

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

CSSB 64 cont., SB 66 31

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

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

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

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

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

28 (b) The authority may establish in the enterprise development
29 account [FUND] a small enterprise loan account, a loan insurance

1 account, and other accounts it considers appropriate.

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

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

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

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

15 (1) may not exceed

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

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

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

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

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

28 (5) shall be in the form and contain the terms and pro-
29 visions with respect to insurance, repairs, alterations, payment of

1 taxes and assessments, default reserves, delinquency charges, default
2 remedies, acceleration of maturity, secondary liens, and other matters
3 the authority prescribes;

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

8 (7) may not be made unless

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

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

14 (8) must be

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

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

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

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

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

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

28 (f) The authority may enter into agreements as to the use of the
29 money in the enterprise development account [FUND], including without

1 limitation, trust or custody arrangements with banks or trust com-
2 panies. It may also pledge, assign, or grant the agreement, interests
3 under an agreement, or interests in the enterprise development account
4 [FUND] as may be necessary or appropriate to provide for payment and
5 security for bonds of the authority issued to finance the purchase by
6 the authority of loans for projects.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (k) A loan may not be insured under this section [FROM A LOAN
29 INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOPMENT FUND] if the loan

1 is for a project the cost of which exceeds \$10,000,000.

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

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

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

9 Sec. 44.88.158. SMALL BUSINESS ENTERPRISE LOAN ACCOUNT. (a) A
10 small business enterprise loan account is established in the revolving
11 [ENTERPRISE DEVELOPMENT] fund. The account may be composed of money
12 or assets appropriated or transferred to the authority, interest on
13 investments and loans of the small business enterprise loan account,
14 the unpledged income of the revolving [ENTERPRISE DEVELOPMENT] fund,
15 and other money or assets deposited in it by the authority.

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

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

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

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

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

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

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

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

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

1 * Sec. 37. AS 44.88.220(1) is amended to read:

2 (1) "authority" means the Alaska Industrial Development and
3 Export Authority created by AS 44.88.010 - 44.88.220;

4 * Sec. 38. AS 44.88.220 is amended by adding new paragraphs to read:

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

12 (14) "revolving fund" means the Alaska Industrial Develop-
13 ment and Export Authority revolving fund created in AS 44.88.060.

14 * Sec. 39. AS 44.88 is amended by adding new sections to read:

15 ARTICLE 5. EXPORT ASSISTANCE.

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

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

24 (1) promotes the sale abroad of raw materials extracted in
25 the state, or goods whose final stage of production occurs in the
26 state, that constitutes 25 percent or more of the contract price;

27 (2) provides for the rendering of services abroad by a
28 business located in the state if 25 percent or more of the contract
29 price consists of wages or other payments made to persons normally

1 residing in the state;

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

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

7 (B) the business has a significant relationship with
8 the state based upon

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

11 (ii) the number of state residents employed by the
12 business;

13 (iii) the amount of business transacted in the
14 state; or

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

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

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

23 (b) The authority may not guarantee a loan under AS 44.88.300
24 unless the authority finds that the guarantee is reasonably necessary
25 to stimulate or facilitate the making of a loan for an eligible ex-
26 porting transaction.

27 Sec. 44.88.330. CREDIT OF EXPORTER. Before the authority may
28 guarantee a loan under AS 44.88.300, the participating financial
29 institution shall investigate the credit or sources of credit

1 available to the exporter to determine the economic benefits to be
2 derived from the guarantee, the prospects of repayment, and other
3 factors necessary to determine that the guaranteed funding is consis-
4 tent with the purposes of AS 44.88.300 - 44.88.390.

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

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

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

24 (b) In this section, "political loss" means a loss incurred as a
25 result of a political risk insured under an export credit insurance
26 umbrella policy, or a comparable policy or agreement, issued by the
27 Export-Import Bank of the United States.

28 Sec. 44.88.370. GUARANTEE NOT A GENERAL OBLIGATION OF THE STATE.
29 A guarantee under AS 44.88.300 is not a general obligation of the

1 state.

2 Sec. 44.88.380. PERSONAL LIABILITY. An officer, employee, or
3 agent of the authority may not be held personally liable in a civil
4 action for damages for an act done or omitted in good faith while
5 performing the functions of office, employment, or agency under this
6 chapter.

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

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

10 * Sec. 40. To be consistent with the change made by this Act, wherever
11 in the Alaska Statutes and in regulations adopted under those statutes
12 "Alaska Industrial Development Authority" is used, it shall be read as
13 referring to the Alaska Industrial Development and Export Authority. Under
14 AS 01.05.031 the revisor of statutes shall implement this section in the
15 statutes, and, under AS 44.62.125(b)(6), the regulations attorney shall
16 implement this section in the administrative regulations.

17 * Sec. 41. AS 44.88.156, 44.88.158(c), and sec. 11, ch. 162, SLA 1984,
18 are repealed.

19 * Sec. 42. 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, training, 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 44.85.085(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. ~~By~~ 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 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).

1 IN THE SENATE

BY KELLY, KERTTULA
FAIKS AND STURGULEWSKI

2

SENATE BILL NO. 64

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 export enterprises under the

7

Alaska Industrial Development Authority."

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, but
16 also to the people of the entire state;

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

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

27 (5) the achievement of the goal of full employment, and of
28 establishment and continuing operation and development of industrial,
29 manufacturing, export, and business enterprises in the state,

1 including, without limitation, facilities for transportation, facil-
2 ities for pollution control and waste disposal, facilities for the
3 local furnishing of gas, facilities for water, facilities for indus-
4 trial parks, mass commuting vehicles, facilities for local district
5 heating or cooling, parking facilities, or a storage or training
6 facility relating to a plant or facility, will be accelerated and
7 facilitated by the creation of an instrumentality of the state with
8 powers to incur debt, to own and operate facilities, to make and
9 insure loans to finance, and to assist private lenders to make loans
10 to finance, the establishment, operation, and development of indus-
11 trial, manufacturing, export, and business enterprises, including,
12 without limitation, facilities for transportation, facilities for
13 pollution control and waste disposal, facilities for the local fur-
14 nishing of gas, facilities for water, facilities for industrial parks,
15 mass commuting vehicles, facilities for local district heating or
16 cooling, parking facilities, or a storage or training facility relat-
17 ing to a plant or facility;

18 (6) it is in the public interest to promote the prosperity
19 and general welfare of all citizens of the state by stimulating com-
20 mercial and industrial growth and expansion by encouraging an increase
21 of private investment by banks, investment houses, insurance com-
22 panies, and other financial institutions, including pension and re-
23 tirement funds, to help satisfy the need for economic expansion;

24 (7) it is in the state's interest to import private capital
25 to create new economic activity which would not otherwise take place
26 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, and
4 business enterprises and the other facilities referred to in (a)(5) of
5 this section by creating the public corporation with power, duties and
6 functions as provided in AS 44.88.010 - 44.88.220.

7 * Sec. 2. AS 44.88.070 is amended to read:

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

16 * Sec. 3. AS 44.88.080(7) is amended to read:

17 (7) to issue bonds, debentures, notes, or other evidence of
18 indebtedness, in accordance with AS 44.88.090 or as otherwise provided
19 in this chapter, to pay the cost of a project and to secure payment of
20 the bonds as provided in this chapter, and to borrow money and other-
21 wise incur indebtedness for the purposes of the authority;

22 * Sec. 4. AS 44.88.080(12) is amended to read:

23 (12) to purchase or insure loans to finance the costs of
24 manufacturing, industrial, export, and business enterprises, and to
25 procure insurance for export enterprises to

26 (A) guarantee, insure, coinsure, and reinsure against
27 political and credit risk of loss;

28 (B) secure the payment of principal and interest on
29 bonds, notes, or other obligations of the authority [ENTERPRISE

1 PROJECTS];

2 * Sec. 5. AS 44.88.080 is amended by adding new paragraphs to read:

3 (20) with regard to export enterprises, purchase, discount,
4 sell, negotiate with or without guaranty, notes or other evidence of
5 indebtedness, and with regard to export enterprises, to sell and
6 guarantee securities;

7 (21) provide financial counseling services to businesses in
8 the state that are interested in developing or expanding export enter-
9 prises.

