

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

SB 471

148 48

SB

471

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 3/31/88 5-DAY NOTICE IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER:

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

2/16/88 Mr. President:

DATE TURNED INTO OFFICE 4/7/88

Finance Committee considered SB 471

establishing a program in the Alaska Industrial Development and Export Authority to guarantee business loans and to refinance debt; efd

and recommended:

- [X] replace with CS SB 471 (Finance) [] same title [X] new title [] attached amendment(s) and [X] do pass [] do not pass [] no recommendation [] individual recommendations [] further referral to [] letter of intent adopted and attached

** Committee [X] attached or [] adopted fiscal note(s) [] zero [X] fiscal impact

MEMBERS SIGNING DO PASS

W. Hensley - Hensley Rick Uehling - Uehling Paul Fischer - Fischer

OTHER RECOMMENDATIONS

John Binkley - Binkley No REC

Rick Helford do pass Chairman signature and recommendation

[] Committee Backup Attached

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Act establishing a program to guarantee business loans
Sponsor: _____
Requestor: Senate Finance Committee

Agency Affected: Dept. of Commerce BRU: & Economic Development
Components: Alaska Industrial Development Authority

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	25 million	0	0	0	0	0
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	25 million	0	0	0	0	0
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The operating cost will be absorbed by the existing authority budget. The \$25 million represents funds that would be appropriated from existing authority funds to the Business Assistance Fund.

Prepared by:  Phone: 274-1651
Division: Bert Wagon, Executive Director Date: 4-7-88
Alaska Industrial Development Authority

Approved by Commissioner: _____ Date: _____
Agency: J. Anthony Smith, Commissioner

Dept. of Commerce & Economic Development
Distribution (by preparer):

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

Original sponsors: Halford, Faiks,
Uehling, et al.

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 471 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a program in the Alaska Indus-
7 trial Development and Export Authority to guarantee
8 business loans; and providing for an effective date."

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

10 * Section 1. AS 44.88 is amended by adding new sections to read:

11 ARTICLE 6A. BUSINESS ASSISTANCE PROGRAM.

12 Sec. 44.88.500. BUSINESS ASSISTANCE FUND. (a) The business
13 assistance fund is established in the authority from money in the
14 authority's reserves designated by the authority for the purpose.
15 Subject to the requirements of AS 44.88.500 - 44.88.599, the authority
16 may use money in the fund

17 (1) to guarantee new loans; and

18 (2) to guarantee loans made to refinance existing loans.

19 (b) The holder of a debt instrument for a loan guaranteed by the
20 authority does not have recourse to the assets of the authority beyond
21 those designated by the authority from its reserves for the purpose.

22 Sec. 44.88.505. QUALIFICATIONS OF APPLICANT FOR NEW LOAN GUARAN-
23 TEE. (a) A business enterprise may apply for a new loan guarantee
24 under AS 44.88.500(a)(1).

25 (b) The authority may establish additional applicant qualifica-
26 tions by regulation. These qualifications may vary depending upon the
27 type of business the applicant is engaged in.

28 Sec. 44.88.510. APPLICATION FOR NEW LOAN GUARANTEE. An appli-
29 cant for a new loan guarantee shall provide information that the

1 authority may require by regulation. The authority may require sub-
2 mission of an economic benefit analysis prepared by a person accept-
3 able to the authority.

4 Sec. 44.88.515. QUALIFICATIONS OF APPLICANT FOR DEBT REFINANCING
5 GUARANTEE. A business enterprise may apply under AS 44.88.500(a)(2)
6 to guarantee the refinancing of existing debt.

7 Sec. 44.88.520. APPLICATION FOR DEBT REFINANCING GUARANTEE. An
8 applicant for a debt refinancing guarantee shall provide the informa-
9 tion that the authority may require by regulation.

10 Sec. 44.88.525. CONDITIONS OF DEBT REFINANCING GUARANTEE. The
11 authority may not guarantee refinanced debt

12 (1) unless the refinancing

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

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

20 (C) creates additional economic opportunity or im-
21 proves the viability of the borrower rather than just reducing
22 the liability of the lender; or

23 (2) unless the refinancing is necessary to place a perma-
24 nent loan subsequent to an interim loan for financing construction of
25 the project.

26 Sec. 44.88.530. APPLICABILITY OF PROVISIONS. AS 44.88.535 -
27 44.88.560 apply to

28 (1) new loan guarantees under AS 44.88.500(a)(1); and

29 (2) debt refinancing guarantees under AS 44.88.500(a)(2).

1 Sec. 44.88.535. CONDITIONS OF LOAN GUARANTEE. (a) The author-
2 ity may guarantee a loan under AS 44.88.500 - 44.88.599 if the

3 (1) loan is commercially reasonable, contains amortization
4 provisions satisfactory to the authority, is secured by adequate
5 collateral, and the net cash flow from the borrower provides adequate
6 coverage for the debt service on the loan;

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

8 (3) loan is originated with and serviced by a state char-
9 tered or federally chartered financial institution;

10 (4) portion of the loan not guaranteed by the authority is
11 held by the originating financial institution or another financial
12 institution approved by the authority;

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

15 (6) loan guarantee provides a benefit to the borrower.

16 (b) The authority may provide a guarantee from the fund for up
17 to 75 percent of a loan that qualifies under AS 44.88.500 - 44.88.599.
18 The ratio of the guarantee to the outstanding principal of the loan
19 may not increase over the term of the loan.

20 (c) The authority may not guarantee the payment of interest on
21 the guaranteed portion of a loan.

22 Sec. 44.88.540. LIMITATIONS OF GUARANTEES FROM THE FUND. The
23 authority may not guarantee

24 (1) a total of more than \$50,000,000 of loans;

25 (2) more than \$25,000,000 of loans in which the amount of
26 the loan guarantee exceeds \$500,000.

27 Sec. 44.88.545. LIMITATIONS OF GUARANTEES WITH RESPECT TO BOR-
28 ROWERS. The authority may not guarantee

29 (1) a loan of more than \$1,000,000;

1 (2) loans to an individual borrower that cumulatively
2 exceed \$1,000,000 of indebtedness.

3 Sec. 44.88.550. INTEREST ON GUARANTEED LOAN. The maximum inter-
4 est rate on a loan guaranteed by the authority is

5 (1) for a loan guarantee that exceeds 65 percent of the
6 loan, one and one-half percentage points above the prime rate on the
7 day the loan guarantee is made; and

8 (2) for a loan guarantee that is equal to or less than 65
9 percent of the loan, two and three-quarters percentage points above
10 the prime rate on the day the loan guarantee is made.

11 Sec. 44.88.555. SERVICING OF GUARANTEED LOANS. (a) The finan-
12 cial institution that holds a loan guaranteed by the authority under
13 AS 44.88.500 - 44.88.599 shall

14 (1) service the loan;

15 (2) exercise diligence in collecting amounts due under the
16 loan; and

17 (3) comply with all requirements of the loan guarantee
18 agreement.

19 (b) Amounts received toward satisfaction of a default on a loan
20 guaranteed under AS 44.88.500 - 44.88.599 shall be allocated between
21 the lender and the fund according to the guaranteed percentage of the
22 loan until the principal balance has been repaid.

