transferred to the revolving fund by the authority, and
24 unrestricted payments on loans made or purchased by the authority.
25 Amounts deposited in the revolving fund may be pledged to the payment
26 of bonds of the authority or expended for the purposes of the au-
27 thority under this chapter.

28 * Sec. 4. AS 44.88.070 is amended to read:

29 Sec. 44.88.070. PURPOSE OF THE AUTHORITY. The purpose of the

1 authority is to promote, develop, and advance the general prosperity
2 and economic welfare of the people of Alaska, to relieve problems of
3 unemployment, and to create additional employment by

4 (1) providing various means of financing and means of
5 facilitating the financing, in cooperation with federal, state, and
6 private institutions, of industrial, manufacturing, export, entrepre-
7 neurial, small business, and business enterprises and the other facil-
8 ities referred to in AS 44.88.010(a) in [AS 44.88.010(a)(5) WITHIN]
9 the state;

10 (2) [, AND BY] owning and operating the enterprises and
11 other facilities described in AS 44.88.172;

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

14 (4) cooperating and acting in conjunction with other orga-
15 nizations, public and private, the objects of which are the promotion
16 and advancement of export trade activities in the state;

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

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

23 * Sec. 5. AS 44.88.080(7) is amended to read:

24 (7) to issue bonds and otherwise to incur indebtedness, in
25 accordance with AS 44.88.090, in order to pay the cost of a project or
26 development projects or in order to provide money for the authority's
27 purposes under this chapter; the authority may also [AND TO] secure
28 payment of the bonds or other indebtedness as provided in this chap-
29 ter;

1 * Sec. 6. AS 44.88.080 is amended by adding new paragraphs to read:

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

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

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

17 (23) to guarantee loans related to qualified export trans-
18 actions under regulations adopted by the authority;

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

22 * Sec. 7. AS 44.88.085(a) is amended to read:

23 (a) Except for AS 44.62.310 and 44.62.312 regarding public
24 meetings, and except for AS 44.62.320(a) regarding legislative review
25 of regulations, the provisions of the Administrative Procedure Act
26 regarding the adoption of regulations (AS 44.62.040 - 44.62.320) do
27 not apply to the authority. The authority shall make available to
28 members of the public copies of the regulations adopted under [(b) -
29 (e) OF] this section. Within 45 days after adoption of a regulation

1 under [(b) - (e) OF] this section, the chairman of the authority shall
2 submit the regulation adopted to the chairman of the Administrative
3 Regulation Review Committee under AS 24.20.400 - 24.20.460.

4 * Sec. 8. AS 44.88.085(c) is repealed and reenacted to read:

5 (c) The authority may adopt regulations to carry out the pur-
6 poses of this chapter and shall adopt regulations as provided in (g)
7 and (h) of this section.

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

9 (d) Except as provided in (e) of this section, at least 15 days
10 before the adoption, amendment, or repeal of a regulation [ON A SUB-
11 JECT SPECIFIED IN (c) OF THIS SECTION], the authority shall give
12 public notice of the proposed action by publishing the notice in at
13 least three newspapers of general circulation in the state and by
14 mailing a copy of the notice to every person who has filed a request
15 for notice of proposed regulations with the authority. The public
16 notice must include a statement of the time, place, and nature of the
17 proceedings for the adoption, amendment, or repeal of the regulation
18 and must include an informative summary of the subject of the proposed
19 action. On the date and at the time and place designated in the
20 notice, the authority shall give each interested person or an autho-
21 rized representative of the person, or both, the opportunity to pre-
22 sent statements, arguments, or contentions orally or in writing and
23 shall give members of the public an opportunity to present oral state-
24 ments, arguments, or contentions for a total period of at least one
25 hour. The authority shall consider all relevant matter presented to
26 it before taking the proposed action on the regulation. At a hearing
27 under this subsection, the authority may continue or postpone the
28 hearing to a time and place determined by the authority and announced
29 at the hearing before taking the action to continue or postpone the

1 hearing. A regulation adopted, amended, or repealed by the authority
2 may vary from the informative summary specified in this subsection if
3 the subject matter of the action taken on the regulation remains the
4 same and if the original notice of the proposed action was written so
5 as to assure that members of the public are reasonably notified of the
6 subject matter of the proposed action in order for them to determine
7 whether their interests could be affected by the authority's proposed
8 action on that subject.