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

11 Sec. 44.88.153. GUARANTEED FUNDING FOR ALASKA EXPORTS. (a) The
12 authority may provide guaranteed funding for an eligible export trans-
13 action through a participating banking organization. An eligible
14 export transaction consists of a loan to a participating banking
15 organization located in the state to finance an international preex-
16 port or export from the state. To be eligible for guaranteed funding
17 under this section, the export or preexport must, in the judgment of
18 the authority, create or maintain employment in the state and derive
19 some of its value from manufacturing, processing, or extraction in the
20 state. Guaranteed funding may include a pool of individual export
21 transactions, each of which in the judgment of the authority meets
22 these conditions.

23 (b) Guaranteed funding consists of a guarantee against political
24 or commercial loss, in whole or in part, of principal and interest on
25 an eligible export transaction. A guarantee may include, without
26 limitation, insurance against loss up to a stated amount. The maximum
27 amount payable under a guarantee shall be specifically set out in a
28 writing executed by the chair and vice-chair of the authority at the
29 time the guarantee is entered into by the authority. A guarantee does

1 not constitute a general obligation of the state, and may not be
2 terminated, cancelled, or otherwise revoked except in accordance with
3 its terms. A guarantee made by the authority is valid and incontest-
4 able in the hands of a holder in due course of a guaranteed eligible
5 export transaction.

6 (c) A participating banking organization is a banking institu-
7 tion operating under AS 06, an agency or branch of a foreign banking
8 corporation licensed by the state, a national bank, federal savings
9 and loan association, or federal credit union located in the state,
10 that has been approved by the members of the authority to participate
11 in guaranteed funding for an eligible export transaction.

12 (d) The authority may charge reasonable fees for providing
13 guaranteed funding under this section to a participating banking
14 organization.

15 (e) Before providing guaranteed funding under this section, a
16 participating banking organization shall investigate a line of credit
17 to the exporter in order to determine the economic benefits to be
18 derived, the prospects for repayment, and other facts needed to deter-
19 mine that the guaranteed funding is consistent with the purposes of
20 this chapter. The authority shall provide guaranteed funding only if,
21 and to the extent that, (1) the funding is reasonably necessary to
22 stimulate or facilitate the making of the eligible export transaction
23 on terms that will enable the transaction to be reasonably competitive
24 with transactions in other states or in foreign countries; or (2) the
25 funding is reasonably necessary to stimulate or facilitate the resale
26 of the eligible export transaction to a holder in due course who would
27 not otherwise purchase the eligible export transaction. The authority
28 may condition guaranteed funding on other terms and conditions desir-
29 able to carry out the purposes of this chapter.

1 * Sec. 7. AS 44.88.220 is amended by adding a new paragraph to read:
2 (13) "export enterprise" means an enterprise involving the
3 export of processed goods, natural resources, or services from the
4 state to foreign purchasers, or the assembly, warehousing, or dis-
5 tribution of export goods.

SB666

SENATE COMMITTEE REPORT

FURTHER:

3/3/87

DATE TURNED INTO OFFICE _____

Mr. President:

FINANCE Committee considered SB 66

student loans; creating the Alaska Student Loan Corporation; efd.

and recommended:

replace with CS FOR _____) same title
 or adopt _____ CS FOR _____) 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

zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Committee Backup Attached Chairman signature and recommendation

292

SENATE COMMITTEE RE

FIRST COMMITTEE OF REFERRAL

Date of 2/5/87 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

**FISCAL NOTE(S) ATTACHED 1 **
IN ACCORDANCE WITH AS 24.08.035
(see below)

1/20/87

DATE TURNED INTO OFFICE

3/3/87

Mr. President:

~~SENATE~~ HESS

Committee considered

SB 66 (HESS)
~~SB 60 (HESS)~~

~~relating to~~ student loans; creating the Alaska Student Loan Corporation;
efd.

and recommended:

[] replace with CS SB 66 (HESS) same title
[] new title

[] attached amendment(s) 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

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Joe Josephson
[Signature]

Paula Trish Do Pass
Chairman signature and recommendation

[] Committee Backup Attached

Introduced: 3/3/87
Referred: Finance

5-0214B

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

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 66 (HESS)

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 student loans; creating the
7 Alaska Student Loan Corporation; and providing for an
8 effective date."

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

10 * Section 1. AS 14.42 is amended by adding new sections to read:

11 ARTICLE 2. ALASKA STUDENT LOAN CORPORATION.

12 Sec. 14.42.100. CREATION OF ALASKA STUDENT LOAN CORPORATION.

13 There is created the Alaska Student Loan Corporation. The corporation
14 is a public corporation and government instrumentality within the
15 Department of Education but having a legal existence independent of
16 and separate from the state. The corporation may not be terminated as
17 long as it has bonds, notes, or other obligations outstanding. Upon
18 termination of the corporation, its rights and property pass to the
19 state.

20 Sec. 14.42.110. PURPOSE OF CORPORATION. The purpose of the
21 corporation is to improve higher educational opportunities for resi-
22 dents of the state in accordance with this chapter.

23 Sec. 14.42.120. CORPORATION GOVERNING BODY. (a) The corpor-
24 ation shall be governed by a board of directors appointed by the
25 governor consisting of four members of the Alaska Commission on Post-
26 secondary Education, each of whom is selected for the commission under
27 AS 14.42.015(a)(1) - (2), (4) - (6), (8) or (9) and one member of the
28 commission selected under AS 14.42.015(a)(3). Members of the board
29 serve without compensation but are entitled to per diem and travel
S

1 expenses authorized by law for boards and commissions.

2 (b) The board shall elect a chairman from among its membership
3 at its annual meeting each year. A majority of the members constitute
4 a quorum for organizing the board, conducting its business, and exer-
5 cising the powers of the corporation.

6 Sec. 14.42.130. MEETINGS OF THE BOARD. (a) The board shall
7 meet at the call of its chairman and at other times as the board may
8 determine in accordance with its regulations.

9 (b) Public notice of a meeting of the board at which the issu-
10 ance of corporation bonds is authorized shall be provided at least 24
11 hours before the meeting.

12 Sec. 14.42.140. MINUTES OF MEETINGS. The board shall keep
13 minutes of each meeting and send a certified copy to the governor and
14 to the Legislative Budget and Audit Committee.

15 Sec. 14.42.150. ADMINISTRATION OF AFFAIRS. The board shall
16 manage the assets and business of the corporation and may adopt bylaws
17 and regulations, in accordance with the Administrative Procedure Act
18 (AS 44.62), governing the manner in which the business of the corpo-
19 ration is conducted and the manner in which its powers are exercised.
20 The board shall delegate supervision of the administration of the
21 corporation to the executive officer of the corporation.

22 Sec. 14.42.160. EXECUTIVE OFFICER. The executive officer of the
23 Commission on Postsecondary Education appointed under AS 14.42.040(a)
24 shall serve as executive officer of the corporation.

25 Sec. 14.42.170. EMPLOYMENT OF PERSONNEL. The executive officer
26 may hire employees of the corporation and, subject to the approval of
27 the board, engage professional and technical advisors under contract
28 with the corporation. The board may appoint other officers and engage
29 professional and technical advisors as independent contractors. The

1 board shall prescribe the duties and compensation of corporation
2 personnel, including the executive officer.