23 Sec. 44.88.560. POWERS OF THE AUTHORITY. The authority may

24 (1) adopt regulations to implement AS 44.88.500 - 44.88.-
25 599;

26 (2) establish terms and conditions for loan guarantees and
27 refinancing agreements subject to the requirements of AS 44.88.500 -
28 44.88.599;

29 (3) make and execute contracts and other instruments to

1 (2) loans to an individual borrower that cumulatively
2 exceed \$1,000,000 of indebtedness.

3 Sec. 44.88.550. INTEREST ON GUARANTEED LOAN. The maximum inter-
4 est rate on a loan guaranteed by the authority is

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6 loan, one and one-half percentage points above the prime rate on the
7 day the loan guarantee is made; and

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26 (2) establish terms and conditions for loan guarantees and
27 refinancing agreements subject to the requirements of AS 44.88.500 -
28 44.88.599;

29 (3) make and execute contracts and other instruments to

1 implement AS 44.88.500 - 44.88.599;

2 (4) charge one percent of the amount guaranteed as a one
3 time fee for the service it provides under AS 44.88.500 - 44.88.599;

4 (5) acquire real or personal property by purchase, trans-
5 fer, ~~or~~ foreclosure when the acquisition is necessary to protect an
6 interest in the fund; and

7 (6) exercise any other power necessary to implement AS 44.-
8 88.500 - 44.88.599.

9 Sec. 44.88.570. DISTRIBUTION OF LOANS. The authority shall
10 distribute guarantees of new loans and guarantees of loans made to
11 refinance existing loans under AS 44.88.500 - 44.88.599 to all regions
12 of the state in an equitable manner.

13 Sec. 44.88.599. DEFINITIONS. In AS 44.88.500 - 44.88.599

14 (1) "fund" means the business assistance fund established
15 under AS 44.88.500;

16 (2) "prime rate" means the lowest money center prime rate
17 of interest that is published in the Wall Street Journal.

18 * Sec. 2. PROCEDURES GOVERNING PROGRAM REVIEW. (a) AS 44.66.050 and
19 44.66.060 apply to AS 44.88.500 - 44.88.599 (Business Assistance Program of
20 the Alaska Industrial Development and Export Authority).

21 (b) The First Session of the Seventeenth Alaska State Legislature
22 shall conduct the legislative oversight proceedings required by (a) of this
23 section.

24 * Sec. 3. AS 44.88.500 - 44.88.599 are repealed July 1, 1991.

25 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).
26
27
28
29

4/7/88
Halford

Adopted by SFC
4/7/88

#1

AMENDMENT TO CSSB 471 (Fin)

Offered April 7, 1988
in the Senate Finance Committee

Page 5, Section 44.88.560, line 2: insert NEW Subsection

(4) charge ~~up to~~ 1% of the amount guaranteed as a one
time fee for the service it provides under AS 44.88.500-
44.88.599.

renumber the following accordingly

4/7/88

Adopted by SFC

#2

Amendment by Hensley

Page 5, line 2. Add new section.

Sec. 44.88.595 DISTRIBUTION OF LOANS. Loan quarantees and debt refinancing made by the authority under AS 44.88.500-44.88.599 shall be distributed to all regions of the state in an equitable manner.

5-1796P
Chenoweth
4/7/88

*Adopted by SFC
4/7/88*

Original sponsors: Halford, Faiks,
Uehling, et al.

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18 agreement.

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21 the lender and the fund according to the guaranteed percentage of the
22 loan until the principal balance has been repaid.

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25 599;

26 (2) establish terms and conditions for loan guarantees and
27 refinancing agreements subject to the requirements of AS 44.88.500 -
28 44.88.599;

29 (3) make and execute contracts and other instruments to

1 implement AS 44.88.500 - 44.88.599;

2 → Insert NEW Subsection (4) - Am #1

3 (K) acquire real or personal property by purchase, trans-
4 fer, or foreclosure when the acquisition is necessary to protect an
5 interest in the fund; and

6 (L) exercise any other power necessary to implement AS 44.-
7 88.500 - 44.88.599.

? 7 → Add NEW Section - Am #2

8 Sec. 44.88.599. DEFINITIONS. In AS 44.88.500 - 44.88.599,

9 (1) "fund" means the business assistance fund established
10 under AS 44.88.500;

11 (2) "prime rate" means the lowest money center prime rate
12 of interest that is published in the Wall Street Journal.

13 * Sec. 2. PROCEDURES GOVERNING PROGRAM REVIEW. (a) AS 44.66.050 and
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15 the Alaska Industrial Development and Export Authority).

16 (b) The First Session of the Seventeenth Alaska State Legislature
17 shall conduct the legislative oversight proceedings required by (a) of this
18 section.

19 * Sec. 3. AS 44.88.500 - 44.88.599 are repealed July 1, 1991.

20 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).
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4/6/88

5-1796N
Chenoweth
4/5/88ad
sp

Original sponsors: Halford, Faiks,
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13 Sec. 44.88.500. BUSINESS ASSISTANCE FUND. The business assis-
14 tance fund is established in the authority from appropriations for the
15 purpose and from money in the authority's reserves. Subject to the
16 requirements of AS 44.88.500 - 44.88.599, the authority may use money
17 in the fund

18 (1) to guarantee loans, including loans made to refinance
19 existing loans, to businesses that qualify under AS 44.88.505 and
20 apply under AS 44.88.510; and

21 (2) to refinance the debt of businesses that qualify under
22 AS 44.88.545 and apply under AS 44.88.550.

23 Sec. 44.88.505. QUALIFICATIONS OF APPLICANT FOR LOAN GUARANTEE.
24 A business enterprise may apply for a loan guarantee under AS 44.88.-
25 500 - 44.88.599. The authority may establish additional applicant
26 qualifications by regulation and these qualifications may vary depend-
27 ing upon the type of business the applicant is engaged in.

28 Sec. 44.88.510. APPLICATION FOR LOAN GUARANTEE. An applicant
29 for a loan guarantee shall provide information that the authority may

1 require by regulation. The authority may require submission of an
2 economic benefit analysis prepared by a person acceptable to the
3 authority.

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5 ity may guarantee a loan under AS 44.88.500 - 44.88.599 if the

6 (1) loan is commercially reasonable, contains amortization
7 provisions satisfactory to the authority, is secured by adequate
8 collateral, and the net cash flow from the borrower provides adequate
9 coverage for the debt service on the loan;

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

11 (3) loan is originated with and serviced by a state char-
12 tered or federally chartered financial institution;

13 (4) portion of the loan not guaranteed by the authority is
14 held by the originating financial institution or another financial
15 institution approved by the authority;

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

18 (6) the loan guarantee provides a benefit to the borrower.

19 (b) The authority may provide a guarantee from the fund for up
20 to 90 percent of a loan that qualifies under AS 44.88.500 - 44.88.599.
21 The ratio of the guarantee to the outstanding principal of the loan
22 may not increase over the term of the loan.

23 (c) The authority may not guarantee the payment of interest on
24 the guaranteed portion of a loan.

25 Sec. 44.88.520. LIMITATIONS OF LOAN GUARANTEES FROM THE FUND.
26 The authority may not guarantee

27 (1) a total of more than \$50,000,000 of loans;

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29 the loan guarantee exceeds \$500,000.

