

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 755

1 (4) "publicly funded library" means a library eligible for a grant under
2 AS 14.56.310.

3 * Sec. 3. Before accepting project or grant applications under AS 14.30.760(b), enacted in sec. 2 of
4 this Act, the Department of Education shall conduct

5 (1) a survey of education technology resources in public schools and publicly funded
6 libraries in the state; and

7 (2) a statewide education technology grant and project writing seminar, available to all
8 public schools, school districts, and publicly funded libraries.

9 * Sec. 4. ^[AS 14.30.750] AS 14.30.760, 14.30.770, 14.30.780, and 14.30.790 are repealed December 31, 1998.

10 * Sec. 5. This Act takes effect July 1, 1992.

Page 2, line 13, delete "instructional equipment related to" and insert "education"

Page 2, line 15, insert "education" before "technology"

Page 2, line 21, delete "required equipment" and insert "education technology"

Page 2, lines 25-26, delete "classroom instructional equipment and materials related to technology" and insert "education technology in classrooms"

Page 2, lines 26-27, delete "the instructional equipment and materials" and insert "education technology"

Page 3, line 11, insert "education" before "technology" and "selected" after "technology"

Page 3, line 16, insert "education" before "technology"

Page 3, line 17, insert "education" before "technology"

Page 3, line 26, insert "education" before "technology"

Page 3, line 28, insert "education" before "technology"

Page 3, line 31, insert "education" before "technology"

Page 4, line 1, insert "education" before "technology"

Page 4, line 8, delete "classroom instructional equipment and materials related to" and insert "education"

Page 5, line 20, delete "new equipment and materials" and insert "education technology"

Page 5, line 31, insert:

(3) "education technology" means instructional equipment and materials related to technology, including hardware, software and telecommunications, that are used to enhance the quality and increase the efficiency of teaching and learning;

ReNUMBER

Representative Kay Brown

ALASKA STATE LEGISLATURE

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During Session
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TO: Representative Eileen MacLean, Co-Chair
Representative Mike Navarre, Co-Chair
House Finance Committee

FROM: Representative Kay Brown

DATE: January 27, 1992

RE: Revisions to CSHB 203 (Finance)/Establishing the Education
Technology Fund

Thank you for scheduling House Bill 203, An Act Establishing the Alaska Educational Technology Fund, for a new hearing before the House Finance Committee.

As you may already be aware, the Legal Affairs Division during the interim alerted me to a legal problem with my proposal for creating an Educational Technology Fund, funding it with the proceeds from the sale of general obligation bonds and using those proceeds to pay for grants. A November 7, 1991 opinion from David R. Dierdorff (attached) states that bond proceeds can't be used for grants, principally because the state must retain ownership of whatever it is constructing or purchasing with bond proceeds.

I therefore revised the legislation and asked that the bill be moved from the Rules Committee back to Finance for a new hearing. The following is an explanation of the differences between CSHB 203 (Finance) and the new draft of the bill, CS HB203 () [1/27/92 Work Draft].

CS HB203 () [1/27/92 Work Draft]

The goal of providing Alaska schools with hardware and software technology is unchanged by this new version of the bill.

This new version of the bill also creates an **Alaska Education Technology Fund**. Provisions for creating the fund are not changed from CS HB 203 (Finance). Proceeds from bond sales, direct appropriations from the legislature and donations would be credited to the fund.

DISTRICT 12

Downtown • Fairview • City View • Bootleggers Cove • Inlet View • South Addition • Thunderbird Terrace
Eastridge • Penland Park • Airport Heights • Government Hill

In the same manner as CS HB203 (Finance), an **Education Technology Committee** is formed and will review project proposals and requests from schools. But instead of a "grant," the schools would receive a "permit" from the Department of Education to use the hardware and software proposed in their project request and purchased by the Department. The state would retain ownership. The State Board of Education is charged with developing regulations and requirements for awarding the permits.

The Education Technology Committee would still be empowered to recommend grants to schools for teacher training. **Funds for teacher training would be secured through a general fund appropriation and are included in the Department of Education fiscal note for this bill.** Bond proceeds would not be used for training.

Provisions that establish the Commissioner of Revenue as the treasurer of the fund remain the same in the new version of the bill.

Provisions for providing new computer technology to publicly funded libraries are changed by CSHB 203 () [1/27/92 Work Draft]. CSHB 203 (Finance) amended state library statutes so that the state could provide grants to publicly funded libraries. The bill was fashioned that way because original plans called for a direct general fund appropriation to the state Division of Libraries for the purpose of awarding technology grants.

Because bond proceeds can't be used for grants, a section in CSHB 203 (Finance) that amended the library statutes is no longer necessary. **CSHB 203 () [1/27/92 Work Draft] incorporates the libraries into the Educational Technology Committee process.** The committee would also review and approve project and grant requests for technology from publicly funded libraries. **The composition of the Educational Technology Committee is changed to include the director of the state Division of Libraries, Archives and Museums.**

The 1/27/92 Work Draft makes no change in the provision that requires the Department of Education to conduct a statewide education technology project and grant-writing seminar for public schools, school districts and public libraries.

The new draft version of the bill includes a definition for publicly-funded libraries. The definition is written to ensure that all libraries now eligible for state grants would be eligible for assistance from the new technology program created by this bill.

The effective date of the bill was changed in the new draft from July 1, 1991 to July 1, 1992.

Again, thank you for your consideration of this bill. If you have any questions, please let me know or contact John Lindback of my staff at 465-4998.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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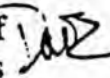
240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

November 7, 1991

SUBJECT: Use of General Obligation Bonds to Pay Grants
(CSHB 204 ())

TO: Representative Kay Brown
Attn: John Lindback

FROM: David R. Dierdorff 
Revisor of Statutes

)
)
You have received a discussion draft of a bill authorizing the issuance of general obligation bonds to fund grants for education technology. For the reasons discussed below, it is my opinion that proceeds of general obligation bonds may not be used for grants, whether to municipalities or otherwise.

)
)
General obligation bonds are authorized by the Constitution of the State of Alaska in sections 8 and 9 of article IX.