3 Sec. 14.42.190. BUDGET. The operating budget of the corporation
4 is subject to AS 37.07 (Executive Budget Act).

5 Sec. 14.42.200. GENERAL POWERS. In addition to other powers
6 granted in this chapter, the corporation may

7 (1) sue and be sued in its own name;

8 (2) adopt an official seal;

9 (3) adopt regulations under AS 44.62 (Administrative Proce-
10 dure Act) to carry out the purposes of this chapter;

11 (4) make and execute agreements, contracts, and other in-
12 struments necessary or convenient in the exercise of the powers and
13 functions of the corporation, including contracts with a person or
14 governmental entity;

15 (5) receive, administer, and comply with the conditions and
16 requirements respecting any appropriation, gift, grant, or donation of
17 property or money;

18 (6) borrow money as provided in this chapter to carry out
19 its corporate purposes and issue its obligations as evidence of the
20 borrowing;

21 (7) include in a borrowing the amounts to pay financing
22 charges, interest on the obligations for a period not exceeding one
23 year after the date on which the corporation estimates funds will
24 otherwise be available to pay the interest, consultant, advisory and
25 legal fees and other expenses necessary or incident to the borrowing;

26 (8) invest or reinvest, subject to its contracts with
27 noteholders and bondholders, money held by the corporation in obliga-
28 tions or other securities authorized for investments of the commis-
29 sioner of revenue under AS 37.10.070(a);

1 (9) collect from a borrower amounts owed with respect to a
2 student loan the corporation has purchased;

3 (10) gather information on student loans available to resi-
4 dents of Alaska and disseminate the information to reasonably assure
5 that qualified residents are aware of financial resources available to
6 those attending or desiring to attend institutions for which loans may
7 be made under AS 14.43.090 - 14.43.325 or 14.43.600 - 14.43.700;

8 (11) service student loans held by the corporation;

9 (12) purchase or participate in the purchase of student
10 loans;

11 (13) contract in advance for the purchase or sale of student
12 loans;

13 (14) sell or participate in the sale, either public or
14 private and on terms authorized by the board, of student loans to the
15 Student Loan Marketing Association or to other purchasers;

16 (15) collect and pay reasonable fees and charges in connec-
17 tion with the purchase, sale, and servicing of student loans;

18 (16) enter into agreements with the federal government,
19 including guaranty agreements and supplemental guaranty agreements as
20 described in the United States Higher Education Act of 1965, as neces-
21 sary to provide for the receipt by the corporation of administrative
22 allowances and other benefits available under the United States Higher
23 Education Act of 1965;

24 (17) administer federal money allotted to the state involv-
25 ing insured student loans and related administrative costs and other
26 matters;

27 (18) enter into agreements with the Alaska Commission on
28 Postsecondary Education relating to student loans, the administration
29 of the student loan fund created under AS 14.42.210, and the payment

1 of and security for bonds of the corporation;

2 (19) to the extent permitted under contracts with bond
3 holders, consent to the modification of the rate of interest, time of
4 payment of an installment of principal or interest, or other terms of
5 a student loan purchased by the corporation;

6 (20) procure insurance against any loss in connection with
7 the operation of its programs;

8 (21) provide advisory services to borrowers and other parti-
9 cipants in the corporation's programs;

10 (22) enter into credit facility agreements and make pledges,
11 covenants, and agreements with respect to the repayment of borrowings
12 under the credit facility agreements;

13 (23) do all acts necessary, convenient, or desirable to
14 carry out the powers expressly granted or necessarily implied in
15 AS 14.42.100 - 14.42.500.

16 Sec. 14.42.210. STUDENT LOAN FUND. (a) The student loan fund
17 is established in the corporation. The student loan fund is a trust
18 fund to be used to carry out the purposes of AS 14.42.100 - 14.42.500,
19 AS 14.43.090 - 14.43.325, and 14.43.600 - 14.43.700. The fund con-
20 sists of money or assets appropriated or transferred to the corpo-
21 ration for the fund and money or assets deposited in it by the corpo-
22 ration. The corporation may establish separate accounts in the fund.

23 (b) Money and other assets of the student loan fund may be used
24 to secure bonds of the corporation, invested in student loans and in-
25 vestments described in AS 37.10.070(a) and used to purchase loans
26 approved under AS 14.43.090 - 14.43.325 or 14.43.600 - 14.43.700.

27 (c) The student loan fund shall be administered by the Alaska
28 Commission on Postsecondary Education. The corporation and the com-
29 mission may enter into agreements relating to the administration of

1 the fund. The corporation may assign its rights under the agreements
2 for the benefit and security of holders of its bonds.

3 Sec. 14.42.220. BONDS OF THE CORPORATION. (a) Subject to (f)
4 of this section, the corporation may borrow money and may issue bonds,
5 on which the principal and interest are payable from its income and
6 receipts or other assets or a designated part or parts of them.

7 (b) Bonds may be authorized only by resolution of the board.
8 Bonds shall be dated, bear interest at the rate or rates, be in the
9 denominations, be in the form, either coupon or registered, carry the
10 registration privileges, be executed in the manner, be payable in the
11 medium of payment, at the place or places, be subject to the terms of
12 redemption, and mature as provided by the resolution or a subsequent
13 resolution. However, a bond may not mature more than 30 years after
14 the date it is issued.

15 (c) Bonds of the corporation, regardless of form or character,
16 are negotiable instruments for all the purposes of the Uniform Commer-
17 cial Code (AS 45.01 - AS 45.09).

18 (d) Bonds of the corporation may be sold at public or private
19 sale in the manner, for the price or prices, and at the time or times
20 that the board determines.

21 (e) The superior court has jurisdiction to hear and determine
22 proceedings relating to the corporation, including proceedings brought
23 by or for the benefit of a bondholder or by a trustee for or other
24 representative of a bondholder.

25 (f) The corporation may not issue bonds, other than refunding
26 bonds, during any two consecutive fiscal years in an aggregate amount
27 greater than \$150,000,000 unless the legislature, by law, approves
28 issuance of a greater amount.

29 Sec. 14.42.230. TRUST INDENTURES AND TRUST AGREEMENTS. An

1 issue of bonds by the corporation may be secured by a trust indenture
2 or trust agreement between the corporation and a corporate trustee,
3 which may be a trust company, bank, or national banking association,
4 with corporate trust powers, located inside or outside the state, or
5 by a secured loan agreement or other instrument or under a resolution
6 giving powers to a corporate trustee by means of which the corporation
7 may:

8 (1) enter into agreements with the trustee or the bond-
9 holders that the board determines to be necessary or desirable, in-
10 cluding covenants, provisions, limitations, and other agreements as to
11 the

12 (A) application, investment, deposit, use, and dispo-
13 sition of the proceeds of bonds of the corporation or of money or
14 other property of the corporation or in which it has an interest;

15 (B) fixing and collecting loan payments and other
16 consideration for a student loan;

17 (C) assignment by the corporation of its rights in a
18 student loan or in a mortgage or other security interest created
19 with respect to a student loan to a trustee for the benefit of
20 bondholders;

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

23 (E) vesting in a trustee of rights, powers, duties,
24 funds, or property in trust for the benefit of bondholders, in-
25 cluding the right to enforce payment, performance, and other
26 rights of the corporation or of the bondholders, under a student
27 loan or a security interest created with respect to a student
28 loan;

29 (2) pledge, mortgage or assign money, agreements, property,

1 or other assets of the corporation either presently in hand or to be
2 received in the future, or both; and

3 (3) provide for other matters that in any way affect the
4 security or protection of the bonds.

5 Sec. 14.42.240. RESERVES AND CAPITAL RESERVES. (a) For the
6 purpose of securing one or more issues of bonds of the corporation,
7 the board may establish one or more special funds, called "capital
8 reserve funds," and may pay into those capital reserve funds the
9 proceeds of the sale of bonds and other money available to the corpo-
10 ration from other sources for the purposes of the capital reserve
11 funds. A capital reserve fund may be established only if the board
12 determines that the establishment of the fund would enhance the mar-
13 ketability of the bonds. Money in a capital reserve fund, except as
14 provided in this section, may be used as required only for the (1)
15 payment of the principal of, and interest on, bonds or of the sinking
16 fund payments with respect to those bonds; (2) purchase or redemption
17 of the bonds; or (3) payment of a redemption premium required to be
18 paid when the bonds are redeemed before maturity. However, money in a
19 capital reserve fund may not be withdrawn if the withdrawal would
20 reduce the amount in the capital reserve fund to less than the capital
21 reserve fund requirement, except for the purpose of making payment,
22 when due, of principal, interest, or redemption premiums on the bonds
23 when other money of the corporation is not available for the payments.
24 Income or interest earned by, or increment to, a capital reserve fund,
25 from the investment of all or part of the fund, may be transferred by
26 the corporation to other funds or accounts of the corporation if the
27 transfer does not reduce the amount of the capital reserve fund below
28 the capital reserve fund requirement.