1 Sec. 44.88.525. LIMITATIONS OF LOAN GUARANTEES WITH RESPECT TO
2 BORROWERS. The authority may not guarantee

3 (1) a loan of more than \$1,000,000;

4 (2) loans to an individual borrower that cumulatively
5 exceed \$1,000,000 of indebtedness.

6 Sec. 44.88.530. INTEREST ON GUARANTEED LOAN. The maximum inter-
7 est rate on a loan guaranteed by the authority is

8 (1) for a loan guarantee that exceeds 80 percent of the
9 loan, one and one-half percentage points above the prime rate on the
10 day the loan guarantee is made; and

11 (2) for a loan guarantee that is equal to or less than 80
12 percent of the loan, two and three-quarters percentage points above
13 the prime rate on the day the loan guarantee is made.

14 Sec. 44.88.535. DEFAULT OR FORECLOSURE OF A GUARANTEED LOAN.

15 (a) Payments received toward satisfaction of a default on a loan
16 guaranteed under AS 44.88.500 - 44.88.599 shall be allocated between
17 the lender and the fund according to the guaranteed percentage of the
18 loan until the principal balance has been repaid.

19 (b) The authority shall dispose of property acquired through
20 default or foreclosure of a loan guaranteed under AS 44.88.500 -
21 44.88.599. Disposal shall be in a manner that serves the best in-
22 terest of the state and may include the amortization of payments over
23 a period of years.

24 Sec. 44.88.540. RELATIONSHIP TO OTHER LOANS. Notwithstanding
25 other provisions of law, a business enterprise that qualifies under
26 AS 44.88.505 to apply for a loan guarantee under AS 44.88.500 - 44.-
27 88.599 shall apply for a loan guarantee before it may apply for a
28 direct loan of state money under any other state loan program. Only
29 after an application for the guarantee of a loan to be used for a

1 particular purpose is rejected under AS 44.88.500 - 44.88.599 may a
2 business enterprise apply for a direct state loan for that purpose.

3 Sec. 44.88.545. QUALIFICATIONS OF APPLICANT FOR DEBT REFINANC-
4 ING. A business enterprise may apply under AS 44.88.500 - 44.88.599
5 to refinance existing debt. The authority may approve a refinancing
6 of existing debt if the authority finds that

- 7 (1) the refinancing involves a viable project; and
8 (2) the refinancing will save existing jobs.

9 Sec. 44.88.550. APPLICATION FOR DEBT REFINANCING. An applicant
10 for refinancing of existing debt shall provide the information that
11 the authority may require by regulation.

12 Sec. 44.88.555. CONDITIONS OF DEBT REFINANCING. The authority
13 may not refinance debt unless the refinancing

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

18 (2) assists with short-term debt or cash expenditures when
19 lenders will not extend reasonable longer terms to the applicant; or

20 (3) is necessary to place a permanent loan subsequent to an
21 interim loan for financing construction of the project.

22 Sec. 44.88.560. DEFAULT OR FORECLOSURE OF A REFINANCED LOAN.

23 (a) The authority shall dispose of property acquired through default
24 or foreclosure of a loan refinanced under AS 44.88.500 - 44.88.599.
25 Disposal shall be in a manner that serves the best interest of the
26 state and may include the amortization of payments over a period of
27 years.

28 Sec. 44.88.565. POWERS OF THE AUTHORITY. The authority may

- 29 (1) designate agents and delegate powers necessary to

1 implement AS 44.88.500 - 44.88.599;

2 (2) adopt regulations to implement AS 44.88.500 - 44.88.-
3 599;

4 (3) establish terms and conditions for loan guarantees and
5 refinancing agreements subject to the requirements of AS 44.88.500 -
6 44.88.599;

7 (4) make and execute contracts and other instruments to
8 implement AS 44.88.500 - 44.88.599;

9 (5) acquire real or personal property by purchase, trans-
10 fer, or foreclosure when the acquisition is necessary to protect an
11 interest in the fund; and

12 (6) exercise any other power necessary to implement AS 44.-
13 88.500 - 44.88.599.

14 Sec. 44.88.570. SPECIAL ACCOUNT ESTABLISHED. (a) There is
15 established as a special account within the fund the foreclosure
16 expense account.

17 (b) The authority may expend money credited to the foreclosure
18 expense account when necessary to protect the state's security inter-
19 est in collateral on loans guaranteed or refinanced under AS 44.88.-
20 500 - 44.88.599 or to defray expenses incurred during a foreclosure
21 proceeding after a default.

22 Sec. 44.88.599. DEFINITIONS. In AS 44.88.500 - 44.88.599,

23 (1) "fund" means the business assistance fund established
24 under AS 44.88.500;

25 (2) "prime rate" means the lowest money center prime rate
26 of interest that is published in the Wall Street Journal.

27 * Sec. 2. PROCEDURES GOVERNING PROGRAM REVIEW. (a) AS 44.66.050 and
28 44.66.060 apply to AS 44.88.500 - 44.88.599 (Business Assistance Program of
29 the Alaska Industrial Development and Export Authority).

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(b) The First Session of the Seventeenth Alaska State Legislature shall conduct the legislative oversight proceedings required by (a) of this section.

* Sec. 3. AS 44.88.500 - 44.88.599 are repealed July 1, 1991.

* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 1, 1988

SUBJECT: Draft CSSB 471 (Finance), sectional analysis
TO: Senator Rick Halford, Co-Chair
Senate Finance Committee
FROM: Jack Chenoweth
Legislative Counsel

Senate Bill 471 and this draft Senate Finance Committee Substitute add to the responsibilities of the Alaska Industrial Development and Export Authority a proposed "business assistance program." The program would permit the Authority to become involved with business loan guarantees and with refinancing of existing business debt. The expenses of both the loan guarantees and the refinancing would be met from a proposed "business assistance fund" in the Authority, to which the legislature would be asked or expected to make appropriations. The bill grants the Alaska Industrial Development and Export Authority general powers to implement both facets of the proposed business assistance program, sets conditions and limitations on the Authority's responsibility to manage each, and specifies a termination date for the program.

Business assistance program and fund (AS 44.88.500):

The source of financial assistance for the Authority's business assistance program is a business assistance fund (AS 44.88.500). The Authority may use money in the fund to re-finance existing loans and to guarantee loans.

Loan guarantees (AS 44.88.505 - 44.88.540):

Under proposed AS 44.88.505, the applicant for a loan guarantee must be a "business enterprise," a term that is defined in AS 44.88.220. The applicant must also meet qualifications set by the Authority by regulation.

AS 44.88.510 specifies that an applicant for a loan guarantee must submit the information that the Authority may

require by regulation. The Authority may, but need not necessarily, require submission of an economic benefit analysis.

AS 44.88.515 sets out loan guarantee conditions. The Authority may guarantee a loan that meets the specific requirements and conditions of that section, with a guarantee limited to 90 percent of a qualifying loan, with a guarantee of not more than \$1 million per loan. The Authority is precluded from guaranteeing interest payments on the guaranteed portion of the loan.