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

10 (e) The adoption, amendment, or repeal of a regulation [ON A
11 SUBJECT SPECIFIED IN (c) OF THIS SECTION] may be made as an emergency
12 regulation if, in the order of adoption, the authority states the
13 facts constituting the emergency and makes a finding that the adoption
14 of the regulation is necessary for the immediate preservation of the
15 orderly operation of the authority's [LOAN AND BONDING] programs. The
16 requirements of (d) of this section do not apply to the initial adop-
17 tion of an emergency regulation [COVERING A SUBJECT SPECIFIED IN (c)
18 OF THIS SECTION]; however, upon adoption of an emergency regulation
19 under this subsection, the authority shall, within 10 days after that
20 adoption, publish notice of the adoption in accordance with the notice
21 procedures specified in (d) of this section. An emergency regulation
22 adopted under this subsection may not remain in effect for more than
23 120 days unless, before the expiration of that period, the authority
24 adopts that regulation as a permanent regulation in accordance with
25 the procedures specified in (d) of this section.

26 * Sec. 11. AS 44.88.085(f) is amended to read:

27 (f) A regulation adopted under [(b) - (e) OF] this section takes
28 effect immediately upon its adoption by the authority or at another
29 [SUCH OTHER] time [AS] specified by the authority in its order of

1 adoption.

2 * Sec. 12. AS 44.88.085 is amended by adding new subsections to read:

3 (g) The authority shall adopt regulations necessary for the
4 following purposes in connection with its programs for the financing
5 of projects under AS 44.88.155 - 44.88.159:

6 (1) determination of borrower eligibility;

7 (2) loan guidelines and terms including, but not limited
8 to, maximum loan amounts and required loan-to-value ratios, but ex-
9 cluding loan interest rates;

10 (3) characteristics of projects eligible for loans or
11 purchase of loans; and

12 (4) the qualifications of loan originators and servicers
13 and the method of allocating amounts available for the purchase of
14 loans.

15 (h) The authority shall adopt regulations necessary for the
16 following purposes in connection with its program for encouraging the
17 exportation of Alaska goods, services, and raw materials under AS 44.-
18 88.300 - 44.88.390:

19 (1) establishing criteria for the eligibility of exporters
20 and export transactions for the loan guarantees provided in AS 44.88.-
21 300;

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

25 (3) adoption of collateral or security requirements to
26 ensure the full repayment of loan guarantees and solvency of an insur-
27 ance program established under AS 44.88.300 - 44.88.390;

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

1 (5) setting out the maximum aggregate amount of guaranteed
2 financing available to an exporter and the maximum amount of guaran-
3 teed financing available for a transaction eligible for guaranteed
4 financing;

5 (6) establishing the limits on the interest that may be
6 charged for guaranteed financings, the maximum fees that a participat-
7 ing financial institution may charge for making a loan that will be
8 guaranteed under AS 44.88.300 - 44.88.390, and the terms of and proce-
9 dures for repayment of a guaranteed financing; and

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

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

13 (a) Subject to (g) of this section, the authority may borrow
14 money and may issue bonds, including but not limited to bonds on which
15 the principal and interest are payable[,]

16 (1) exclusively from the income and receipts or other money
17 derived from the project or development project financed with the
18 proceeds of the bonds or derived from the exporter or exporting trans-
19 action financed, guaranteed, or insured with the proceeds of the
20 bonds; [,]

21 (2) exclusively from the income and receipts or other money
22 derived from designated projects or development projects or other
23 sources whether or not they are financed, insured, or guaranteed in
24 whole or in part with the proceeds of the bonds; [,] or

25 (3) from its income and receipts or other assets generally,
26 or a designated part or parts of them.