29 (b) If the board decides to issue bonds secured by a capital

1 reserve fund, the bonds may not be issued if the amount in the capital
2 reserve fund is less than the capital reserve fund requirement, unless
3 the corporation, at the time of issuance of the bonds, pledges to
4 deposit in the capital reserve fund from the proceeds of the bonds to
5 be issued or from other sources, an amount that, together with the
6 amount then in the fund, is not less than the capital reserve fund
7 requirement.

8 (c) In computing the amount of a capital reserve fund for the
9 purpose of this section, securities in which all or a portion of the
10 fund is invested and credit facilities deposited in or credited to a
11 capital reserve fund under (f) of this section shall be valued by a
12 reasonable method established by the board by resolution. Valuation
13 shall include the amount of interest earned or accrued as of the date
14 of valuation.

15 (d) By January 2 of each year, the chairman of the board shall
16 certify in writing to the governor and the legislature the amount, if
17 any, required to restore a capital reserve fund to the capital reserve
18 fund requirement. The legislature may appropriate to the corporation
19 the amount certified by the chairman. The corporation shall deposit
20 the amounts appropriated under this subsection during a fiscal year in
21 the proper capital reserve fund. This subsection does not create a
22 debt or liability of the state.

23 (e) The board may establish reserve funds, other than capital
24 reserve funds, to secure one or more issues of bonds of the corpo-
25 ration. The corporation may deposit in a reserve fund established
26 under this subsection the proceeds of sale of its bonds and other
27 money available from any other source. The corporation may allow a
28 reserve fund established under this subsection to be depleted without
29 complying with (d) of this section.

1 (f) The corporation may hold in a capital reserve fund, in lieu
2 of money and in satisfaction of all or part of a capital reserve fund
3 requirement, irrevocable letters of credit issued by a commercial
4 bank, surety bonds, insurance policies, and similar credit facilities.

5 (g) In this section, "capital reserve fund requirement" means
6 the amount required to be on deposit in the capital reserve fund as of
7 the date of computation as determined by resolution of the board.

8 Sec. 14.42.250. VALIDITY OF PLEDGE. It is the intention of the
9 legislature that a pledge made in respect to bonds of the corporation
10 shall be valid and binding from the time the pledge is made; that the
11 money or property so pledged and thereafter received by the corpora-
12 tion shall immediately be subject to the lien of the pledge without
13 physical delivery or further act; and that the lien of the pledge
14 shall be valid and binding as against all parties having claims of any
15 kind in tort, contract, or otherwise against the corporation irrespec-
16 tive of whether the parties have notice. Neither the resolution,
17 trust agreement, nor other instrument by which a pledge is created
18 need be recorded or filed under the provisions of the Uniform Commer-
19 cial Code (AS 45.01 - AS 45.09) to be valid, binding, or effective.

20 Sec. 14.42.260. NONLIABILITY ON BONDS. (a) The members of the
21 board and individuals executing the bonds of the corporation are not
22 liable personally on the bonds or subject to personal liability or
23 accountability by reason of the issuance of the bonds.

24 (b) The bonds issued by the corporation do not constitute an
25 indebtedness or other liability of the state or of a political sub-
26 division of the state, except the corporation, but shall be payable
27 solely from the income and receipts or other funds or property of the
28 corporation. The corporation may not pledge the faith or credit of
29 the state, or of a political subdivision of the state, except the

1 corporation, to the payment of a bond. Issuance of a bond by the
2 corporation does not directly, indirectly, or contingently obligate
3 the state or a political subdivision of the state to apply money from,
4 or levy or pledge any form of taxation whatever to the payment of the
5 bond.

6 Sec. 14.42.265. UNDERWRITERS. The board may select an under-
7 writer for its bonds in accordance with procedures the board considers
8 appropriate.

9 Sec. 14.42.270. PLEDGE AND AGREEMENT OF STATE. The state
10 pledges to and agrees with holders of bonds issued by the corporation
11 that the state will not limit or alter the rights and powers vested in
12 the corporation under AS 14.42.100 - 14.42.330 to fulfill the terms of
13 a contract made by the corporation with the bondholders or in any way
14 impair the rights and remedies of the bondholders until the bonds,
15 together with the interest on them with interest on unpaid install-
16 ments of interest, and all costs and expenses in connection with an
17 action or proceeding by or on behalf of the bondholders, are fully met
18 and discharged. The corporation may include this pledge and agreement
19 of the state in a contract with bondholders.

20 Sec. 14.42.280. EXEMPTION FROM TAXATION. The real and personal
21 property of the corporation and its assets, income, and receipts are
22 declared to be the property of a political subdivision of the state
23 and devoted to an essential public and governmental function and
24 purpose, and the property, assets, income, receipts, and other in-
25 terests of the corporation are exempt from all taxes and special
26 assessments of the state or a political subdivision of the state,
27 including municipalities, school districts, public utility districts,
28 and other governmental units. Bonds of the corporation are declared
29 to be issued by a political subdivision of the state and for an

1 essential public and governmental purpose, and the bonds, interest on
2 them, income from them, and transfer of them, and all assets, income,
3 and receipts pledged to pay or secure the payment of the bonds, or
4 interest on them, are exempt from taxation by or under the authority
5 of the state, except for inheritance and estate taxes and taxes on
6 transfers by or in contemplation of death.

7 Sec. 14.42.290. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
8 bonds of the corporation are securities in which public officers and
9 bodies of the state, municipalities, insurance companies, insurance
10 associations, other persons carrying on an insurance business, banks,
11 bankers, trust companies, savings banks, savings associations, build-
12 ing and loan associations, investment companies, other persons carry-
13 ing on a banking business, administrators, guardians, executors,
14 trustees, other fiduciaries, and other persons who are authorized to
15 invest in bonds or other obligations of the state, may properly and
16 legally invest funds including capital in their control or belonging
17 to them. Notwithstanding any other provisions of law, the bonds of
18 the corporation are also securities that may be deposited with and may
19 be received by public officers and bodies of the state and municipal-
20 ities for any purpose for which the deposit of bonds or other obliga-
21 tions of the state is now or may be authorized.

22 Sec. 14.42.300. OPERATION OF CERTAIN STATUTES EXCEPTED. (a)
23 The corporation is not a municipality as the term is defined in
24 AS 01.10.060. Except as provided in AS 14.42.190, the corporation is
25 not subject to AS 37. For all other purposes the corporation is a
26 political subdivision and an instrumentality of the state.

27 (b) The funds, income, and receipts of the corporation are not
28 money of the state, nor may real property in which the corporation has
29 an interest be considered land owned in fee by the state or to which

1 the state may become entitled or in any way land belonging to the
2 state, or state land referred to in art. VIII of the Alaska Constitu-
3 tion.

4 Sec. 14.42.310. ANNUAL AUDIT. The financial records of the
5 corporation shall be audited annually by the legislative auditor or by
6 a certified public accountant approved by the legislative auditor.
7 The legislative auditor may prescribe the form and content of the
8 financial records of the corporation and shall have access to these
9 records at any time.

10 Sec. 14.42.500. DEFINITIONS. In AS 14.42.100 - 14.42.500,

11 (1) "board" means the board of directors of the corpo-
12 ration;

13 (2) "corporation" means the Alaska Student Loan Corpora-
14 tion.

15 * Sec. 2. AS 14.42.265 is amended to read:

16 Sec. 14.42.265. UNDERWRITERS. The board may select an under-
17 writer for its bonds in accordance with procedures the board considers
18 appropriate. However, the procedures must include a competitive
19 method for selecting the underwriter that is established by regulation
20 of the board.