AS 44.88.520 and 44.88.525 establish dollar limitations on loan guarantees. Those limitations preclude, under AS 44.88.520, guarantee of more than \$50,000,000 in loans in the aggregate, and more than \$25,000,000 of loans in which the amount of the individual loan guarantees exceed \$500,000. Those limitations also preclude a guarantee of a loan more than \$1,000,000 and of loans that total more than \$1,000,000 by an individual borrower under one or more loans in which that borrower has an interest.

Under AS 44.88.530, the bill sets maximum interest rates on a loan guaranteed by the Authority expressed in terms of the relationship to the then-payable prime rate. Standard provisions are included in AS 44.88.535 to cover default and foreclosure on a guaranteed loan. Finally, by operation of AS 44.88.540, the bill would tend to make the Authority's business assistance fund a paramount source of state support for business borrowing in priority position to loans from other state sources in that it conditions further direct state loans to a qualifying business from other state sources on application for an Authority loan guarantee enterprise and rejection of the loan guarantee application.

Debt refinancing (AS 44.88.545 - 44.88.560):

The qualifications of an applicant for debt refinancing track those established for an applicant for a loan guarantee. Under AS 44.88.545, the applicant must be a "business enterprise." Refinancing is limited to debt associated with a viable project for which the refinancing may be shown to save existing jobs.

As with the loan guarantee provisions, under AS 44.88.550, the Authority may set specific requirements for information to be submitted in support of refinancing of debt.

AS 44.88.555 spells out three specific conditions under which the Authority may refinance debt, any one of which must be met. Refinancing is not permitted without evidence that refinancing is reasonably necessary to improve the applicant's position, when assistance from other sources under extended or longer terms is not reasonable, or when necessary to assist in placing a permanent loan at the end of an interim loan that financed construction of the project.

Standard provisions are included in AS 44.88.560 to cover default and foreclosure on the debt instruments for a debt that is refinanced under this program.

General provisions (AS 44.88.565 - 44.88.599):

AS 44.88.565 grants general authority to the Alaska Industrial Development and Export Authority to "exercise any power necessary to implement" the business assistance program; the Authority may establish additional procedures and requirements relevant to debt refinancing.

As has been common in recent similar legislation, AS 44.88.-570 establishes a special account to aid in foreclosure proceedings.

The last section, AS 44.88.599, defines key terms used in the legislation.

*

Bill sections 2 and 3 are concerned with termination of the Authority's business assistance program. While the program is to terminate in about three years (July 1, 1991), that termination contemplates a "sunset-like" review of the program by the First Session of the 17th Legislature, convening in January 1991, as an evaluation of the programs effectiveness prior to its termination. Under the state's sunset procedures, program termination is posited, but may be avoided by an affirmative legislation enactment.

Bill section 4 gives the legislation an immediate effective date.

Attachment

JBC:bb
b4/090

Original sponsors: Halford, Faiks,
Uehling, et al.

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 471 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a program in the Alaska Indus-
7 trial Development and Export Authority to guarantee
8 business loans and to refinance debt; and providing
9 for an effective date."

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

11 * Section 1. AS 44.88 is amended by adding new sections to read:

12 ARTICLE 6A. BUSINESS ASSISTANCE PROGRAM.

13 Sec. 44.88.500. BUSINESS ASSISTANCE FUND. The business assis-
14 tance fund is established in the authority from appropriations for the
15 purpose. Subject to the requirements of AS 44.88.500 - 44.88.599, the
16 authority may use money in the fund

17 (1) to guarantee loans, including loans made to refinance
18 existing loans, to businesses that qualify under AS 44.88.505 and
19 apply under AS 44.88.510; and

20 (2) to refinance the debt of businesses that qualify under
21 AS 44.88.545 and apply under AS 44.88.550.

22 Sec. 44.88.505. QUALIFICATIONS OF APPLICANT FOR LOAN GUARANTEE.
23 A business enterprise may apply for a loan guarantee under AS 44.88.-
24 500 - 44.88.599. The authority may establish additional applicant
25 qualifications by regulation and these qualifications may vary depend-
26 ing upon the type of business the applicant is engaged in.

27 Sec. 44.88.510. APPLICATION FOR LOAN GUARANTEE. An applicant
28 for a loan guarantee shall provide information that the authority may
29 require by regulation. The authority may require submission of an

1 economic benefit analysis prepared by a person acceptable to the
2 authority.

3 Sec. 44.88.515. CONDITIONS OF LOAN GUARANTEES. (a) The author-
4 ity may guarantee a loan under AS 44.88.500 - 44.88.599 if the

5 (1) loan is commercially reasonable, contains amortization
6 provisions satisfactory to the authority, is secured by adequate
7 collateral, and the net cash flow from the borrower provides adequate
8 coverage for the debt service on the loan;

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

10 (3) loan is originated with and serviced by a state char-
11 tered or federally chartered financial institution;

12 (4) portion of the loan not guaranteed by the authority is
13 held by the originating financial institution or another financial
14 institution approved by the authority;

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

17 (6) the loan guarantee provides a benefit to the borrower.

18 (b) The authority may provide a guarantee from the fund for up
19 to 90 percent of a loan that qualifies under AS 44.88.500 - 44.88.599.
20 The ratio of the guarantee to the outstanding principal of the loan
21 may not increase over the term of the loan.

22 (c) The authority may not guarantee the payment of interest on
23 the guaranteed portion of a loan.

24 Sec. 44.88.520. LIMITATIONS OF LOAN GUARANTEES FROM THE FUND.
25 The authority may not guarantee

26 (1) a total of more than \$50,000,000 of loans;

27 (2) more than \$25,000,000 of loans in which the amount of
28 the loan guarantee exceeds \$500,000.

29 Sec. 44.88.525. LIMITATIONS OF LOAN GUARANTEES WITH RESPECT TO

1 BORROWERS. The authority may not guarantee

2 (1) a loan of more than \$1,000,000;

3 (2) loans to an individual borrower that cumulatively
4 exceed \$1,000,000 of indebtedness.

5 Sec. 44.88.530. INTEREST ON GUARANTEED LOAN. The maximum inter-
6 est rate on a loan guaranteed by the authority is

7 (1) for a loan guarantee that exceeds 80 percent of the
8 loan, one and one-half percentage points above the prime rate on the
9 day the loan guarantee is made; and

10 (2) for a loan guarantee that is equal to or less than 80
11 percent of the loan, two and three-quarters percentage points above
12 the prime rate on the day the loan guarantee is made.

13 Sec. 44.88.535. DEFAULT OR FORECLOSURE OF A GUARANTEED LOAN.

14 (a) Payments received toward satisfaction of a default on a loan
15 guaranteed under AS 44.88.500 - 44.88.599 shall be allocated between
16 the lender and the fund according to the guaranteed percentage of the
17 loan until the principal balance has been repaid.

18 (b) The authority shall dispose of property acquired through
19 default or foreclosure of a loan guaranteed under AS 44.88.500 -
20 44.88.599. Disposal shall be in a manner that serves the best in-
21 terest of the state and may include the amortization of payments over
22 a period of years.