27 * Sec. 14. AS 44.88.090(e) is repealed and reenacted to read:

28 (e) Before issuing bonds, the authority shall provide for con-
29 sideration at least sufficient, in the judgment of the authority, to

1 pay the principal of and interest on the bonds as they become due and
2 to create and maintain the reserves for the payments that the authori-
3 ty considers necessary or desirable, and to meet all obligations in
4 connection with the lease or agreement and all costs necessary to
5 service the bonds, unless the lease or agreement provides that the
6 obligations are to be met or costs are to be paid by a party other
7 than the authority. If the bonds are being issued to finance a
8 project or projects under AS 44.88.155 - 44.88.159, then the con-
9 sideration shall be provided by lease or other agreement regarding the
10 project or projects. If the bonds are being issued to finance a
11 development project or development projects under AS 44.88.172 -
12 44.88.177, then the consideration shall be provided by lease or other
13 agreement regarding the development project or development projects.
14 If the bonds are being issued to provide money to finance, guarantee,
15 or insure an exporting transaction under AS 44.88.300 - 44.88.390,
16 then the consideration shall be provided by agreement with the ex-
17 porter.

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

19 (g) The authority may not

20 (1) issue bonds, other than refunding bonds, in any 12-
21 month period beginning after June 30, 1982, in an amount that exceeds
22 the amount of bonds authorized to be issued during the preceding
23 12-month period, unless a different amount is authorized by the legis-
24 lature; or

25 (2) issue revenue bonds other than refunding bonds for a
26 project under AS 44.88.155 - 44.88.159, for a development project
27 under AS 44.88.172 - 44.88.177, or to provide money to finance,
28 guarantee, or insure an exporting transaction under AS 44.88.300 -
29 44.88.390, [THIS CHAPTER] in an amount greater than \$50,000,000 during

1 any 12-month period beginning after June 30, 1981, unless the issuance
2 is included separately in the estimates required in the report of the
3 authority under AS 44.88.210(b) and unless the legislature, by law,
4 approves the issuance.

5 * Sec. 16. AS 44.88.090(h) is amended to read:

6 (h) The authority may combine, for the purposes of a single
7 offering, bonds financing more than one project or development project
8 under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, and bonds
9 issued to provide money to finance, guarantee, or insure an exporting
10 transaction under AS 44.88.300 - 44.88.390 [AS 44.88.010 - 44.88.220].

11 * Sec. 17. AS 44.88.100 is amended to read:

12 Sec. 44.88.100. TRUST INDENTURES AND TRUST AGREEMENTS. In the
13 discretion of the authority, an issue of bonds may be secured by a
14 trust indenture or trust agreement between the authority and a corpo-
15 rate trustee (which may be a trust company, bank, or national banking
16 association, with corporate trust powers, located inside or outside
17 the state) or by a secured loan agreement or other instrument or under
18 a resolution giving powers to a corporate trustee (hereinafter in this
19 section referred to as "trust agreement") by means of which the auth-
20 ority may:

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

26 (A) the application, investment, deposit, use and
27 disposition of the proceeds of bonds of the authority or of money
28 or other property of the authority or in which it has an inter-
29 est;

1 (B) the fixing and collection of rents or other con-
2 sideration for, and the other terms to be incorporated in, a
3 lease or contract of sale of a project or development project
4 financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177,
5 or of a facility that is part of an exporting transaction fi-
6 nanced, guaranteed, or insured under AS 44.88.300 - 44.88.390;