21 * Sec. 3. AS 14.43.090(a) is amended to read:

22 (a) There is created a scholarship revolving loan fund. The
23 fund shall be used to make scholarship loans to students selected
24 under AS 14.43.090 - 14.43.160, [AND] to pay the costs of collecting
25 student loans that are in default if those costs are not recovered
26 from the student, and to pay the costs of administering the fund.
27 Unless the instrument evidencing the scholarship loan has been sold or
28 assigned to the Alaska Student Loan Corporation, [. ALL] repayments
29 of principal and interest on a scholarship loan [LOANS] shall be paid

1 into the scholarship revolving loan fund. If money estimated to be
2 available [FROM SCHOLARSHIP LOAN REPAYMENTS] is inadequate to fully
3 fund estimated scholarship loans for any fiscal year, additional
4 funding from the general fund may be requested and appropriated for
5 that year.

6 * Sec. 4. AS 14.43.090 is amended by adding a new subsection to read:

7 (d) The student financial aid committee created under AS 14.43.-
8 095 may sell or assign notes and other instruments evidencing scholar-
9 ship loans to the Alaska Student Loan Corporation and enter into
10 agreements with the corporation relating to loans, the administration
11 of the student loan fund created under AS 14.42.210, and the payment
12 of and security for bonds of the corporation. Proceeds from the sale
13 or assignment of notes and other instruments shall be deposited in the
14 scholarship revolving loan fund.

15 * Sec. 5. AS 14.43.120 is amended by adding a new subsection to read:

16 (r) The rate of interest, time of payment of an installment of
17 principal or interest, or other terms of a scholarship loan may be
18 modified if required to establish or maintain tax-exempt status under
19 26 U.S.C. 103 (Internal Revenue Code of 1986), as amended, for the
20 interest on bonds issued by the Alaska Student Loan Corporation.

21 * Sec. 6. AS 14.43.255(a) is amended to read:

22 (a) There is created a memorial scholarship revolving loan fund.
23 The fund shall be used to provide educational scholarship loans to
24 students selected under AS 14.43.250 - 14.43.325. Unless the instru-
25 ment evidencing the memorial scholarship loan has been sold or as-
26 signed to the Alaska Student Loan Corporation, repayments [REPAYMENTS]
27 of a loan [LOANS MADE UNDER AS 14.43.250(b)(1) - (4)] shall be de-
28 posited into the memorial scholarship revolving loan fund and [REPAY-
29 MENTS OF LOANS MADE UNDER AS 14.43.250(b)(5) SHALL BE DEPOSITED INTO

1 THE SCHOLARSHIP REVOLVING LOAN FUND CREATED UNDER AS 14.43.090.
2 REPAYMENTS] shall be used to make new loans.

3 * Sec. 7. AS 14.43.255 is amended by adding a new subsection to read:

4 (c) The student financial aid committee created under AS 14.43.-
5 095 may sell or assign notes and other instruments evidencing memorial
6 scholarship loans to the Alaska Student Loan Corporation and enter
7 into agreements with the corporation relating to loans, the adminis-
8 tration of the student loan fund created under AS 14.42.210, and the
9 payment of and security for bonds of the corporation. Proceeds from
10 the sale or assignment of a note or other instrument shall be de-
11 posited in the appropriate memorial scholarship loan fund account.

12 * Sec. 8. AS 14.43.620 is amended to read:

13 Sec. 14.43.620. TEACHER SCHOLARSHIP REVOLVING LOAN FUND. There
14 is created a teacher scholarship revolving loan fund. The fund shall
15 be used to make scholarship loans to students selected under AS 14.-
16 43.600 - 14.43.700. Unless the instrument evidencing the teacher
17 scholarship loan has been sold or assigned to the Alaska Student Loan
18 Corporation, [ALL] repayments of principal and interest on a teacher
19 scholarship loan [LOANS] shall be paid into the teacher scholarship
20 revolving loan fund and shall be used to make new teacher scholarship
21 loans. If estimated funds available [FROM TEACHER SCHOLARSHIP LOAN
22 REPAYMENTS] are inadequate to fully fund estimated teacher scholarship
23 loans for any fiscal year, additional funding from the general fund
24 may be requested and appropriated for that year.

25 * Sec. 9. AS 14.43.620 is amended by adding a new subsection to read:

26 (b) The student financial aid committee created under AS 14.43.-
27 095 may sell or assign notes and other instruments evidencing teacher
28 scholarship loans to the Alaska Student Loan Corporation and enter
29 into agreements with the corporation relating to loans, the

1 administration of the student loan fund created under AS 14.42.210 and
2 the payment of and security for bonds of the corporation. Proceeds
3 from the sale or assignment of the notes or other instruments shall be
4 deposited in the teacher scholarship revolving loan fund.

5 * Sec. 10. Except for sec. 2, this Act takes effect immediately under
6 AS 01.10.070(c).

7 * Sec. 11. Section 2 of this Act takes effect July 1, 1988.
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Introduced: 1/19/87
Referred: Health, Education and
Social Services and
Finance

5-0214A

1 IN THE SENATE

BY KELLY, HALFORD, KERTTULA
FAIKS AND STURGULEWSKI

2 SENATE BILL NO. 66

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 student loans; creating the
7 Alaska Student Loan Corporation; and providing for an
8 effective date."

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

10 * Section 1. AS 14.42 is amended by adding new sections to read:

11 ARTICLE 2. ALASKA STUDENT LOAN CORPORATION.

12 Sec. 14.42.100. CREATION OF ALASKA STUDENT LOAN CORPORATION.

13 There is created the Alaska Student Loan Corporation. The corporation
14 is a public corporation and government instrumentality within the
15 Department of Education but having a legal existence independent of
16 and separate from the state. The corporation may not be terminated as
17 long as it has bonds, notes, or other obligations outstanding. Upon
18 termination of the corporation, its rights and property pass to the
19 state.

20 Sec. 14.42.110. PURPOSE OF CORPORATION. The purpose of the
21 corporation is to improve higher educational opportunities for resi-
22 dents of the state in accordance with this chapter.

23 Sec. 14.42.120. CORPORATION GOVERNING BODY. (a) The corpor-
24 ation shall be governed by a board of directors appointed by the
25 governor consisting of four members of the Alaska Commission on Post-
26 secondary Education, each of whom is selected for the commission under
27 AS 14.42.015(a)(1) - (2), (4) - (6), (8) or (9) and one member of the
28 commission selected under AS 14.42.015(a)(3). Members of the board
29 serve without compensation but are entitled to per diem and travel
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1 expenses authorized by law for boards and commissions.

2 (b) The board shall elect a chairman from among its membership
3 at its annual meeting each year. A majority of the members constitute
4 a quorum for organizing the board, conducting its business, and exer-
5 cising the powers of the corporation.

6 Sec. 14.42.130. MEETINGS OF THE BOARD. (a) The board shall
7 meet at the call of its chairman and at other times as the board may
8 determine in accordance with its regulations.

9 (b) Public notice of a meeting of the board at which the issu-
10 ance of corporation bonds is authorized shall be provided at least 24
11 hours before the meeting.

12 Sec. 14.42.140. MINUTES OF MEETINGS. The board shall keep
13 minutes of each meeting and send a certified copy to the governor and
14 to the Legislative Budget and Audit Committee.

15 Sec. 14.42.150. ADMINISTRATION OF AFFAIRS. The board shall
16 manage the assets and business of the corporation and may adopt bylaws
17 and regulations, in accordance with the Administrative Procedure Act
18 (AS 44.62), governing the manner in which the business of the corpo-
19 ration is conducted and the manner in which its powers are exercised.
20 The board shall delegate supervision of the administration of the
21 corporation to the executive officer of the corporation.

22 Sec. 14.42.160. EXECUTIVE OFFICER. The executive officer of the
23 Commission on Postsecondary Education appointed under AS 14.42.040(a)
24 shall serve as executive officer of the corporation.

25 Sec. 14.42.170. EMPLOYMENT OF PERSONNEL. The executive officer
26 may hire employees of the corporation and, subject to the approval of
27 the board, engage professional and technical advisors under contract
28 with the corporation. The board may appoint other officers and engage
29 professional and technical advisors as independent contractors. The

1 board shall prescribe the duties and compensation of corporation
2 personnel, including the executive officer.