23 Sec. 44.88.540. RELATIONSHIP TO OTHER LOANS. Notwithstanding
24 other provisions of law, a business enterprise that qualifies under
25 AS 44.88.505 to apply for a loan guarantee under AS 44.88.500 - 44.-
26 88.599 shall apply for a loan guarantee before it may apply for a
27 direct loan of state money under any other state loan program. Only
28 after an application for the guarantee of a loan to be used for a
29 particular purpose is rejected under AS 44.88.500 - 44.88.599 may a

1 business enterprise apply for a direct state loan for that purpose.

2 Sec. 44.88.545. QUALIFICATIONS OF APPLICANT FOR DEBT REFINANC-
3 ING. A business enterprise may apply under AS 44.88.500 - 44.88.599
4 to refinance existing debt. The authority may approve a refinancing
5 of existing debt if the authority finds that

6 (1) the refinancing involves a viable project; and

7 (2) the refinancing will save existing jobs.

8 Sec. 44.88.550. APPLICATION FOR DEBT REFINANCING. An applicant
9 for refinancing of existing debt shall provide the information that
10 the authority may require by regulation.

11 Sec. 44.88.555. CONDITIONS OF DEBT REFINANCING. The authority
12 may not refinance debt unless the refinancing

13 (1) is necessary to extend substantial debt payments over a
14 longer period of time, thereby improving the applicant's net cash flow
15 and working capital position consistent with the useful life of the
16 assets being refinanced;

17 (2) assists with short-term debt or cash expenditures when
18 lenders will not extend reasonable longer terms to the applicant; or

19 (3) is necessary to place a permanent loan subsequent to an
20 interim loan for financing construction of the project.

21 Sec. 44.88.560. DEFAULT OR FORECLOSURE OF A REFINANCED LOAN.

22 (a) The authority shall dispose of property acquired through default
23 or foreclosure of a loan refinanced under AS 44.88.500 - 44.88.599.
24 Disposal shall be in a manner that serves the best interest of the
25 state and may include the amortization of payments over a period of
26 years.

27 Sec. 44.88.565. POWERS OF THE AUTHORITY. The authority may

28 (1) designate agents and delegate powers necessary to
29 implement AS 44.88.500 - 44.88.599;

1 (2) adopt regulations to implement AS 44.88.500 - 44.88.-
2 599;

3 (3) establish terms and conditions for loan guarantees and
4 refinancing agreements subject to the requirements of AS 44.88.500 -
5 44.88.599;

6 (4) make and execute contracts and other instruments to
7 implement AS 44.88.500 - 44.88.599;

8 (5) acquire real or personal property by purchase, trans-
9 fer, or foreclosure when the acquisition is necessary to protect an
10 interest in the fund; and

11 (6) exercise any other power necessary to implement AS 44.-
12 88.500 - 44.88.599.

13 Sec. 44.88.570. SPECIAL ACCOUNT ESTABLISHED. (a) There is
14 established as a special account within the fund the foreclosure
15 expense account.

16 (b) The authority may expend money credited to the foreclosure
17 expense account when necessary to protect the state's security inter-
18 est in collateral on loans guaranteed or refinanced under AS 44.88.-
19 500 - 44.88.599 or to defray expenses incurred during a foreclosure
20 proceeding after a default.

21 Sec. 44.88.599. DEFINITIONS. In AS 44.88.500 - 44.88.599,

22 (1) "fund" means the business assistance fund established
23 under AS 44.88.500;

24 (2) "prime rate" means the lowest money center prime rate
25 of interest that is published in the Wall Street Journal.

26 * Sec. 2. PROCEDURES GOVERNING PROGRAM REVIEW. (a) AS 44.66.050 and
27 44.66.060 apply to AS 44.88.500 - 44.88.599 (Business Assistance Program of
28 the Alaska Industrial Development and Export Authority).

29 (b) The First Session of the Seventeenth Alaska State Legislature

1 shall conduct the legislative oversight proceedings required by (a) of this
2 section.

3 * Sec. 3. AS 44.88.500 - 44.88.599 are repealed July 1, 1991.

4 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).
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STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: SB 471
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Econ. Dev.
Title: An Act to guarantee business BRU: AIDEA
loans and refinance debt
Sponsor: Halford, Faiks, Uehling, et al. Components: N/A
Requester: _____

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL		SEE ANALYSIS				
---------	--	--------------	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of dollars) SEE ANALYSIS

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

SEE ATTACHED PAGE

Prepared by: Bertram U. Wadion, Executive Director Phone: 274-1651
Division: AK Industrial Dev. and Export Authority (AIDEA) Date: _____

Approved by Commissioner: J. Anthony Smith Date: 2/29/88
Agency: Department of Commerce and Economic Development

Distribution (by preparer):

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

FISCAL NOTE CONTINUATION

ANALYSIS:

Should SB 471 become law, the Authority would be able to implement the legislation within its existing operational budget. It is anticipated that one loan officer and one clerical position would be required and the Authority currently has vacant positions that could be filled for this purpose. The balance of the operational costs could be absorbed within the existing structure of the Authority.

On the capital side, the amount of loans that can be granted will be directly proportional to the assets available to honor the guarantee. Page 1, Line 14 of SB 471, speaks to appropriations for the program. While experience will ultimately decide how much leverage one can utilize at the outset, anything greater than 4:1 would be optimistic.



OFFICIAL BUSINESS

Alaska State Legislature

Senate

RECEIVED MAR 18 1988

POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

SENATE JOINT COMMITTEE ON ECONOMIC RECOVERY

TO: Senator Jan Faiks
Senate President

FROM: Senator Arliss Sturgulewski, Co-Chairman
Senator Lloyd Jones, Co-Chairman
Senate Joint Committee on Economic Recovery

RE: SB 471

DATE: March 17, 1988

During the meeting of the Senate Joint Committee on Economic Recovery on March 16, 1988, the Committee unanimously endorsed the concepts contained in SB 471 - "An Act establishing a program in the Alaska Industrial Development and Export Authority to guarantee loans and to refinance debt..." and recommends that it proceed through the standing committee hearing process.

cc: Max Gruenberg, Chairman
House Joint Committee on Economic Recovery

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

4/6/88
SFC discussed
4/5/88 CD Draft

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

MEMORANDUM

April 5, 1988

SUBJECT: Draft CSSB 471 (Finance), sectional analysis

TO: Senator Rick Halford, Co-Chair
Senate Finance Committee

FROM: Jack Chenoweth
Legislative Counsel

Senate Bill 471 and this draft Senate Finance Committee Substitute add to the responsibilities of the Alaska Industrial Development and Export Authority a proposed "business assistance program." The program would permit the Authority to become involved with business loan guarantees and with refinancing of existing business debt. The expenses of both the loan guarantees and the refinancing would be met from a proposed "business assistance fund" in the Authority. Money in the fund would come from appropriations made by the legislature or from the Authority's own reserves. The bill grants the Alaska Industrial Development and Export Authority general powers to implement both facets of the proposed business assistance program, sets conditions and limitations on the Authority's responsibility to manage each, and specifies a termination date for the program.

Business assistance program and fund (AS 44.88.500):

The source of financial assistance for the Authority's business assistance program is a business assistance fund (AS 44.88.500). The Authority may use money in the fund to re-finance existing loans and to guarantee loans.

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Senator Rick Halford
Page 3
April 5, 1988

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General provisions (AS 44.88.565 - 44.88.599):

AS 44.88.565 grants general authority to the Alaska Industrial Development and Export Authority to "exercise any power necessary to implement" the business assistance program; the Authority may establish additional procedures and requirements relevant to debt refinancing.