Section 8 provides:

SECTION 8. STATE DEBT. No state debt shall be contracted unless authorized by law for capital improvements or unless authorized by law for housing loans for veterans, and ratified by a majority of the qualified voters of the State who vote on the question. The State may, as provided by law and without ratification, contract debt for the purpose of repelling invasion, suppressing insurrection, defending the State in war, meeting natural disasters, or redeeming indebtedness outstanding at the time this constitution becomes effective.

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The phrase "for capital improvements" is an unusual limitation on the power to issue general obligation bonds, but one obvious purpose is to avoid deficit spending in the operating budget. (This limitation does not apply to enterprise revenue bonds because of the specific exemption in section 11, article IX.) For a discussion of the history of the use of that term in Alaska, see City of Juneau v. Hixson, 373 P.2d 743 (Alaska 1962) at 745 - 748, attached.

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Our court has not had before it that section of the constitution. Section 9 of article IX, which is the political subdivision lending section and which also contains the limitation that general obligation bonds be for "capital improvements," has been before the court. Section 9 provides:

SECTION 9. LOCAL DEBTS. No debt shall be contracted by any political subdivision of the State, unless authorized for capital improvements by its governing body and ratified by a majority vote of those qualified to vote and voting on the question.

In City of Juneau v. Hixson, 373 P.2d 743 (Alaska 1962), the constitutionality of the issuance of general obligation bonds of the city to provide land to the state as a site for its capitol without cost to the state was before the Court. The Court decided the case solely on the constitutional question of whether or not the bond issue was for a capital improvement. It held that the proposed bond issue was not for a capital improvement as required by section 9 and enjoined issuance and sale of the bonds. The Court in that case stated:

The convention did more than substitute a new term -- it adopted a concept. We believe that it would be unwise for this court to attempt to provide an abstract definition of 'capital improvements'. We have concluded that it is beyond human ability to permanently circumscribe with mere words at a given point in time, a concept which, though limiting in one aspect, is otherwise intended to provide a broad, permanent and continuing authority for municipalities to finance present as well as unforeseeable future needs.

The trial court was correct in holding that the bond issue herein was not for a capital improvement. Assuming for the moment that the expenditure of money could accomplish the desired objective, the end product would lack most of the attributes usually associated with the completed public project for which general obligation bonds have been sold. No permanent asset in the form of real or personal property would accrue to the city. The property acquired by the proceeds would be donated to the state. No thing of value would remain the property of the city. No improvement of general use or service to the taxpayers of the city would have been created by the expenditure. No tangible security for the bonded indebtedness would have been created -- in fact, the total security would have been reduced by the removal of some seven acres of downtown property from the city's tax rolls.

The Court then held:

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Improving the welfare and prosperity of its residents and eliminating economic insecurity are legitimate laudable purposes, but we do not believe they can be financed on borrowed funds under the circumstances of this case. If accomplished, the purposes would without doubt be improvements, but they would not be capital improvements.

The question of whether a project was a capital improvement was again before the Court in Wright v. City of Palmer, 463 P.2d 326 (Alaska 1970). In that case the city proposed to issue general obligation bonds for the purpose of encouraging industrial development within the municipality. The mechanism contemplated was that the city would issue its general obligation bonds and use the proceeds for purchase of a site and the construction of a manufacturing and processing facility within the city. The facility would then be leased to a corporation for a period not less than 20 years, which was the maximum permissible maturity of the bonds, with the rental being fixed in an amount so that the total costs of the project, including amounts necessary to amortize the bonds, would be payable as rent. Numerous conditions for economic benefit of the city were also to be included in the lease. Under this arrangement title to the property remained in the city and on termination of the lease, the right of possession of the property would be in the city. The Court held that the bond issue and plan of expenditure did not violate the capital improvement requirement of article IX, section 9 of the constitution stating:

It is argued that in City of Juneau v. Hixson, 373 P.2d 743 (Alaska 1962), this court laid down a strict test of what constitutes a 'capital improvement,' rendering that term synonymous with 'public works of a permanent character.' Because an industrial development project is not clearly within that category, it is said that the plan before us must fail.

We do not read the Hixson case so narrowly. There we struck down a bond issue because no capital improvement would have resulted from the expenditure of the proceeds. The vice in the Hixson case was that raw land would have been donated to the State of Alaska as a proposed capitol site. As a result of the plan, the City of Juneau would have been left with no tangible asset in place of the indebtedness. Furthermore, the State of Alaska had entered into no agreement for and had not otherwise shown an interest in the acquisition or use of any capitol site.

By contrast, in the case before us the City of Palmer will own a tangible asset. The plan is that the indebtedness shall be retired out of the rental money received over the life of the bond issue. The land and building fulfilled the definition of 'capital improvements' which was stated in the Hixson case as being 'associated with value represent-

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ed by real or personal property in some form and with relative permanency.' 373 P.2d, at 747. There is here no giving away of the asset. On the contrary, the city's real ownership of the structure should increase as the years of rental payment go by. Even if the tenants should default, the building probably would be susceptible to a number of other beneficial uses. We conclude, therefore, that the bond issue and the plan of expenditure does not violate the capital improvement requirement of our constitution.

As mentioned earlier, these cases construe section 9 of article IX relating to bonding by political subdivisions of the state and not section 8 of the article relating to bonding by the state itself. It is not uncommon for courts to construe powers of local governments more strictly than powers of the state. Nevertheless, the key phrase is identical and the purpose appears identical. Logic indicates the courts would construe both phrases as substantially identical in meaning. In my opinion, the court would adopt the reasoning in these cases in construing section 8.

The fact situation involved here is almost identical with that in Hixson except that the roles are reversed and grants of money rather than grant of land purchased with the bond proceeds are involved.

In my opinion the Hixson reasoning would control and issuance of the bonds would not be constitutional.

A copy of the court decision in Hixson is enclosed, along with a copy of the relevant index page to the proceedings of the constitutional convention.

DRD:mi:lmb
91-291.lmb

Enclosure

CITY OF JUNEAU et al., Appellants.

v.

William E. HIXSON, a resident taxpayer of the City of Juneau, Alaska, Appellee.

No. 201.

Supreme Court of Alaska.

July 11, 1962.

Rehearing Denied Aug. 13, 1962.