3 Sec. 14.42.190. BUDGET. The operating budget of the corporation
4 is subject to AS 37.07 (Executive Budget Act).

5 Sec. 14.42.200. GENERAL POWERS. In addition to other powers
6 granted in this chapter, the corporation may

7 (1) sue and be sued in its own name;

8 (2) adopt an official seal;

9 (3) adopt regulations under AS 44.62 (Administrative Proce-
10 dure Act) to carry out the purposes of this chapter;

11 (4) make and execute agreements, contracts, and other in-
12 struments necessary or convenient in the exercise of the powers and
13 functions of the corporation, including contracts with a person or
14 governmental entity;

15 (5) receive, administer, and comply with the conditions and
16 requirements respecting any appropriation, gift, grant, or donation of
17 property or money;

18 (6) borrow money as provided in this chapter to carry out
19 its corporate purposes and issue its obligations as evidence of the
20 borrowing;

21 (7) include in a borrowing the amounts to pay financing
22 charges, interest on the obligations for a period not exceeding one
23 year after the date on which the corporation estimates funds will
24 otherwise be available to pay the interest, consultant, advisory and
25 legal fees and other expenses necessary or incident to the borrowing;

26 (8) invest or reinvest, subject to its contracts with
27 noteholders and bondholders, money held by the corporation in obliga-
28 tions or other securities authorized for investments of the commis-
29 sioner of revenue under AS 37.10.070(a);

1 (9) collect from a borrower amounts owed with respect to a
2 student loan the corporation has purchased;

3 (10) gather information on student loans available to resi-
4 dents of Alaska and disseminate the information to reasonably assure
5 that qualified residents are aware of financial resources available to
6 those attending or desiring to attend institutions for which loans may
7 be made under AS 14.43.090 - 14.43.325 or 14.43.600 - 14.43.700;

8 (11) service student loans held by the corporation;

9 (12) purchase or participate in the purchase of student
10 loans;

11 (13) contract in advance for the purchase or sale of student
12 loans;

13 (14) sell or participate in the sale, either public or
14 private and on terms authorized by the board, of student loans to the
15 Student Loan Marketing Association or to other purchasers;

16 (15) collect and pay reasonable fees and charges in connec-
17 tion with the purchase, sale, and servicing of student loans;

18 (16) enter into agreements with the federal government,
19 including guaranty agreements and supplemental guaranty agreements as
20 described in the United States Higher Education Act of 1965, as neces-
21 sary to provide for the receipt by the corporation of administrative
22 allowances and other benefits available under the United States Higher
23 Education Act of 1965;

24 (17) administer federal money allotted to the state involv-
25 ing insured student loans and related administrative costs and other
26 matters;

27 (18) enter into agreements with the Alaska Commission on
28 Postsecondary Education relating to student loans, the administration
29 of the student loan fund created under AS 14.42.210, and the payment

1 of and security for bonds of the corporation;

2 (19) to the extent permitted under contracts with bond
3 holders, consent to the modification of the rate of interest, time of
4 payment of an installment of principal or interest, or other terms of
5 a student loan purchased by the corporation;

6 (20) procure insurance against any loss in connection with
7 the operation of its programs;

8 (21) provide advisory services to borrowers and other parti-
9 cipants in the corporation's programs;

10 (22) enter into credit facility agreements and make pledges,
11 covenants, and agreements with respect to the repayment of borrowings
12 under the credit facility agreements;

13 (23) do all acts necessary, convenient, or desirable to
14 carry out the powers expressly granted or necessarily implied in
15 AS 14.42.100 - 14.42.500.

16 Sec. 14.42.210. STUDENT LOAN FUND. (a) The student loan fund
17 is established in the corporation. The student loan fund is a trust
18 fund to be used to carry out the purposes of AS 14.42.100 - 14.42.500,
19 AS 14.43.090 - 14.43.325, and 14.43.600 - 14.43.700. The fund con-
20 sists of money or assets appropriated or transferred to the corpo-
21 ration for the fund and money or assets deposited in it by the corpo-
22 ration. The corporation may establish separate accounts in the fund.

23 (b) Money and other assets of the student loan fund may be used
24 to secure bonds of the corporation, invested in student loans and in-
25 vestments described in AS 37.10.070(a) and used to purchase loans
26 approved under AS 14.43.090 - 14.43.325 or 14.43.600 - 14.43.700.

27 (c) The student loan fund shall be administered by the Alaska
28 Commission on Postsecondary Education. The corporation and the com-
29 mission may enter into agreements relating to the administration of

1 the fund. The corporation may assign its rights under the agreements
2 for the benefit and security of holders of its bonds.

3 Sec. 14.42.220. BONDS OF THE CORPORATION. (a) Subject to (f)
4 of this section, the corporation may borrow money and may issue bonds,
5 on which the principal and interest are payable from its income and
6 receipts or other assets or a designated part or parts of them.

7 (b) Bonds may be authorized only by resolution of the board.
8 Bonds shall be dated, bear interest at the rate or rates, be in the
9 denominations, be in the form, either coupon or registered, carry the
10 registration privileges, be executed in the manner, be payable in the
11 medium of payment, at the place or places, be subject to the terms of
12 redemption, and mature as provided by the resolution or a subsequent
13 resolution. However, a bond may not mature more than 30 years after
14 the date it is issued.

15 (c) Bonds of the corporation, regardless of form or character,
16 are negotiable instruments for all the purposes of the Uniform Commer-
17 cial Code (AS 45.01 - AS 45.09).

18 (d) Bonds of the corporation may be sold at public or private
19 sale in the manner, for the price or prices, and at the time or times
20 that the board determines.

21 (e) The superior court has jurisdiction to hear and determine
22 proceedings relating to the corporation, including proceedings brought
23 by or for the benefit of a bondholder or by a trustee for or other
24 representative of a bondholder.

25 (f) The corporation may not issue bonds, other than refunding
26 bonds, during any two consecutive fiscal years in an aggregate amount
27 greater than \$150,000,000 unless the legislature, by law, approves
28 issuance of a greater amount.

29 Sec. 14.42.230. TRUST INDENTURES AND TRUST AGREEMENTS. An

1 issue of bonds by the corporation may be secured by a trust indenture
2 or trust agreement between the corporation and a corporate trustee,
3 which may be a trust company, bank, or national banking association,
4 with corporate trust powers, located inside or outside the state, or
5 by a secured loan agreement or other instrument or under a resolution
6 giving powers to a corporate trustee by means of which the corporation
7 may:

8 (1) enter into agreements with the trustee or the bond-
9 holders that the board determines to be necessary or desirable, in-
10 cluding covenants, provisions, limitations, and other agreements as to
11 the

12 (A) application, investment, deposit, use, and dispo-
13 sition of the proceeds of bonds of the corporation or of money or
14 other property of the corporation or in which it has an interest;

15 (B) fixing and collecting loan payments and other
16 consideration for a student loan;

17 (C) assignment by the corporation of its rights in a
18 student loan or in a mortgage or other security interest created
19 with respect to a student loan to a trustee for the benefit of
20 bondholders;

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

23 (E) vesting in a trustee of rights, powers, duties,
24 funds, or property in trust for the benefit of bondholders, in-
25 cluding the right to enforce payment, performance, and other
26 rights of the corporation or of the bondholders, under a student
27 loan or a security interest created with respect to a student
28 loan;

29 (2) pledge, mortgage or assign money, agreements, property,

1 or other assets of the corporation either presently in hand or to be
2 received in the future, or both; and

3 (3) provide for other matters that in any way affect the
4 security or protection of the bonds.