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The last section, AS 44.88.599, defines key terms used in the legislation.

*

Bill sections 2 and 3 are concerned with termination of the Authority's business assistance program. While the program is to terminate in about three years (July 1, 1991), that termination contemplates a "sunset-like" review of the program by the First Session of the 17th Legislature, convening in January 1991, as an evaluation of the programs effectiveness prior to its termination. Under the state's sunset procedures, program termination is posited, but may be avoided by an affirmative legislation enactment.

Bill section 4 gives the legislation an immediate effective date.

Attachment

JBC:bb
b4/095

ALASKA INDUSTRIAL DEVELOPMENT & EXPORT AUTHORITY
ENTERPRISE DEVELOPMENT FUND

Balance Sheets

June 30, 1987 and 1986

<u>Assets</u>	<u>1987</u>	<u>1986</u>
Cash	\$ 11,685	\$ 4,123
Investments, partially restricted (note 3)	278,329,162	204,458,429
Loans (note 4)	329,070,910	372,833,597
Less allowance for possible loan loss	10,173,101	4,247,360
Net loans	<u>318,897,809</u>	<u>368,586,237</u>
Accrued interest receivable	6,404,839	7,258,811
Unamortized bond issue costs	2,716,359	2,864,036
Other real estate owned	8,797,589	2,977,186
Other	<u>473,883</u>	<u>432,239</u>
	<u>\$615,631,326</u>	<u>\$586,581,061</u>
<u>Liabilities and Equity</u>		
Notes and bonds payable (note 6)	\$252,720,225	\$245,256,775
Accrued interest payable	6,283,633	6,135,818
Deposits from others	997,292	1,003,400
Other	204,331	235,960
	<u>260,205,481</u>	<u>252,631,953</u>
Equity:		
Contributed capital (note 1)	197,800,632	189,800,632
Retained earnings	157,625,213	144,148,470
Total equity	<u>355,425,845</u>	<u>333,949,102</u>
	<u>\$615,631,326</u>	<u>\$586,581,061</u>

Commitments (note 12)

See accompanying notes to financial statements.

ALASKA INDUSTRIAL DEVELOPMENT & EXPORT AUTHORITY
ENTERPRISE DEVELOPMENT FUND

Statements of Earnings and Retained Earnings

Years ended June 30, 1987 and 1986

	<u>1987</u>	<u>1986</u>
Revenues:		
Interest, net of servicing fees	\$ 47,880,777	\$ 53,832,444
Fees (note 7)	142,132	1,086,371
Miscellaneous	336,316	40,995
Total revenues	<u>48,359,225</u>	<u>54,959,810</u>
Expenses:		
Interest	25,712,539	24,208,747
Salaries and employee benefits	733,567	818,570
Professional fees	96,205	119,809
Travel	14,497	19,454
Rent	105,808	93,699
Furniture and equipment	28,576	62,267
Amortized bond issue costs	137,807	135,396
Provision for loan loss	6,450,000	323,515
Write-downs and loss on sale of assets	1,223,369	31,727
Other	380,114	271,425
Total expenses	<u>34,882,482</u>	<u>26,084,609</u>
Net earnings	13,476,743	28,875,201
Retained earnings at beginning of year	<u>144,148,470</u>	<u>115,273,269</u>
Retained earnings at end of year	<u>\$157,625,213</u>	<u>\$144,148,470</u>

See accompanying notes to financial statements.

ALASKA INDUSTRIAL DEVELOPMENT & EXPORT AUTHORITY
ENTERPRISE DEVELOPMENT FUND

Notes to Financial Statements

Allowance for Loan Loss

Management regularly reviews the loan portfolio and determines provision for loss based upon experience and management's estimate of potential loss.

Other Real Estate Owned

Other real estate owned represents property acquired through foreclosure on loans or a deed received in lieu of foreclosure. It is carried at the lower of the unpaid loan balance at the time of foreclosure or the estimated fair market value of the property. When the balance of the Authority's investment in the loan is greater than the fair market value of the property, the difference is charged to the allowance for loan losses.

Retirement Plan

All employees of the Authority participated in the State of Alaska Public Employees' Retirement System. The State's policy is to fund pension costs accrued.

Bond Issue Costs

When advanced by the Authority, costs of bond issues, including underwriters' fees and commissions, legal fees, bond insurance and printing, are amortized over the life of the bond issue on the straight-line method and are recovered from the borrowers primarily as a part of the interest rate charged. Current practice is to require borrowers to pay for bond costs at the time of funding.

Furniture and Equipment

Purchases of furniture and equipment are expensed, as such items are the property of the State of Alaska.

(3) Investments

At June 30, 1987, investments were in certificates of deposit, United States Government securities or commercial paper, yielding interest at 4.8% to 13.0% and maturing generally within one year, except \$5,479,261 in United States Treasury Notes maturing in subsequent years through 1992 for restricted purposes and \$6,305,000 in Seward C.O.P.'s maturing serially to 2000.

At June 30, 1986, all investments were in certificates of deposit, United States Government securities or commercial paper, yielding interest at 6.4% to 13.0% and maturing within one year, except United States Treasury Notes of which \$997,930 mature in 1987 and \$5,189,683 mature in subsequent years through 1992.

Certain invested funds are restricted by the terms of the Authority's bond resolutions and are held and invested by the trustees. A summary of these investments follows:

(Continued)

ALASKA INDUSTRIAL DEVELOPMENT & EXPORT AUTHORITY
ENTERPRISE DEVELOPMENT FUND

Notes to Financial Statements

Investment Summary

<u>Name</u>	<u>Restriction</u>	June 30	
		<u>1987</u>	<u>1986</u>
Loan participation funds	Committed loans not closed at June 30	\$ -0-	\$ 550,000
Capital reserve funds	Secure debt service payment - bonds	26,468,794	25,562,325
Debt service funds	Loan repayments and funds held for debt service - bonds	<u>28,815,638</u>	<u>21,437,070</u>
		<u>\$55,284,432</u>	<u>\$47,549,395</u>

The Capital Reserve Funds are maintained for the purpose of making principal and interest payments on the bonds payable if monies received by the Authority and available for the payment of bond principal and interest are insufficient to make the required debt service payments. The amounts held in the capital reserve funds are equal to the average of the amounts required to be paid for principal and interest in each future fiscal year until maturity of the outstanding bonds. On the first day of January, April, July and October of each year, the Authority must replenish the capital reserve funds to the required amounts or may withdraw any excess amounts.