Suit by taxpayer to enjoin city and others from issuing and selling general obligation bonds of the city. From an adverse judgment of the Superior Court, First Judicial District, James A. von der Heydt, J., the city and others appealed. The Supreme Court Nesbitt, C. J., held that proposed bond issue by home rule city to purchase land which would be conveyed to state for expansion of state capitol located within the city was not for a "capital improvement" within section of Constitution prohibiting contracting of a debt by any political subdivision except for capital improvements.

Judgment affirmed.

1. Municipal Corporations §869

A municipal corporation does not have power to borrow money unless authorized by legislation.

2. Municipal Corporations §911

Proposed bond issue by home rule city to purchase land which would be conveyed to state for expansion of state capitol located within the city was not for a "capital improvement" within section of constitution prohibiting contracting of a debt by any political subdivision except for capital improvements. Const. art. 9, §§ 6, 8, 9; art. 10, §§ 11, 13; Laws 1959, c. 167, § 1 as amended by Laws 1960, c. 185.

See publication Words and Phrases for other judicial constructions and definitions.

3. Municipal Corporations §911

The word "capital" in section of Constitution prohibiting contracting of a debt

Alaska Rep. 364-375 P. 26-17

by any political subdivision except for "capital" improvements, is used in the sense in which it is associated with assets in form of real or personal property. Const. art. 9, § 6; Laws 1959, c. 167, § 1 as amended by Laws 1960, c. 185.

See publication Words and Phrases for other judicial constructions and definitions.

4. Municipal Corporations §63(1)

It is not function of court to pass judgment on matters that lie within legislative discretion of city council, but where taxpayer of community questions constitutionality of means employed by city council to finance a civic program, Supreme Court has duty to interpret the Constitution.

Fred O. Eastaugh of Robertson, Morgan, Eastaugh & Annis, Juneau, for appellants.

Warren C. Christianson, Sitka, for appellees.

Before NESBETT, C. J., and DIMOND and AREND, JJ.

NESBETT, Chief Justice.

The plaintiff-appellee, a resident and taxpayer of Juneau, Alaska, brought this suit to enjoin the City of Juneau, its mayor and councilmen from issuing and selling one million dollars of general obligation bonds of the city.

The bond proposal was contained in resolution passed by the City Council of Juneau on April 21, 1960. The question in the proposal was whether the city should issue its general obligation bonds in an amount not to exceed one million dollars and use the proceeds to improve and acquire approximately seven acres of land within the city and convey such parts of the land to the State of Alaska from time to time, as the state required additional land for the expansion of its capital. The stated purpose of the proposal was to provide land without cost to the state for its capital which would be

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vement in location, adequate in size and practical in operating economy.¹ At a special election held on May 10, 1960, a majority of the qualified electors of the city voting on the proposal, voted in favor of it. On March 2, 1961, the city adopted an ordinance providing for the issuance and sale of one million dollars of general obligation bonds. As security for the redemption of the bonds the ordinance pledged a percentage of the revenue from the city's retail sales tax and in the event of a deficiency of revenue from that source, then from ad valorem taxes upon all the taxable property within the city.

The trial court enjoined the issuance and sale of the bonds on the grounds that the funds realized therefrom were not to be used for: (1) a "public purpose" within the meaning of that term in article IX, section 6 of the Alaska Constitution,² and (2) "capital improvements" within the meaning of article IX, section 9 of the Alaska Constitution.³ In its memorandum decision the trial court recognized that the city had approved a home rule charter which became effective on October 15, 1960, which was after the special election of May 10, 1960, when the bond proposal was approved by the electors, but before approval of the ordinance authorizing the issuance of the bonds on March 2, 1961. The decision held that the constitutional limitations had the same meaning when applied to a home rule city as when applied to a general law

city and operated with equal restraint on both.

We shall decide this case solely on the constitutional question of whether or not the bond issue was for a capital improvement.

The city argues that the contracting of a debt by it to acquire land to donate to the state for its capital is a capital improvement within the meaning of article IX, section 9 because the land would constitute a permanent investment by the residents of the city which would substantially increase the economic worth of the community and directly improve the welfare and prosperity of its residents.

In opposition appellee argues that a capital improvement is a physical improvement or betterment which results in the creation of depreciable physical assets such as sewer systems, water systems, city halls, schools and the like, which are of value to the taxpayer who finances them; that the use of the term envisages that after creation of the capital improvement, title will remain in the financing authority or a full public use of the improvement will accrue to that authority. Appellee emphasizes that the objective of the bond issue is to persuade the state that it would be to its best interests to not move the capital away from Juneau; that the state has not committed itself one way or the other with respect to the city's plan to offer to donate the land; that the city has no power of eminent domain to acquire the land from the various private

1. The proposal in its entirety states:

"PROPOSAL: Shall the City of Juneau, Alaska, issue its general obligation bonds in an amount not to exceed \$1,000,000.00 and use the proceeds thereof to improve and acquire approximately 7.0 acres of land and structures thereon, located within the City between land now owned by the State of Alaska and in the general area between Main Street and the Juneau Subport and between Second and Fifth Streets, more particularly described on the City's Capitol Site Acquisition Map, and convey such parts of the Same to the State of Alaska from time to time as it requires additional land and space for expansion of the State Capitol Center Site,

for the purpose of providing without cost to the State of Alaska a site for its Capitol which is convenient in location, adequate in size and practical in operating economy."

2. Article IX, § 6 states: "No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose."
3. Article IX, § 9 states: "No debt shall be contracted by any political subdivision of the State, unless authorized for capital improvements by its governing body and ratified by a majority vote of those qualified to vote and voting on the question."

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owners for other than its own use; that as soon as the bonds are sold huge interest payments will commence to accrue; that many other contingencies lie in the way of realizing the objective of the bond issue and that even if the objective were realized, the taxpayers of Juneau would have nothing more than they already have.

[1] Since the landmark decision of the United States Supreme Court in Mayor and City Council of Nashville v. Ray in 1874 it has been established law that the power to borrow money does not belong to a municipal corporation unless conferred by legislation.⁴

[2] Prior to 1936 Alaskan cities did not have the power to incur bonded indebtedness. In that year Congress authorized municipal corporations in the Territory of Alaska to incur bonded indebtedness to "construct, improve, extend, better, repair, reconstruct, or acquire public works of a permanent character . . ." The act provided that "public work shall include but not be limited to streets, bridges, wharves and harbor facilities, sewers and sewage-disposal plants, municipal buildings, schools,

libraries, gymnasias and athletic fields, fire houses, and public utilities".⁵ The term "capital improvements" does not appear in the act. The incurring of bonded indebtedness was permitted only with respect to "public works of a permanent character". No definition of public works is given, but the act supplies examples of the types of projects considered to be included within the meaning of that term.