5 Sec. 14.42.240. RESERVES AND CAPITAL RESERVES. (a) For the
6 purpose of securing one or more issues of bonds of the corporation,
7 the board may establish one or more special funds, called "capital
8 reserve funds," and may pay into those capital reserve funds the
9 proceeds of the sale of bonds and other money available to the corpo-
10 ration from other sources for the purposes of the capital reserve
11 funds. A capital reserve fund may be established only if the board
12 determines that the establishment of the fund would enhance the mar-
13 ketability of the bonds. Money in a capital reserve fund, except as
14 provided in this section, may be used as required only for the (1)
15 payment of the principal of, and interest on, bonds or of the sinking
16 fund payments with respect to those bonds; (2) purchase or redemption
17 of the bonds; or (3) payment of a redemption premium required to be
18 paid when the bonds are redeemed before maturity. However, money in a
19 capital reserve fund may not be withdrawn if the withdrawal would
20 reduce the amount in the capital reserve fund to less than the capital
21 reserve fund requirement, except for the purpose of making payment,
22 when due, of principal, interest, or redemption premiums on the bonds
23 when other money of the corporation is not available for the payments.
24 Income or interest earned by, or increment to, a capital reserve fund,
25 from the investment of all or part of the fund, may be transferred by
26 the corporation to other funds or accounts of the corporation if the
27 transfer does not reduce the amount of the capital reserve fund below
28 the capital reserve fund requirement.

29 (b) If the board decides to issue bonds secured by a capital

1 reserve fund, the bonds may not be issued if the amount in the capital
2 reserve fund is less than the capital reserve fund requirement, unless
3 the corporation, at the time of issuance of the bonds, pledges to
4 deposit in the capital reserve fund from the proceeds of the bonds to
5 be issued or from other sources, an amount that, together with the
6 amount then in the fund, is not less than the capital reserve fund
7 requirement.

8 (c) In computing the amount of a capital reserve fund for the
9 purpose of this section, securities in which all or a portion of the
10 fund is invested and credit facilities deposited in or credited to a
11 capital reserve fund under (f) of this section shall be valued by a
12 reasonable method established by the board by resolution. Valuation
13 shall include the amount of interest earned or accrued as of the date
14 of valuation.

15 (d) By January 2 of each year, the chairman of the board shall
16 certify in writing to the governor and the legislature the amount, if
17 any, required to restore a capital reserve fund to the capital reserve
18 fund requirement. The legislature may appropriate to the corporation
19 the amount certified by the chairman. The corporation shall deposit
20 the amounts appropriated under this subsection during a fiscal year in
21 the proper capital reserve fund. This subsection does not create a
22 debt or liability of the state.

23 (e) The board may establish reserve funds, other than capital
24 reserve funds, to secure one or more issues of bonds of the corpo-
25 ration. The corporation may deposit in a reserve fund established
26 under this subsection the proceeds of sale of its bonds and other
27 money available from any other source. The corporation may allow a
28 reserve fund established under this subsection to be depleted without
29 complying with (d) of this section.

1 (f) The corporation may hold in a capital reserve fund, in lieu
2 of money and in satisfaction of all or part of a capital reserve fund
3 requirement, irrevocable letters of credit issued by a commercial
4 bank, surety bonds, insurance policies, and similar credit facilities.

5 (g) In this section, "capital reserve fund requirement" means
6 the amount required to be on deposit in the capital reserve fund as of
7 the date of computation as determined by resolution of the board.

8 Sec. 14.42.250. VALIDITY OF PLEDGE. It is the intention of the
9 legislature that a pledge made in respect to bonds of the corporation
10 shall be valid and binding from the time the pledge is made; that the
11 money or property so pledged and thereafter received by the corpora-
12 tion shall immediately be subject to the lien of the pledge without
13 physical delivery or further act; and that the lien of the pledge
14 shall be valid and binding as against all parties having claims of any
15 kind in tort, contract, or otherwise against the corporation irrespec-
16 tive of whether the parties have notice. Neither the resolution,
17 trust agreement, nor other instrument by which a pledge is created
18 need be recorded or filed under the provisions of the Uniform Commer-
19 cial Code (AS 45.01 - AS 45.09) to be valid, binding, or effective.

20 Sec. 14.42.260. NONLIABILITY ON BONDS. (a) The members of the
21 board and individuals executing the bonds of the corporation are not
22 liable personally on the bonds or subject to personal liability or
23 accountability by reason of the issuance of the bonds.

24 (b) The bonds issued by the corporation do not constitute an
25 indebtedness or other liability of the state or of a political sub-
26 division of the state, except the corporation, but shall be payable
27 solely from the income and receipts or other funds or property of the
28 corporation. The corporation may not pledge the faith or credit of
29 the state, or of a political subdivision of the state, except the

1 corporation, to the payment of a bond. Issuance of a bond by the
2 corporation does not directly, indirectly, or contingently obligate
3 the state or a political subdivision of the state to apply money from,
4 or levy or pledge any form of taxation whatever to the payment of the
5 bond.

6 Sec. 14.42.265. UNDERWRITERS. The board may select an under-
7 writer for its bonds in accordance with procedures the board considers
8 appropriate.

9 Sec. 14.42.270. PLEDGE AND AGREEMENT OF STATE. The state
10 pledges to and agrees with holders of bonds issued by the corporation
11 that the state will not limit or alter the rights and powers vested in
12 the corporation under AS 14.42.100 - 14.42.330 to fulfill the terms of
13 a contract made by the corporation with the bondholders or in any way
14 impair the rights and remedies of the bondholders until the bonds,
15 together with the interest on them with interest on unpaid install-
16 ments of interest, and all costs and expenses in connection with an
17 action or proceeding by or on behalf of the bondholders, are fully met
18 and discharged. The corporation may include this pledge and agreement
19 of the state in a contract with bondholders.

20 Sec. 14.42.280. EXEMPTION FROM TAXATION. The real and personal
21 property of the corporation and its assets, income, and receipts are
22 declared to be the property of a political subdivision of the state
23 and devoted to an essential public and governmental function and
24 purpose, and the property, assets, income, receipts, and other in-
25 terests of the corporation are exempt from all taxes and special
26 assessments of the state or a political subdivision of the state,
27 including municipalities, school districts, public utility districts,
28 and other governmental units. Bonds of the corporation are declared
29 to be issued by a political subdivision of the state and for an

1 essential public and governmental purpose, and the bonds, interest on
2 them, income from them, and transfer of them, and all assets, income,
3 and receipts pledged to pay or secure the payment of the bonds, or
4 interest on them, are exempt from taxation by or under the authority
5 of the state, except for inheritance and estate taxes and taxes on
6 transfers by or in contemplation of death.

7 Sec. 14.42.290. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
8 bonds of the corporation are securities in which public officers and
9 bodies of the state, municipalities, insurance companies, insurance
10 associations, other persons carrying on an insurance business, banks,
11 bankers, trust companies, savings banks, savings associations, build-
12 ing and loan associations, investment companies, other persons carry-
13 ing on a banking business, administrators, guardians, executors,
14 trustees, other fiduciaries, and other persons who are authorized to
15 invest in bonds or other obligations of the state, may properly and
16 legally invest funds including capital in their control or belonging
17 to them. Notwithstanding any other provisions of law, the bonds of
18 the corporation are also securities that may be deposited with and may
19 be received by public officers and bodies of the state and municipal-
20 ities for any purpose for which the deposit of bonds or other obliga-
21 tions of the state is now or may be authorized.

22 Sec. 14.42.300. OPERATION OF CERTAIN STATUTES EXCEPTED. (a)
23 The corporation is not a municipality as the term is defined in
24 AS 01.10.060. Except as provided in AS 14.42.190, the corporation is
25 not subject to AS 37. For all other purposes the corporation is a
26 political subdivision and an instrumentality of the state.

27 (b) The funds, income, and receipts of the corporation are not
28 money of the state, nor may real property in which the corporation has
29 an interest be considered land owned in fee by the state or to which

1 the state may become entitled or in any way land belonging to the
2 state, or state land referred to in art. VIII of the Alaska Constitu-
3 tion.

4 Sec. 14.42.310. ANNUAL AUDIT. The financial records of the
5 corporation shall be audited annually by the legislative auditor or by
6 a certified public accountant approved by the legislative auditor.
7 The legislative auditor may prescribe the form and content of the
8 financial records of the corporation and shall have access to these
9 records at any time.