7 (C) the assignment by the authority of its rights in
8 the lease or contract of sale of a project or development project
9 financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177,
10 or of a facility that is part of an exporting transaction fi-
11 nanced, guaranteed, or insured under AS 44.88.300 - 44.88.390 or
12 in a mortgage or other security interest created with respect to
13 a project or development project financed under AS 44.88.155 -
14 44.88.159 or 44.88.172 - 44.88.177, or with respect to a facility
15 that is part of an exporting transaction financed, guaranteed, or
16 insured under AS 44.88.300 - 44.88.390 to a trustee for the
17 benefit of the bondholders;

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

20 (E) the vesting in a trustee of rights, powers,
21 duties, funds or property in trust for the benefit of bond-
22 holders, including, without limitation, the right to enforce
23 payment, performance and all other rights of the authority or of
24 the bondholders [,] under a lease, contract of sale, mortgage,
25 security agreement, or trust agreement with respect to a project
26 or development project financed under AS 44.88.155 - 44.88.159 or
27 44.88.172 - 44.88.177, or with respect to a facility that is part
28 of an exporting transaction financed, guaranteed, or insured
29 under AS 44.88.300 - 44.88.390 by mandamus or other proceeding or

1 by taking possession of by agent or otherwise and operating a
2 project or facility and collecting rents or other consideration
3 and applying the same in accordance with the trust agreement;

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

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

10 * Sec. 18. AS 44.88.105(f) is amended to read:

11 (f) The authority may not establish a capital reserve fund to
12 secure an issue of bonds in an amount in excess of \$1,000,000 unless
13 at least 20 percent of the principal amount of the loan for the proj-
14 ect or development project being financed under AS 44.88.155 -
15 44.88.159 or 44.88.172 - 44.88.177, or of the loan to finance, guaran-
16 tee, or insure an exporting transaction under AS 44.88.300 - 44.88.390
17 is retained by a federal or state chartered financial institution or
18 the Alaska Commercial Fishing and Agriculture Bank.

19 * Sec. 19. AS 44.88.130 is amended to read:

20 Sec. 44.88.130. PLEDGE OF THE STATE. The state pledges to and
21 agrees with the holders of bonds issued under this chapter and with
22 the federal agency that lends [WHICH LOANS] or contributes funds in
23 respect to a project or development project financed under AS 44.88.-
24 155 - 44.88.159 or 44.88.172 - 44.88.177, or in respect to an export-
25 ing transaction financed, guaranteed, or insured under AS 44.88.300 -
26 44.88.390 [,] that the state will not limit or alter the rights and
27 powers vested in the authority by this chapter to fulfill the terms of
28 a contract made by the authority with the holders or federal agency
29 and that the state will not [, OR] in any way impair the rights and

1 remedies of the holders until the bonds, together with the interest on
2 them with interest on unpaid installments of interest, and all costs
3 and expenses in connection with an action or proceeding by or on
4 behalf of the holders [,] are fully met and discharged. The authority
5 is authorized to include this pledge and agreement of the state,
6 insofar as it refers to holders of bonds of the authority, in a con-
7 tract with the holders [,] and, insofar as it relates to a federal
8 agency, in a contract with the federal agency.

9 * Sec. 20. AS 44.88.140 is amended to read:

10 Sec. 44.88.140. EXEMPTION FROM TAXATION. (a) The real and
11 personal property of the authority and its assets, income, and re-
12 cepts are declared to be the property of a political subdivision of
13 the state and, together with any project or development project fi-
14 nanced under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, [THIS
15 CHAPTER] and a leasehold interest created in a project or development
16 project financed [APPLICANT OR OTHER PERSON] under AS 44.88.155 -
17 44.88.159 or 44.88.172 - 44.88.177 [THIS CHAPTER], devoted to an
18 essential public and governmental function and purpose, and the
19 property, assets, income, receipts, project, development project, and
20 leasehold interests shall be exempt from all taxes and special assess-
21 ments of the state or a political subdivision of the state, including,
22 without limitation, all boroughs, cities, municipalities, school
23 districts, public utility districts and other taxing units. All bonds
24 of the authority are declared to be issued by a political subdivision
25 of the state and for an essential public and governmental purpose and
26 to be a public instrumentality, and the bonds, and the interest on
27 them, the income from them and the transfer of the bonds, and all
28 assets, income and receipts pledged to pay or secure the payments
29 [PAYMENT] of the bonds, or interest on them, shall at all times be