Cities in Alaska had been operating under the provisions of this act for twenty years by the time article IX, section 9 of the constitution was adopted. This section prohibited the contracting of a debt by any political subdivision except for "capital improvements".⁶ The term "public works" is not mentioned in this section and the term "capital improvements" is not defined. Nor are any examples provided.

The constitution became effective as the basic law of Alaska on January 3, 1959⁷ and immediately thereafter the first state legislature passed an act repealing the provisions of Alaska law which had codified the act of Congress just mentioned.⁸ This act of the state was titled as relating

ly exercised. It is too dangerous a power to be exercised by all municipal bodies indiscriminately, managed as they are by persons whose individual responsibility is not at stake."

Although established by a court that was sharply divided on the issue the doctrine became fundamental in municipal law. See *Chitborne County v. Brooks*, 111 U.S. 400, 406, 411, 4 S.Ct. 489, 29 L. Ed. 470, 472, 474 (1884); *Fullerton v. Central Lincoln People's Utility District*, 185 Or. 28, 201 P.2d 524 (1948); 15 McQuillin, *Municipal Corporations* § 43.19 (2d ed 1950).

4. 19 Wall. 468, 475, 477, 56 U.S. 468, 475, 477, 22 L.Ed. 104, 16S-160 (1874), also quoted in 2 *Anticm. Municipal Corporation Law* § 15.00 (1955), wherein the court stated:

"The power to borrow money . . . does not belong to a municipal corporation as an incident of its creation. To be possessed it must be conferred by legislation, either express or implied. It does not belong, as a mere matter of course, to local governments to raise loans. Such governments are not created for any such purpose.

" . . . The idea that they have the incidental power to issue an unlimited amount of obligations of such a character as to be irretrievably binding on the people . . . is the growth of a modern misconception of their true object and character. If in the exercise of their important trusts the power to borrow money and to issue bonds or other commercial securities is needed, the Legislature can easily confer it under the proper limitations and restraints, and with proper provisions for future repayment. Without such authority it cannot be legit-

5. Act of May 28, 1930, ch. 467, § 1, 40 Stat. 1388 (48 U.S.C.A. § 44a (1952), § 10-5-1 A.C.L.A.1949).

6. We are not concerned in this case with indebtedness of political subdivisions secured by revenue bonds which is provided for in art. IX, § 11 of the constitution.

7. Exec.Proc. No. 3260, 24 Fed.Reg. 91 (1959), 48 U.S.C.A. preceding § 21 note.

8. S.L.A.1959, ch. 167.

to the issuance of municipal bonds for "public works and capital improvements".⁹ It authorized municipal corporations to incur bonded indebtedness with respect to "public works of a permanent character" just as did the original act of Congress and its examples of the type project that constituted public works were identical to those of the original act except that "off-street parking facilities" was added. Although mentioned in the title of the state act, the term "capital improvements" was nowhere used in the text, which referred only to "public works".

In 1960 the state legislature repealed and enacted an amended version of section 1 of the above mentioned act.¹⁰ The amended version omits the term "capital improvements" from the title¹¹ and employs the term "public works or facilities of a permanent nature". This act authorizes municipal corporations to incur bonded indebtedness with respect to "public works or facilities of a permanent character", lists the same projects considered to be included within the meaning of the term "public works or facilities" as did the 1959 act for "public works of a permanent character" except that there was added to the list "real property and improvements and facilities thereon for such uses or purposes as are authorized by law".

In employing the term "capital improvements" in the title of its first act the state legislature demonstrated that it was aware of the constitutional limitation with which we are here concerned.¹² It also seems reasonable to assume that the legislature considered the term to be synonymous in meaning with "public works of a per-

manent character" used in the text of the act to describe the authority thereby conferred. This conclusion is based on the fact that no attempt was made in the text of the act to give separate consideration to capital improvements as a purpose for which a municipality could incur bonded indebtedness.

Nothing in the legislative journals sheds any light on the reasoning which motivated the legislature a year later in amending the act to delete "capital improvements" from the title and employ the descriptive phrase "public works or facilities of a permanent nature". However, we can and do assume that the legislature was enacting the legislation to supplement the constitutional provision and did not intend to attempt to substitute a different purpose than that established by "capital improvements" in the constitution. Therefore, for the assistance it lends, we know that the legislature considered "public works or facilities of a permanent nature" to be synonymous with, or at least included within the meaning of "capital improvements".

As far as we are aware, the only jurisdiction that has ever been called upon to define the term "capital improvements" is New Hampshire, where the court said:

"In the absence of any definition of a capital improvement as used in the act the term 'capital improvement' must be taken in its ordinary sense of a permanent improvement or betterment as distinguished from ordinary repair or current maintenance."¹³

The dictionary reveals that the word "capital" has many meanings. The eco-

9. The full title states: "Relating to general obligation and revenue bonds issued by municipal corporations and public utility districts for public works and capital improvements; repealing 10-5-1 through 10-5-9 ACLA 1949 and substituting 10-5-1 through 10-5-6 therefor; and providing for an effective date."

10. S.L.A.1960, ch. 185.

11. The title reads: "Relating to general obligation bonds issued by municipal cor-

porations for public works or facilities of a permanent nature; amending Section 10-5-1, ACLA 1949, as amended by Chapter 167, S.L.A. 1959; and providing for an effective date."

12. Article II, § 13 of the constitution provides in part: " * * * The subject of each bill shall be expressed in the title. * * * "

13. *Lowitt v. Town of North Hampton*, 98 N.H. 193, 96 A.2d 554 (1953).

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journals sheds which motivated in amending improvements" the descriptive abilities of a per we can and do was enacting at the constitu intend to at it purpose than improvements" re, for the as that the legisla ks or facilities be synonymous thin the mean- is".