10 Sec. 14.42.500. DEFINITIONS. In AS 14.42.100 - 14.42.500,

11 (1) "board" means the board of directors of the corpo-
12 ration;

13 (2) "corporation" means the Alaska Student Loan Corpora-
14 tion.

15 * Sec. 2. AS 14.42.265 is amended to read:

16 Sec. 14.42.265. UNDERWRITERS. The board may select an under-
17 writer for its bonds in accordance with procedures the board considers
18 appropriate. However, the procedures must include a competitive
19 method for selecting the underwriter that is established by regulation
20 of the board.

21 * Sec. 3. AS 14.43.090(a) is amended to read:

22 (a) There is created a scholarship revolving loan fund. The
23 fund shall be used to make scholarship loans to students selected
24 under AS 14.43.090 - 14.43.160, [AND] to pay the costs of collecting
25 student loans that are in default if those costs are not recovered
26 from the student, and to pay the costs of administering the fund.
27 Unless the instrument evidencing the scholarship loan has been sold or
28 assigned to the Alaska Student Loan Corporation, [. ALL] repayments
29 of principal and interest on a scholarship loan [LOANS] shall be paid

1 into the scholarship revolving loan fund. If money estimated to be
2 available [FROM SCHOLARSHIP LOAN REPAYMENTS] is inadequate to fully
3 fund estimated scholarship loans for any fiscal year, additional
4 funding from the general fund may be requested and appropriated for
5 that year.

6 * Sec. 4. AS 14.43.090 is amended by adding a new subsection to read:

7 (d) The student financial aid committee created under AS 14.43.-
8 095 may sell or assign notes and other instruments evidencing scholar-
9 ship loans to the Alaska Student Loan Corporation and enter into
10 agreements with the corporation relating to loans, the administration
11 of the student loan fund created under AS 14.42.210, and the payment
12 of and security for bonds of the corporation. Proceeds from the sale
13 or assignment of notes and other instruments shall be deposited in the
14 scholarship revolving loan fund.

15 * Sec. 5. AS 14.43.120(d) is amended to read:

16 (d) Scholarship loans may not be made to a student
17 (1) for more than five years of undergraduate study;
18 (2) for more than five years of graduate study;
19 (3) for more than a total of eight years of undergraduate
20 and graduate study;
21 (4) to attend an institution if the default rate on loans
22 made to students to attend the institution exceeds the program default
23 rate by more than 150 percent as defined by regulation.

24 * Sec. 6. AS 14.43.120 is amended by adding a new subsection to read:

25 (r) The rate of interest, time of payment of an installment of
26 principal or interest, or other terms of a scholarship loan may be
27 modified if required to establish or maintain tax-exempt status under
28 26 U.S.C. 103 (Internal Revenue Code of 1986), as amended, for the
29 interest on bonds issued by the Alaska Student Loan Corporation.

1 * Sec. 7. AS 14.43.255(a) is amended to read:

2 (a) There is created a memorial scholarship revolving loan fund.
3 The fund shall be used to provide educational scholarship loans to
4 students selected under AS 14.43.250 - 14.43.325. Unless the instru-
5 ment evidencing the memorial scholarship loan has been sold or as-
6 signed to the Alaska Student Loan Corporation, repayments [REPAYMENTS]
7 of a loan [LOANS MADE UNDER AS 14.43.250(b)(1) - (4)] shall be de-
8 posited into the memorial scholarship revolving loan fund and [REPAY-
9 MENTS OF LOANS MADE UNDER AS 14.43.250(b)(5) SHALL BE DEPOSITED INTO
10 THE SCHOLARSHIP REVOLVING LOAN FUND CREATED UNDER AS 14.43.090.
11 REPAYMENTS] shall be used to make new loans.

12 * Sec. 8. AS 14.43.255 is amended by adding a new subsection to read:

13 (c) The student financial aid committee created under AS 14.43.-
14 095 may sell or assign notes and other instruments evidencing memorial
15 scholarship loans to the Alaska Student Loan Corporation and enter
16 into agreements with the corporation relating to loans, the adminis-
17 tration of the student loan fund created under AS 14.42.210, and the
18 payment of and security for bonds of the corporation. Proceeds from
19 the sale or assignment of a note or other instrument shall be de-
20 posited in the appropriate memorial scholarship loan fund account.

21 * Sec. 9. AS 14.43.620 is amended to read:

22 Sec. 14.43.620. TEACHER SCHOLARSHIP REVOLVING LOAN FUND. There
23 is created a teacher scholarship revolving loan fund. The fund shall
24 be used to make scholarship loans to students selected under AS 14.-
25 43.600 - 14.43.700. Unless the instrument evidencing the teacher
26 scholarship loan has been sold or assigned to the Alaska Student Loan
27 Corporation, [ALL] repayments of principal and interest on a teacher
28 scholarship loan [LOANS] shall be paid into the teacher scholarship
29 revolving loan fund and shall be used to make new teacher scholarship

1 loans. If estimated funds available [FROM TEACHER SCHOLARSHIP LOAN
2 REPAYMENTS] are inadequate to fully fund estimated teacher scholarship
3 loans for any fiscal year, additional funding from the general fund
4 may be requested and appropriated for that year.

5 * Sec. 10. AS 14.43.620 is amended by adding a new subsection to read:

6 (b) The student financial aid committee created under AS 14.43.-
7 095 may sell or assign notes and other instruments evidencing teacher
8 scholarship loans to the Alaska Student Loan Corporation and enter
9 into agreements with the corporation relating to loans, the adminis-
10 tration of the student loan fund created under AS 14.42.210 and the
11 payment of and security for bonds of the corporation. Proceeds from
12 the sale or assignment of the notes or other instruments shall be
13 deposited in the teacher scholarship revolving loan fund.

14 * Sec. 11. Except for sec. 2, this Act takes effect immediately under
15 AS 01.10.070(c).

16 * Sec. 12. Section 2 of this Act takes effect July 1, 1988.
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**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

B

REQUEST: _____

Bill Version: SB66 HESS
Publish Date: 1-19-87

Revision Date: 1-30-87

Agency Affected: Education

Title: Creating the Alaska Student

BRU: Postsecondary Education

Loan Corporation

Commission

Sponsor: Kelly, Halford, Kerttula, Faiks

Components: General Admin., Student

Requestor: Senate HESS

Loan Admin., Data & Word Proc., Student

Loan Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		(1,594.8)	(1,674.5)	(1,758.3)	(1,846.2)	(1,938.5)
TRAVEL		(64.4)	(64.4)	(64.4)	(64.4)	(64.4)
CONTRACTUAL		(318.3)	(327.8)	(337.7)	(347.8)	(358.2)
SUPPLIES		(58.6)	(60.4)	(62.2)	(64.0)	(66.0)
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	N.A.	(2,035.9)	(2,127.1)	(2,222.6)	(2,322.4)	(2,427.1)

CAPITAL	N.A.	(34,900.0)	(27,758.1)	(22,288.6)	(25,400.5)	(28,143.2)
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	(36,935.9)	(29,885.2)	(24,511.2)	(27,722.9)	(20,570.3)
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Kerry D. Romesburg *[Signature]* Phone: 465-2854

Division: Postsecondary Commission Date: 1-30-87

Approved by Commissioner: _____ Date: _____

Agency: _____

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

SB66 Fiscal Note Analysis

Operating Budget

- 1. FY88 Operating budget savings are based upon the FY87 Revised budget and are comprised of:

Commission General Admin.	\$ 287.4
Student Loan Admin.	\$1,632.7
Data and Word Processing	\$ 115.8
	\$2,035.9

- 2. FY89-92 totals are based upon:

Personal Services	5% growth and no increased salaries
Travel	no inflation factor
Contractual	3% inflation factor
Supplies	3% inflation factor

Capital (Loan Funds)

- 1. FY88 reduced General Fund commitment is based upon FY87 Revised budget.
- 2. FY88-92 reduced General Fund commitment is based upon attached table, "Alaska Student Loan Program: Student Loan Activity Projected to 2010-11."
- 3. The bond receipt figures are based upon attached table, "Alaska Commission on Postsecondary Education; Alaska Student Loan Program Summary of New Loan Origination."