1 exempt from taxation by or under the authority of the state, except
2 for inheritance and estate taxes and taxes on transfers by or in
3 contemplation of death. Nothing in this section affects or limits an
4 exemption from license fees, property taxes, or excise, income or any
5 other taxes, provided under any other law, nor does it create a tax
6 exemption with respect to the interest of any business enterprise or
7 other person, other than the authority, in any property, assets,
8 income, receipts, project, development project, or lease whether or
9 not financed under this chapter.

10 (b) The authority may enter into agreements with an applicant or
11 [A] proposed [PROJECT] applicant under this chapter [OR PROJECT APPLI-
12 CANT] providing for payments, computed on a formula basis or otherwise
13 [.] in lieu of taxes, which the authority may consider appropriate.
14 The agreement may provide that the payments be made to the political
15 subdivision of the state in which a project or development project is
16 or is to be located or to any other taxing unit of the state includ-
17 ing, without limitation, a borough, city, municipality, school dis-
18 trict or public utility district, the area of which is coterminous in
19 whole or in part with that of the political subdivision.

20 * Sec. 21. AS 44.88.155(a) is amended to read:

21 Sec. 44.88.155. ENTERPRISE DEVELOPMENT ACCOUNT [FUND]. (a) The
22 enterprise development account [FUND] is established in the revolving
23 fund [AUTHORITY]. The enterprise development account [FUND] is a
24 trust fund for the uses and purposes of this chapter [AS 44.88.010 -
25 44.88.220]. The enterprise development account [FUND] consists of
26 money or assets appropriated or transferred to the authority and other
27 money or assets deposited in it by the authority.

28 * Sec. 22. AS 44.88.155(b) is amended to read:

29 (b) The authority may establish in the enterprise development

1 account [FUND] a small enterprise loan account, a loan insurance
2 account, and other accounts it considers appropriate.

3 * Sec. 23. AS 44.88.155(c) is amended to read:

4 (c) Money and other assets of the enterprise development account
5 [FUND] may be used to secure bonds of the authority issued to finance
6 the purchase of loans for projects [,] and shall be held and invested
7 by the authority in the types of investments described in AS 37.10.-
8 070(a) and AS 39.35.110(a)(9) and (14) or shall be used to purchase
9 loans for projects [AS DEFINED IN AS 44.88.220].

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

11 (d) A loan purchased in whole or in part by the authority with
12 assets of the enterprise development account or with proceeds of bonds
13 secured by assets of the enterprise development account, other than a
14 loan which is financed with the proceeds of bonds of the authority and
15 secured only by a project applicant or a project,

16 (1) may not exceed

17 (A) \$10,000,000; or

18 (B) \$500,000 if the loan is purchased under AS 44.88.-

19 158;

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

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

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

29 (5) shall be in the form and contain the terms and

1 provisions with respect to insurance, repairs, alterations, payment of
2 taxes and assessments, default reserves, delinquency charges, default
3 remedies, acceleration of maturity, secondary liens, and other matters
4 the authority prescribes;

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

9 (7) may not be made unless

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

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

15 (8) must be

16 (A) at least partially guaranteed by the United States
17 or an agency or instrumentality of the United States, subject to
18 the provisions of AS 44.88.158; [OR]

19 (B) financed from the proceeds of bonds; or

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

22 * Sec. 25. AS 44.88.155(e) is amended to read:

23 (e) The authority may adopt regulations for the administration
24 of the enterprise development account including [FUND WHICH MAY IN-
25 CLUDE], without limitation, provisions for fees and agreements re-
26 lating to application, loan commitment, servicing, and origination of
27 loans by other lenders.