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omic definition is, "A stock of accumulated wealth." 14 "Capital assets" is defined as being synonymous with "permanent assets" in its general accounting use. 15 "Permanent assets" are defined as "A resource, such as land, buildings or machinery, or capital stock of another company held for purposes of control". 16

"Capital", therefore, seems generally to be associated with value represented by real or personal property in some form and with relative permanency. "Improvement" in its broad sense means betterment.

The Constitutional Convention evidenced a clear intent to protect the financial integrity of all political subdivisions. Limiting the purposes for which they could incur indebtedness to capital improvements was one means selected. 17 This limitation was not intended to permit incurring indebtedness to accomplish all desirable improvements sponsored by the governing body and approved by the electorate. If this had been the intent, it would have been clearly stated by simply omitting the word "capital".

[3] There is nothing in the history of municipal bonding in Alaska, or in the minutes of the Constitutional Convention that causes us to believe that the term "capital improvements" was intended to denote projects radically different than those for which municipalities had been permitted to incur bonded indebtedness in the past. We believe "capital" was used in the sense in which it is associated with assets in the form of real or personal prop-

14. Webster's New International Dictionary, p. 397 (2d ed. 1939, Unabridged).

15. Id. p. 398.

16. Id. p. 166.

17. A similar restriction was placed on the state by art. IX, § 5, which states:

"No state debt shall be contracted unless authorized by law for capital improvements and ratified by a majority of the qualified voters of the State who vote on the question. The State may, as provided by law and without ratification, contract debt for the purpose of repelling invasion, suppressing insurrection, defend-

erty and that it was in a degree of permanency. We believe that it includes the public works of a permanent character" such as "streets, bridges, wharves and harbor facilities, sewers and sewage-disposal plants, municipal buildings, schools, libraries, gymnasias and athletic fields, fire houses, and public utilities" as mentioned in the original act of Congress. 18 It includes "off-street parking facilities" and "public works or facilities of a permanent character" as provided in recent acts of the state legislature. 19 We believe that in selecting "capital improvements" the convention had in mind that it was including all the projects just mentioned which had heretofore been associated with municipal bonding, but under a better generic term one which did not require illustration by actually listing the type projects that were considered to be included within its meaning and stating that the list itself was not necessary as done in the original act of Congress.

The convention did more than substitute a new term—it adopted a concept. We believe that it would be unwise for this court to attempt to provide an abstract definition of "capital improvements". We have concluded that it is beyond human ability to permanently circumscribe with mere words at a given point in time, a concept which, though limiting in one aspect, is otherwise intended to provide a broad, permanent and continuing authority for municipalities to finance present as well as unforeseeable future needs. 20

ing the State in war, meeting natural disasters, or redeeming indebtedness outstanding at the time this constitution becomes effective."

18. See note 5, supra.

19. See notes 8 and 10, supra.

20. Our dilemma in trying to define the concept in this case is similar to that experienced by the Supreme Court of Errors of Connecticut with respect to "public use", where the court said: "A public use" defies absolute definition, for it changes with varying conditions of society, new appliances in the sciences,

The trial court was correct in holding that the bond issue increment was not for a capital improvement. Assuming for the moment that the expenditure of the money could accomplish the desired objective, the end product would lack most of the attributes usually associated with the completed public project for which general obligation bonds have been sold. No permanent asset in the form of real or personal property would accrue to the city. The property acquired by the proceeds would be donated to the state. No thing of value would remain the property of the city. No improvement of general use or service to the taxpayers of the city would have been created by the expenditure. No tangible security for the bonded indebtedness would have been created—in fact, the total security would have been reduced by the removal of some seven acres of downtown property from the city's tax rolls.

The city points out that if the main purpose of the expenditure were realized, the site of the capital would remain in Juneau and this would directly improve the welfare and prosperity of the residents. Nothing in the record or arguments supports the assumption that this would happen except to the extent that the size of and activity in the capital increased with the passage of time and the natural growth of the state. Removal of the aura of economic uncertainty that is said to exist because of doubt as to whether the capital will remain in Juneau is also advanced as a purpose of the bond issue. Improving the welfare and prosperity of its residents and eliminating economic insecurity are legitimate laudable purposes, but we do not believe they can be financed on borrowed funds under the circumstances of this case. If accomplished, the purposes would without doubt be improvements, but they would not be capital improvements.

changing conceptions of the scope and functions of government, and other differing circumstances brought about by an increase in population and new modes of communication and transportation."

The city argues that unless it takes the initiative and induces the state not to move the capital, it may lose many of the economic advantages it now enjoys. This points up another characteristic of the program which sharply distinguishes it from the usual bonded indebtedness project. The state has not officially expressed any interest in the city's plan. After the bonds were sold and interest on one million dollars commenced to accrue, the state might reject the city's offer. If this happened, the existing problems of the city would become even more aggravated. In addition, the city would have acquired the burden of paying the principal and interest on the debt out of tax rolls reduced by the loss of some seven acres of valuable downtown property. Financial commitment with respect to an economic program the outcome of which is contingent on overcoming substantial legal, business and political obstacles gives the program many of the characteristics of a business or public relations venture.

[4] We are reminded that the city's program has been deliberately planned and that the court should not inquire whether the council's action was wise, dictated by the proper motives or would result in economic benefit to the residents. We agree that it is not the function of this court to pass judgment on matters that lie within the legislative discretion of the council. But where a taxpayer of a community questions the constitutionality of the means employed by his council to finance a civic program, this court has the duty to interpret the constitution. We do not pass upon the merits of the city's project. We simply hold that it is not a capital improvement and therefore cannot be financed on borrowed funds.

The city contends that it acquired greater legislative power under article X, section

Barnes v. City of New Haven, 140 Conn. S. 98 A.2d 523, 527 (1953). See also *Wilmington Parking Authority v. Ranken*, 34 Del.Ch. 439, 105 A.2d 614, 619 (1954).

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 ... ty v. Franken,
 ... 1, 610 (1954).