(4) Loans

Loans outstanding at June 30, 1987 and 1986 are classified as follows:

<u>Loan Type</u>	<u>1987</u>		<u>1986</u>	
	<u>Number</u>	<u>Amount</u>	<u>Number</u>	<u>Amount</u>
Appropriated & purchased	549	\$ 75,353,222	626	\$ 89,319,047
Federally guaranteed	63	11,278,600	174	34,097,213
Bond sale	<u>396</u>	<u>242,439,088</u>	<u>423</u>	<u>249,417,337</u>
	<u>1,008</u>	<u>\$329,070,910</u>	<u>1,223</u>	<u>\$372,833,597</u>

An aging of loans as of June 30, 1987 and 1986 follows:

(Continued)



National Bank of Alaska

Corporate Headquarters: P.O. Box 100600 • Anchorage, Alaska 99510-0600 • (907) 878-1132

March 8, 1988

Senator Lloyd Jones, Co-Chair
Alaska State Legislature
Senate Joint Economic Recovery Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Jones:

It was an honor to be invited to Juneau to speak on economic issues and on Senate bill 471. We believe this bill is in the best interest of the people of Alaska and an important tool for creating new jobs and saving existing ones. The major points of my testimony were as follows:

1. A guarantee program will offer confidence to a shaken state banking system and encourage banks to actively participate in the lending process.
2. A guarantee program will share risk in lending which could encourage surviving banks to deal with borrowers whose credits are currently hung up in FDIC loan portfolios. Without sharing of risk, banks may be reluctant to solicit these credits.
3. A loan guarantee program will encourage local banks to put existing capital to work within Alaska without further risk to the state banking system; otherwise, these resources may otherwise be utilized in government securities or loans outside the state.
4. AIDEA has been primarily a conduit to the national bonding markets. Issuances of bonds by AIDEA and Alaska Housing on an uncontrolled basis may ultimately affect the State's credit rating as they carry the moral obligation of the State. Utilizing non-bonding sources of funds which are readily available within the state will have no effect in the long run on the State's bonding capacity.
5. A guaranteed loan program should decrease the cost of money to the consumers. AIDEA has issued commitments at extremely high rates with commitment fees of 4% of the loan which is no bargain. (AIDEA has lowered their rates in the past week as a result of this criticism.) We believe that interest rates and fees to the consumer will decrease with such a program; however, with the bonding program remaining in place, if it is more advantageous for a consumer to utilize the bond approach, they would still have the opportunity.

Senator Lloyd Jones, Co-Chair
March 8, 1988
Page Two

6. A guarantee program would reduce the loss exposure to AIDEA. Under a bond program if AIDEA takes a loss on a loan, they take a double loss: an initial loss after the liquidation of assets and a subsequent loss on the bonds. That is, AIDEA locked itself into long-term bonds, in many cases at high interest, which they have to continue making payments on even if a customer stops making payments.
7. We believe the banks under a guaranteed program will be able to work with the consumers on a more flexible and competitive manner. Under such a program the banks in the state can compete on rates, fees, and flexibility in terms. Under AIDEA's bond program the rates, fees, and terms are generally as quoted by AIDEA. If a consumer has problems due to a change in the economy, AIDEA has tended to be inflexible in their dealing with the public.
8. A guaranteed loan program will add liquidity to the state's banking system. This would be an advantage to little banks as well as large banks. Banks could hold the loan in their own portfolio or sell the loan to other participating financial institutions. They could use the guarantee as security for deposits of municipalities and State agencies and other large depositors. Such a program should overall increase the health of the financial system within the state.
9. Perhaps the most important feature is that we believe such a guarantee program will encourage lenders to participate in new projects in basic industries in Alaska which will create new jobs as well as save existing jobs in the state.
10. The refinance part of the bill provides a tool for the state's businesses to restructure debt at lower interest rates. This may enable many businesses to survive. Nationwide the trend of interest rates from 1981 has been down. It is very difficult to attract long-term capital from lenders into Alaska; therefore, Alaskans are often stuck at higher interest rates.

Senator Lloyd Jones, Co-Chair
March 8, 1988
Page Three

We all know what effect the reduction in jobs has had in the Railbelt in recent years; however, this phenomenon has not been centrally located to one region in the state, but economic recessions have been a fact of life in Southeast Alaska and other rural communities in past times as well.

There are other important issues in the state, but we feel this one piece of legislation would be one small part to be used in a recovery from our overall economic situation. If there are any comments I can provide in the future, please feel free to call me at 265-2991.

Sincerely yours,



J. K. Sieberts
Senior Vice President

gs

cc: Jan Faiks
Rick Halford
Jack Coghill
Dick Eliason
Fred Zharoff
Joe Josephson

REC'D OFFICE MEMO

NATIONAL
Bank of Alaska

To Bob Gray Date April 7, 1988 Time _____
From Jan Sieberts

Subject: Testimony to Senate Finance Committee on Senate Bill 471

I am Jan Sieberts, Senior Vice President at National Bank of Alaska in charge of commercial real estate lending statewide. I am also in charge of administration of some of our rural branches and handle municipal financing matters. I am here to talk about the proposed Senate Bill 471.

In dealing with the proposed legislation I believe that it is important to understand the purpose and recent history of AIDEA. AIDEA's enabling legislation states that "it is declared to be the policy of the state in the interest of promoting health, security and general welfare of all people in the state and a public purpose to increase job opportunity and otherwise to encourage the economic growth of the state, including the development of its natural resources through the establishment and expansion of manufacturing of industrial, export, small business and business enterprises and the other facilities referred to in this section."

Due to the advantageous provisions of the IRS tax code pertaining to industrial financing, AIDEA used its bonding capacity from 1980 through 1986. In the early years when market rates were around 23%, AIDEA issued commitments at 12% and a 1% fee. More recently when market rates are around 10 1/2%, AIDEA commitments are around 11% and a 4% fee. On a pure industrial project AIDEA is offering interest of around 9 3/4% and a 4% fee, but this is not any better than I have seen for conventional financing by major insurance companies on projects. Additionally, when dealing with New York bond underwriters a certain amount of inflexibility enters into a loan program.

Times have changed; the Alaska banking community feels it can offer a better product to the business community than is now being offered by AIDEA through a guarantee loan program with less risks to AIDEA and the State than is now in place. This is not out of line with AIDEA's underlying legislation or concept. Section 44.88.080, paragraph 12, states that it has the power to "purchase or insure loans to finance the costs of manufacturing industrial and business enterprise projects".

The banks unanimously feel that such a program will benefit the state. AIDEA largely became a real estate lending institution, probably because of the makeup of the staff. The expertise of the surviving banking community could help the basic business needs of the state.

INTER OFFICE MEMO

Bank of Alaska

To Bob Gray Date April 7, 1988 Time _____

From Jan Sieberts

Subject: Testimony to Senate Finance Committee on Senate Bill 471 - Page Two

In the past much of our long-term capital has been attracted from out of state. Alaska Labor Union Pension Fund ceased lending money in Alaska in the late 1970s and early 1980s due to their out-of-state investment managers' concern about ERISA. State pension funds will become unavailable due to high commitment rates and delinquency regulations that disqualify most participants.

Non-Railbelt legislatures who do not feel they will be affected by economic problems of other areas in the state, please take note. Over half of \$353MM in foreclosed residential real estate in Anchorage is held by out-of-state lenders. We are the pariah of the financial world. It will be some time before most of those lenders lend anywhere in Alaska if they do not have to.

We have most of the capital in Alaska today to get the job done. Give us the same guarantees you have given the bond market and we will do a better job for the consumer in the state than is already being provided by the bond market through AIDEA. I would like to read a letter which I recently sent to Senator Sturgulewski and Lloyd Jones on the subject (letter attached).