28 * Sec. 26. AS 44.88.155(f) is amended to read:

29 (f) The authority may enter into agreements as to the use of the

1 money in the enterprise development account [FUND], including without
2 limitation, trust or custody arrangements with banks or trust com-
3 panies. It may also pledge, assign, or grant the agreement, interests
4 under an agreement, or interests in the enterprise development account
5 [FUND] as may be necessary or appropriate to provide for payment and
6 security for bonds of the authority issued to finance the purchase by
7 the authority of loans for projects.

8 * Sec. 27. AS 44.88.155 is amended by adding a new subsection to read:

9 (h) The provisions of this section apply only with respect to
10 loans purchased or made by the authority for projects under AS 44.88.-
11 155 - 44.88.159.

12 * Sec. 28. AS 44.88.157(a) is amended to read:

13 (a) The loan insurance account is established in the revolving
14 fund. The purpose of the loan insurance account is to provide insur-
15 ance of mortgage loans and other loans made or purchased by the au-
16 thority under AS 44.88.155, or made by others and approved for insur-
17 ance by the authority, for a project. The authority may enter into
18 agreements as to the use of money in the loan insurance account and
19 may pledge, assign, or grant interests in the loan insurance account
20 as provided in this section. The authority may adopt regulations and
21 enter into agreements with respect to the exercise of any power or
22 approval relating to the loan insurance account under this section,
23 including, without limitation, agreements as to the use of money in
24 the loan insurance account, agreements with respect to the terms and
25 conditions upon which payments from the loan insurance account will be
26 made with respect to a loan insured under this section, agreements as
27 to separate subaccounts in the loan insurance account for different
28 categories of loans or as to loans made by the authority or any other
29 person, and agreements regarding the payment of and security for bonds

1 issued by the authority. An agreement, the rights of the authority
2 under an agreement, or payments received or to be received under an
3 agreement may be pledged or assigned by the authority for the benefit
4 of the holders of bonds issued by the authority.

5 * Sec. 29. AS 44.88.157(b) is amended to read:

6 (b) The authority may, upon application of a borrower or pro-
7 posed borrower, insure and make advance commitments to insure loan
8 repayments required under the terms of a loan made by it or by another
9 lender with respect to a project, upon the terms and conditions the
10 authority prescribes. To be eligible for insurance under this section
11 [AS 44.88.010 - 44.88.220], a loan for a project

12 (1) shall be held by the authority or by a lender approved
13 by the authority as responsible and able to service the loan;

14 (2) may not exceed \$10,000,000 for a project, or 90 percent
15 of the cost of the project or 90 percent of the appraised value of the
16 project, whichever is less;

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

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

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

28 * Sec. 30. AS 44.88.157(k) is amended to read:

29 (k) A loan may not be insured under this section [FROM A LOAN

1 INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOPMENT FUND] if the loan
2 is for a project the cost of which exceeds \$10,000,000.

3 * Sec. 31. AS 44.88.157(1) is amended to read:

4 (1) A loan in excess of \$1,000,000 may not be insured under this
5 section [FROM A LOAN INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOP-
6 MENT FUND] unless at least 20 percent of the principal amount of the
7 loan is retained by a federal or state chartered financial institution
8 or the Alaska Commercial Fishing and Agriculture Bank.

9 * Sec. 32. AS 44.88.158(a) is amended to read:

10 Sec. 44.88.158. ENTREPRENEURIAL AND SMALL BUSINESS ENTERPRISE
11 LOAN ACCOUNT. (a) An entrepreneurial and [A] small business enter-
12 prise loan account is established in the revolving [ENTERPRISE DE-
13 VELOPMENT] fund. The account may be composed of money or assets
14 appropriated or transferred to the authority, interest on investments
15 and loans of the entrepreneurial and small business enterprise loan
16 account, the unpledged income of the revolving [ENTERPRISE DEVELOP-
17 MENT] fund, and other money or assets deposited in it by the authori-
18 ty.