... 11 of the Alaska Constitution²¹ upon be-
 ... coming a home rule city on October 15,
 ... 1960 and that unless there is a specific
 ... statutory prohibition of the ordinance au-
 ... thorizing the issuance and sale of the bonds,
 ... it should be held to be valid. It is true
 ... that the city acquired greater legislative
 ... power upon becoming a home rule city, but
 ... by the very terms of the constitutional
 ... grant of legislative power to a home rule
 ... city it was prohibited from exercising legis-
 ... lative powers prohibited by law. Section 9
 ... is found in the "Finance and Taxation" ar-
 ... ticle of the constitution under the marginal
 ... title of "Local Debts". The restriction is
 ... specifically applicable to "any political sub-
 ... division of the State". This unequivocal
 ... wording provides a clear answer to the ar-
 ... gument that home rule cities operating un-
 ... der a charter adopted under article X of
 ... the constitution are not included. The an-
 ... swer is, they are subject to the same limi-
 ... tation with respect to contracting debts as
 ... all other political subdivisions of the state.

... Article X, section 13 of the constitution
 ... gives a local government the power to enter
 ... into agreements with any other local gov-
 ... ernment, the state or the United States un-
 ... less otherwise provided by law or charter.²²
 ... It is contended that under this power the
 ... city should be free to choose the means by
 ... which it attains a bargaining position with
 ... the state which might result in acceptance
 ... of the offer made to the state. We agree,
 ... so long as the means chosen are not pro-

21. Article X, § 11 of the Alaska Consti-
 ... tution states: "A home rule borough or
 ... city may exercise all legislative powers
 ... not prohibited by law or by charter."

22. Article X, § 13 of the Alaska Consti-
 ... tution states:

"Agreements, including those for co-
 ... operative or joint administration of any
 ... functions or powers, may be made by any
 ... local government with any other local gov-

... lated by law. Here the means chosen
 ... are unlawful because they are in violation
 ... of the constitutional prohibition against
 ... contracting debt except for capital improve-
 ... ments.

... Lastly the city contends that the amend-
 ... ment to chapter 185, S.L.A.1960 was made
 ... at its specific request;²³ that the addition
 ... of the words "real property and improve-
 ... ments and facilities thereon for such uses
 ... or purposes as are authorized by law" to
 ... the list of projects considered to be in-
 ... cluded within "public works or facilities of
 ... a permanent character", was made to spe-
 ... cifically authorize the purpose of the bond
 ... issue here in question. We are unable to
 ... find such an authorization in the amend-
 ... ment. The added words have been of no
 ... assistance in determining whether the bond
 ... issue is for a capital improvement because
 ... we have been unable to relate them to the
 ... facts of this case.

... The trial court in its memorandum de-
 ... cision, which constituted findings of fact
 ... and conclusions of law, held that the bond
 ... issue herein was not for a "public pur-
 ... pose" within the meaning of article IX,
 ... section 6 of the constitution.²⁴ We do not
 ... adopt this basis of the trial court's deci-
 ... sion. The judgment below is affirmed on
 ... the sole basis that the proposed bond issue
 ... was not for a "capital improvement" as re-
 ... quired by article IX, section 9 of the con-
 ... stitution.

Judgment affirmed.

... orment, with the State, or with the
 ... United States, unless otherwise provided
 ... by law or charter. A city may transfer
 ... to the borough in which it is located any
 ... of its powers or functions unless prohib-
 ... ited by law or charter, and may in like
 ... manner revoke the transfer."

23. See note 10 and text of opinion, supra.

24. Quoted in note 2, supra.

PLEASE MICROFILM TOP PAGE ONLY

HB 203

SENATE FINANCE COMMITTEE REPORT

DATE: 4/30/92

FURTHER:

DATE TURNED INTO OFFICE: 5/11/92

The Finance Committee considered CS FOR HOUSE BILL NO. 203 (2d FINANCE)

"An Act establishing the Alaska education technology program; and providing for an effective date."

and recommends:

replace with S CS CSHB 203 (FINANCE) same title
or adopt previous _____ CS _____ () new title
 attaches amendment(s) technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

*JCS (Fin)
coming*

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes DOE-Basic Ed 145.9

DOE Libraries 49.0

appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

DO PASS:

OTHER RECOMMENDATIONS:

Alan Duncan

Al Hilday

Rich Kelly

James Hoffman

Pat Paulson

Donna H. ...

...

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...

...

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...

1. *Pat Paulson*

2. *...*

Co-Chair: Signature/Recommendation

Co-Chair: Signature/Recommendation

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SCS for CS for HB 203 (HES)

Revision Date: 5-8-92
Title: An Act establishing the Alaska Education Technology program.
Sponsor: Representative Kay Brown
Requestor: (S) Finance

Department Affected: Education
BRU: Educational Program Support
Component: Basic Education

COMPONENT SERIAL NO.

	1	7	1
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	83.6	83.6	83.6	83.6	83.6	83.6
TRAVEL	16.3	10.3	10.3	10.3	10.3	10.3
CONTRACTUAL	27.5	12.2	12.2	12.2	12.2	12.2
SUPPLIES	.5	.5	.5	.5	.5	.5
EQUIPMENT	18.0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	145.9	106.6	106.6	106.6	106.6	106.6

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	145.9	106.6	106.6	106.6	106.6	106.6
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	145.9	106.6	106.6	106.6	106.6	106.6

POSITIONS:

FULL-TIME	1.5	1.5	1.5	1.5	1.5	1.5
PART-TIME						
TEMPORARY						

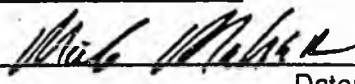
Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

This fiscal note does not assume the administrative costs necessary to administer the Education Technology Fund. Should the fund be created, additional costs would occur.

Prepared by: Karen R. Crane
Division: Commissioner's Office

Phone: 465-2800
Date: 5-8-92

Approved by Commissioner: 
Agency: Education

Jerry Covey
Date: 5-8-92

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SCS for CS for HB 203 (HES)

Revision Date: 5-8-92
Title: An Act establishing the Alaska Education Technology program.
Sponsor: Representative Kay Brown
Requestor: (S) Finance

Department Affected: Education
BRU: Libraries, Archives and Museums
Component: Library Operations

COMPONENT SERIAL NO.

	2	0	8
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	31.7	31.7	31.7	31.7	31.7	31.7
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	3.0	3.0	3.0	3.0	3.0	3.0
SUPPLIES	.3	.3	.3	.3	.3	.3
EQUIPMENT	9.0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	49.0	40.0	40.0	40.0	40.0	40.0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	49.0	40.0	40.0	40.0	40.0	40.0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	49.0	40.0	40.0	40.0	40.0	40.0

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

This fiscal note does not assume the administrative costs necessary to administer the Education Technology Fund. Should the fund be created, additional costs would occur.