Specific questions on this proposal were provided by Mr. Binkley who was interested in determining how much money NBA had to lend. Senator Fischer wanted to know my opinion on banks dumping their bad loans on AIDEA. Also testifying to the committee were Bert Wagon and Tony Smith, Commissioner of Commerce.

cc: Dick Hall
Wes Coyner

Attachment



National Bank of Alaska

Corporate Headquarters P.O. Box 100500 • Anchorage, Alaska 99510-0600 • (907) 276-1132

March 8, 1988

Senator Lloyd Jones, Co-Chair
Alaska State Legislature
Senate Joint Economic Recovery Committee
P.O. Box V
Juneau, AK 99811

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March 8, 1988
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Senator Lloyd Jones, Co-Chair
March 8, 1988
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There are other important issues in the state, but we feel this one piece of legislation would be one small part to be used in a recovery from our overall economic situation. If there are any comments I can provide in the future, please feel free to call me at 265-2991.

Sincerely yours,


J. K. Sieberts
Senior Vice President

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Joe Josephson

BY HALFORD, FAIKS, UEHLING,
JOSEPHSON, STURGULEWSKI AND
ABOOD

1 IN THE SENATE

2 SENATE BILL NO. 471

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a program in the Alaska Indus-
7 trial Development and Export Authority to guarantee
8 business loans and to refinance debt; and providing
9 for an effective date."

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

11 * Section 1. AS 44.88 is amended by adding new sections to read:

12 ARTICLE 6A. BUSINESS ASSISTANCE PROGRAM.

13 Sec. 44.88.500. BUSINESS ASSISTANCE FUND. The business assis-
14 tance fund is established in the authority from appropriations for the
15 purpose. Subject to the requirements of AS 44.88.500 - 44.88.599, the
16 authority may use money in the fund

17 (1) to guarantee loans to businesses that qualify under
18 AS 44.88.510(a) and apply under AS 44.88.520(a); and

19 (2) to refinance the debt of businesses that qualify under
20 AS 44.88.510(b) and apply under AS 44.88.520(b).

21 Sec. 44.88.510. APPLICANT QUALIFICATIONS. (a) A business
22 enterprise may apply for a loan guarantee under AS 44.88.500 - 44.88.-
23 599. The authority may establish additional applicant qualifications
24 by regulation and these qualifications may vary depending upon the
25 type of business the applicant is engaged in.

26 (b) A business enterprise may apply under AS 44.88.500 -
27 44.88.599 to refinance existing debt. The authority may approve a
28 refinancing of existing debt if the authority finds that

29 (1) the refinancing involves a viable project; and

1 (2) the refinancing will save existing jobs.

2 Sec. 44.88.520. APPLICATION. (a) An applicant for a loan
3 guarantee shall provide an economic benefit analysis prepared by a
4 person acceptable to the authority together with other information
5 that the authority may require by regulation.

6 (b) An applicant for refinancing of existing debt shall provide
7 the information that the authority may require by regulation.

8 Sec. 44.88.530. POWERS OF THE AUTHORITY. The authority may

9 (1) designate agents and delegate powers necessary to
10 implement AS 44.88.500 - 44.88.599;

11 (2) adopt regulations to implement AS 44.88.500 - 44.88.-
12 599;

13 (3) establish terms and conditions for loan guarantees and
14 refinancing agreements subject to the requirements of AS 44.88.500 -
15 44.88.599;

16 (4) make and execute contracts and other instruments to
17 implement AS 44.88.500 - 44.88.599;

18 (5) acquire real or personal property by purchase, trans-
19 fer, or foreclosure when the acquisition is necessary to protect an
20 interest in the fund; and

21 (6) exercise any other power necessary to implement AS 44.-
22 88.500 - 44.88.599.

23 Sec. 44.88.540. CONDITIONS OF LOAN GUARANTEES. (a) The author-
24 ity may guarantee a loan under AS 44.88.500 - 44.88.599 if the

25 (1) loan is commercially reasonable, secured by adequate
26 collateral, and the net cash flow from the borrower provides adequate
27 coverage for the debt service on the loan;

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

29 (3) loan is originated with and serviced by a state

1 chartered or federally chartered financial institution;

2 (4) portion of the loan not guaranteed by the authority is
3 held by the originating financial institution or another financial
4 institution approved by the authority; and

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

7 (b) The authority may provide a guarantee from the fund for up
8 to 90 percent of a loan that qualifies under AS 44.88.550 - 44.88.560.
9 The ratio of the guarantee to the outstanding principal of the loan
10 shall remain the same over the term of the loan.

11 (c) The authority may not guarantee

12 (1) the payment of interest on the guaranteed portion of a
13 loan; or

14 (2) more than \$1,000,000 per loan.

15 Sec. 44.88.550. CONDITIONS OF DEBT REFINANCING. The authority
16 may not refinance debt unless the refinancing

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

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

23 (3) is necessary to place a permanent loan subsequent to an
24 interim loan for financing construction of the project.

25 Sec. 44.88.560. INTEREST. The maximum interest rate on a loan
26 guaranteed by the authority is

27 (1) for a loan guarantee that equals or exceeds 80 percent
28 of the loan, one and one-half percentage points above the prime rate
29 on the day the loan guarantee is made; and

1 (2) for a loan guarantee that is less than 80 percent of
2 the loan, two and three-quarters percentage points above the prime
3 rate on the day the loan guarantee is made.

4 Sec. 44.88.570. DEFAULT OR FORECLOSURE. (a) Payments received
5 toward satisfaction of a default on a loan guaranteed under AS 44.88.-
6 500 - 44.88.599 shall be allocated between the lender and the fund
7 according to the guaranteed percentage of the loan until the principal
8 balance has been repaid.

9 (b) The authority shall dispose of property acquired through
10 default or foreclosure of a loan guaranteed or refinanced under
11 AS 44.88.500 - 44.88.599. Disposal shall be in a manner that serves
12 the best interest of the state and may include the amortization of
13 payments over a period of years.

14 Sec. 44.88.580. SPECIAL ACCOUNT ESTABLISHED. (a) There is
15 established as a special account within the fund the foreclosure
16 expense account. The account is established as a reserve from fund
17 equity.

18 (b) The authority may expend money credited to the foreclosure
19 expense account when necessary to protect the state's security inter-
20 est in collateral on loans guaranteed or refinanced under AS 44.88.-
21 500 - 44.88.599 to defray expenses incurred during a foreclosure
22 proceeding after a default.

23 Sec. 44.88.590. PREREQUISITE FOR OTHER LOANS. Notwithstanding
24 other provisions of law, a business enterprise that qualifies under
25 AS 44.88.510(a) to apply for a loan guarantee under AS 44.88.500 -
26 44.88.599 shall apply for a loan guarantee before it may apply for a
27 direct loan of state money under any other state loan program. Only
28 after an application for the guarantee of a loan to be used for a
29 particular purpose is rejected under AS 44.88.500 - 44.88.599 may a

1 business enterprise apply for a direct state loan for that purpose.

2 Sec. 44.88.599. DEFINITIONS. In AS 44.88.500 - 44.88.599,

3 (1) "fund" means the business assistance fund established
4 under AS 44.88.500;

5 (2) "prime rate" means the lowest money center prime rate
6 of interest that is published in the Wall Street Journal.

7 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).