19 * Sec. 33. AS 44.88.158(b) is amended to read:

20 (b) The authority may use money in the entrepreneurial and small
21 business enterprise loan account to purchase or participate in the
22 purchase of loans to entrepreneurial and small business enterprises
23 and to purchase the guaranteed portion of a loan made by a private
24 financial institution after June 30, 1981, to an entrepreneurial or
25 [A] small business enterprise to pay the cost of a project or ex-
26 porting transaction [, AS DEFINED IN AS 44.88.220], if the loan is
27 guaranteed by the United States or an agency or instrumentality of the
28 United States, including, but not limited to, the Small Business
29 Administration, the National Marine Fisheries Service, and the Farmers

1 Home Administration.

2 * Sec. 34. AS 44.88.159 is amended by adding a new subsection to read:

3 (d) The provisions of this section apply only to loans financed
4 under AS 44.88.155 - 44.88.159.

5 * Sec. 35. AS 44.88.172 is amended to read:

6 Sec. 44.88.172. ECONOMIC DEVELOPMENT ACCOUNT [FUND]. (a) The
7 economic development account [FUND] is established in the revolving
8 fund [AUTHORITY]. The account [FUND] consists of money or assets
9 appropriated, loaned, or transferred to the authority, and other money
10 or assets deposited in the account [FUND] by the authority. The
11 account [FUND] may [ONLY] be used only to finance, acquire, manage,
12 and operate development projects that the authority intends to own and
13 operate. The term "operate" includes operation directly by the au-
14 thority, or by an agent of the authority.

15 (b) If a development project is financed or developed through
16 use of the assets of the economic development account [FUND], the
17 authority may not pledge or use [OTHER] assets of the enterprise de-
18 velopment account established in AS 44.88.155 [AUTHORITY] to assist in
19 the financing, development, or operation of the development project.
20 However, whether or not the authority uses the economic development
21 account [FUND], it may issue bonds to finance a development project
22 and may secure the bonds with a mortgage, pledge, or assignment of the
23 development project or of revenues, money, or agreements attributable
24 to the development project or the bonds. Financing assistance pro-
25 vided with respect to a development project under this section shall,
26 to the maximum extent reasonable under the circumstances, be made in
27 the form of a loan to the project [AS PROVIDED IN SEC. 10 OF THIS
28 ACT].

29 * Sec. 36. AS 44.88.190 is amended by adding a new subsection to read:

1 (c) A loan purchased or financed by the authority in whole or in
2 part is exempt from the provisions of AS 45.45.010. A guarantee
3 extended under AS 44.88.300 or insurance provided under AS 44.88.390
4 does not constitute insurance for the purposes of AS 21.03.010.

5 * Sec. 37. AS 44.88.220 is amended by adding new paragraphs to read:

6 (13) "development project" means a plant or facility used or
7 intended for use in connection with making, processing, preparing, or
8 producing goods, products, or substances, or in connection with de-
9 veloping or utilizing a natural resource, or extracting, smelting,
10 transporting, converting, assembling, or producing minerals, raw
11 materials, chemicals, compounds, alloys, fibers, commodities and
12 materials, products, or substances;

13 (14) "entrepreneurial enterprise" means an enterprise in
14 which one or more individuals have an ownership interest in an innova-
15 tive venture or ventures;

16 (15) "revolving fund" means the Alaska Industrial Develop-
17 ment Authority revolving fund created in AS 44.88.060.