Prepared by: George V. Smith
Division: Libraries, Archives and Museums

Phone: 465-2910
Date: 5-8-92

Approved by Commissioner: *M. L. Miller*
Agency: Education

Jerry Covey
Date: 5-8-92

Fiscal Note Analysis

SCS for CS for HB 203 (HES): Establishing the Alaska education technology fund, and relating to publicly funded libraries

Revised 5-8-92

Page 2

NOTE: This fiscal note reflects the costs associated with SCS for CS for HB 203 (HES) as follows:

Personal Services

1 FT Education Specialist II, Range 21: \$67.7

Primary responsibilities:

Develop a plan to coordinate and expand existing public and private, district and state-level services which impact K-12 educational telecommunications, including STAR schools, the University of Alaska computer network, Livenet, and rural Alaska television.

Promote the development of district/site level plans for appropriate use of technology-assisted instruction, and provide assistance in securing the necessary training and other resources to carry out these plans.

Coordinate the use of educational technology within the Department's existing curriculum, vocational, and restructuring projects.

1 half-time Clerk Typist III, Range 8 (.5): \$15.9

Primary responsibilities: Clerical support for Education Specialist in working with school districts and planning for use of education technologies in the classroom.

1 full-time Clerk Typist III, Range 8, \$31.7,

Primary responsibilities: Support existing library positions in carrying out functions of planning and supporting the use of education technology in libraries.

Fiscal Note Analysis

SCS for CS for HB 203 (HES): Establishing the Alaska education technology fund, and relating to publicly funded libraries

Revised 5-8-92

Page 3

Travel

FY93

Travel for committee members to meet and develop recommendations for the department on statewide education technology implementation (8 members for one 3-day meeting, with \$500 average transportation cost, and \$285 for per diem): \$6.3.

FY93-97

Department of Education technical assistance, facilitating training: \$10.0

Library staff: \$5.0

Contractual

FY93

Audioconferencing with school districts and follow-up meetings with committee: \$1.2

Professional service contracts: Survey of educational technology resources: \$15.0

FY93-97

Phone, postage, photocopying: \$5.3

Professional service contracts: publications, training, planning workshops: \$7.0

Audioconferencing with school districts: \$2.0

Supplies

Publications, memberships, training materials: \$.8

Equipment

FY93 only:

3 Computer terminals for word processing, electronic mail system interconnecting school districts and school libraries, grant management (spreadsheet) functions: $\$8.0 \times 3 = \24.0

Desks and other office equipment: $\$1.0 \times 3 = \3.0

Final

SENATE CS FOR CS FOR HOUSE BILL NO. 203 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/12/92
Referred: Rules

Sponsor(s): REPRESENTATIVES BROWN, MacLean, B.Davis, Koponen, Ellis, Bruckman, Ulmer, C.Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Alaska education technology program; and providing for an
2 effective date."

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

4 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

5 (1) 75 percent of the labor force in the state is unprepared to deal with rapidly changing
6 technology;

7 (2) the education system and publicly funded libraries can help in creating a trained labor
8 force;

9 (3) education technology has the potential to improve the academic performance of
10 students, to prepare students for work in a technological society, and to assist with education reform;

11 (4) schools and publicly funded libraries lack adequate hardware, software, and training
12 for students, patrons, and educators in education technology;

13 (5) in order to implement effective education technology programs, teacher training and
14 active participation is essential;

1 (6) an equitable distribution of education technology is necessary to ensure that all public
2 school students in the state receive comparable educational opportunities.

3 (b) It is the purpose of this Act to establish the Alaska education technology program, to provide
4 teachers, library staff, and other instructional personnel with training in how to apply education
5 technology in meeting instructional objectives, and to provide the necessary equipment and materials to
6 effectively utilize education technology within the adopted curricula throughout the rural and urban
7 schools and in publicly funded libraries of this state.

8 * Sec. 2. AS 14.30 is amended by adding new sections to read:

9 ARTICLE 10. ALASKA EDUCATION TECHNOLOGY.

10 Sec. 14.30.750. ALASKA EDUCATION TECHNOLOGY PROGRAM. (a) The Alaska
11 education technology program is established in the department. The program must include

12 (1) technical assistance to a district, a public school, or a publicly funded library
13 for the purpose of planning for and purchasing education technology;

14 (2) training for employees of a district, public school, or publicly funded library
15 in the use of education technology in the classroom or library; and

16 (3) a plan for coordinating and expanding existing networks for educational uses,
17 including the University of Alaska computer network, star schools, livenet, public television, rural
18 Alaska television, and library sharing systems; the plan required under this paragraph shall be
19 developed in consultation with the Department of Administration and must be consistent with
20 AS 44.21.315(c).

21 (b) In administering the program required under this section, the department may pool
22 grant money or other money available from each district or publicly funded library in order to
23 make a bulk purchase of education technology or to provide necessary training.

24 Sec. 14.30.760. ALASKA EDUCATION TECHNOLOGY FUND ESTABLISHED. (a)

25 The Alaska education technology fund is established in the department. The purpose of the fund
26 is to (1) enhance the quality and equity of education at public elementary and secondary schools
27 by providing money to purchase, install, and maintain education technology in classrooms; (2)
28 provide training in the use of education technology to help students achieve student performance
29 standards; (3) provide access to networks for public schools through the University of Alaska
30 computer network, the Department of Administration computer network, or other means
31 consistent with the program developed under AS 14.30.750 and AS 44.21.315(c); and (4) provide

1 education technology, including computer and resource sharing systems, to publicly funded
2 libraries. Money in the fund may be used to provide grants or may be expended by the
3 department for projects that further the purposes described in this subsection. The fund consists
4 of legislative appropriations to the fund and public or private donations made for the purpose of
5 the fund.

6 (b) A project or grant application may be submitted to the department by a public school,
7 by a school district on behalf of a public school, or by a publicly funded library. The department
8 shall fund projects approved by the committee or award grants from the fund to a school district,
9 a public school, or a publicly funded library selected by the committee. Money in the fund that
10 consists of proceeds from the sale of general obligation bonds may not be awarded to a school
11 district, a public school, or a publicly funded library as a grant.