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

19 ARTICLE 5. EXPORT ASSISTANCE.

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

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

28 (1) promotes the sale abroad of raw materials extracted in
29 the state, or goods whose final stage of production occurs in the

1 state, that constitutes 25 percent or more of the contract price;

2 (2) provides for the rendering of services abroad by a
3 business located in the state if 25 percent or more of the contract
4 price consists of wages or other payments made to persons normally
5 residing in the state;

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

8 (A) 25 percent or more of the contract price consists
9 of wages or other payments made to persons or businesses normally
10 residing or located in the state; or

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

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

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

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

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

20 (4) provides both for the sale abroad of raw materials
21 extracted in the state or goods whose final stage of production occurs
22 in the state, and for the rendering of services abroad by state resi-
23 dents, the aggregate value of which is 25 percent or more of the
24 contract price.

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

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

1 exporting transaction.

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

9 Sec. 44.83.340. CONFIDENTIALITY OF INFORMATION. Information
10 submitted to or compiled by the authority regarding the identity,
11 background, finances, marketing plans, trade secrets, or other commer-
12 cially sensitive affairs of the exporter is confidential, unless the
13 exporter consents to its disclosure.

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

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

28 (b) In this section, "political loss" means a loss incurred as a
29 result of a political risk insured under an export credit insurance

1 umbrella policy, or a comparable policy or agreement, issued by the
2 Export-Import Bank of the United States.

3 Sec. 44.88.370. GUARANTEE NOT A GENERAL OBLIGATION OF THE STATE.
4 A guarantee under AS 44.88.300 is not a general obligation of the
5 state.

6 Sec. 44.88.380. PERSONAL LIABILITY. An officer, employee, or
7 agent of the authority may not be held personally liable on a contract
8 or agreement entered into with respect to a guarantee under AS 44.88.-
9 300, or for damage or injury resulting from the performance of duties
10 under AS 44.88.300 - 44.88.390.

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

1 account, or by the trustees in its behalf, shall immediately be sub-
2 ject to the lien of the pledge. The pledge shall be valid and binding
3 against parties having claims against the account, irrespective of
4 whether the parties have notice of the pledge.

5 (b) The authority may use proceeds of bonds issued for the
6 purposes of AS 44.88.300 - 44.88.390 to purchase insurance, which may
7 be pledged for the security of the holders of the bonds. If insurance
8 is pledged as security, whether obtained through the export insurance
9 account or purchased with bond proceeds, a description of the insur-
10 ance shall expressly indicate the limitation of the liability of the
11 authority and that neither the credit nor the taxing power of the
12 state or a political subdivision of the state is available to satisfy
13 obligations with respect to the insurance.

14 * Sec. 39. AS 44.88.156, 44.88.158(c), and secs. 10 and 11, ch. 162,
15 SLA 1984, are repealed.

16 * Sec. 40. This Act takes effect immediately under AS 01.10.070(c).

SENATE COMMITTEE REPORT

FURTHER: FINANCE

2/12/87

DATE TURNED INTO OFFICE 3/5/87

Mr. President:

INTERNATIONAL TRADE Committee considered SB 64

~~relating to~~ export enterprises under the Alaska Industrial Development Authority

and recommended:

replace with CS FOR SBO4 (INT)) same title
 or adopt ~~Full~~ CS FOR ~~SB 64~~) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

~~new~~ updated or previous
NO LDCs zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]
[Signature]

Chairman signature and recommendation

Committee Backup Attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 1-21-87 ^{UNIFORM} 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

International Trade

FURTHER: FINANCE

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

1/19/87

DATE TURNED INTO OFFICE _____

Mr. President:

LABOR & COMMERCE

Committee considered SB 64

relating to export enterprises under the Alaska Industrial Development Authority.

and recommended:

replace with CS SB64 (L+C) same title
 do pass new title

attached amendment(s) and

and majority
 do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact - program receipts only

MEMBERS SIGNING DO PASS

Jahrenkamp
Mike Zyman

OTHER RECOMMENDATIONS

Rejection no rec.

Tim Kelly - Do Pass
Chairman signature and recommendation

Committee Backup Attached