12 (c) A project or grant application submitted by a public school or by a school district
13 under (b) of this section must include

- 14 (1) educational goals and objectives;
- 15 (2) a comprehensive plan for using the education technology selected to achieve
16 the educational goals and objectives;
- 17 (3) a description of the relationship between the application and the board's
18 standards for student performance;
- 19 (4) required initial and ongoing training for teachers to effectively use the
20 education technology in the classroom;
- 21 (5) a description of the education technology proposed to be purchased;
- 22 (6) a proposed budget;
- 23 (7) a description of local efforts or resources that will be contributed;
- 24 (8) provisions for site preparation, equipment security, and required technical and
25 maintenance support; and
- 26 (9) criteria and methods that will be used to periodically evaluate and document
27 progress in achieving the educational goals and objectives.

28 (d) A project or grant application submitted by a publicly funded library under (b) of this
29 section must include

- 30 (1) library goals and objectives, including how the education technology will
31 improve services of the library or access to resource sharing;

- 1 (2) a comprehensive plan for using the education technology selected to achieve
- 2 library goals and objectives;
- 3 (3) required initial and ongoing training for library personnel to effectively use
- 4 the education technology;
- 5 (4) a description of the education technology proposed to be purchased;
- 6 (5) a proposed budget;
- 7 (6) a description of local efforts or resources that will be contributed;
- 8 (7) provisions for site preparation, equipment security, and required technical and
- 9 maintenance support; and
- 10 (8) whether the library participates in a resource sharing system.

11 (e) The board shall adopt regulations that allow a school district, a public school, or a
12 publicly funded library to obtain education technology under a permit or lease with the
13 department, for a project approved under AS 14.30.780(b).

14 (f) The department shall administer grants awarded under this section and shall include
15 a report on the projects receiving funds as part of the department's annual report.

16 **Sec. 14.30.770. POWERS AND DUTIES OF THE COMMISSIONER OF REVENUE.**

17 The commissioner of revenue is the treasurer of the fund and has the following powers and duties
18 under this section:

- 19 (1) to act as official custodian of the cash and investments belonging to the fund
20 by securing adequate and safe custodial facilities;
- 21 (2) to collect the principal and income from investments owned or acquired by
22 the state treasury and deposit the amounts in separate principal and income accounts for the fund;
- 23 (3) to invest and reinvest the assets of the fund as provided in this section and
24 as provided for the investment of retirement funds under AS 14.25.180;
- 25 (4) to exercise the powers of an owner with respect to the assets of the fund;
- 26 (5) to do all acts, whether or not expressly authorized, that the commissioner of
27 revenue considers necessary or proper in administering the assets of the fund;
- 28 (6) to maintain accounting records of the fund in accordance with investment
29 accounting principles and with distinction between the principal and income accounts of the fund;
- 30 (7) to engage an independent firm of certified public accountants to annually audit
31 the financial condition of the fund's investments and investment transactions;

1 (8) to enter into and enforce contracts or agreements considered necessary for the
2 investment purposes of the fund;

3 (9) to report to the department the condition and investment performance of the
4 fund.

5 Sec. 14.30.780. EDUCATION TECHNOLOGY COMMITTEE. (a) The Education
6 Technology Committee is composed of the director of the division of libraries, archives, and
7 museums and seven members appointed by the governor. The governor shall appoint

8 (1) four members who are educators with demonstrated education technology
9 experience;

10 (A) one from a district with 15,000 or more students;

11 (B) one from a district with at least 6,000 but less than 15,000 students;

12 (C) one from a district with at least 1,000 but less than 6,000 students; and

13 (D) one from a district with less than 1,000 students;

14 (2) one member with demonstrated education technology experience who is
15 employed by the University of Alaska;

16 (3) one member with demonstrated education technology experience who is
17 employed by the department; and

18 (4) one member with expertise in telecommunications employed by the
19 Department of Administration.

20 (b) The committee shall review project and grant applications and approve project
21 funding or award grants to a school district, a public school, or a publicly funded library from
22 the fund. In reviewing project or grant applications the committee shall consider the
23 completeness and consistency of the application in meeting the requirements of AS 14.30.760(c)
24 and (d). In funding projects or awarding grants to a school, district, or library, the committee
25 shall incorporate the applicant's plan for utilizing education technology. In funding projects or
26 awarding grants, the committee shall develop appropriate guidelines to ensure an equitable
27 distribution of project and grant funds. The committee shall recommend to the department the
28 best method for providing statewide teacher training and training to other instructional personnel
29 on the application and implementation of education technology as a part of the classroom
30 curriculum.

31 (c) Members of the committee serve without compensation but are entitled to receive per

1 diem and travel expenses authorized for boards and commissions under AS 39.20.180.

2 Sec. 14.30.790. DEFINITIONS. In AS 14.30.750 - 14.30.790,

3 (1) "committee" means the Education Technology Committee;

4 (2) "district" has the meaning given in AS 14.17.250;

5 (3) "education technology" means instructional equipment and materials that are
6 used to enhance the quality and increase the efficiency of teaching and learning, including
7 hardware, software, and telecommunications;

8 (4) "fund" means the Alaska education technology fund;

9 (5) "publicly funded library" means a library eligible for a grant under
10 AS 14.56.310.

11 * Sec. 3. Before accepting project or grant applications under AS 14.30.760(b), enacted in sec. 2 of
12 this Act, the Department of Education shall conduct

13 (1) a survey of education technology resources in public schools and publicly funded
14 libraries in the state; and

15 (2) a statewide education technology grant and project writing seminar, available to all
16 public schools, school districts, and publicly funded libraries.

17 * Sec. 4. AS 14.30.760, 14.30.770, 14.30.780, and 14.30.790 are repealed December 31, 1998.

18 * Sec. 5. This Act takes effect July 1, 1992.

Adopted

7-LS0572NP.1 ✓

Ford

05/09/92

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 203 (HES)

Page 2, line 18, after "systems":

Insert "; the plan required under this paragraph shall be developed in consultation with the Department of Administration and must be consistent with AS 44.21.315(c)"

Adopted

7-LS0572P.2

Ford

05/09/92

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 203 (HES)

Page 2, line 28, after "network":

Delete "or other means"

Insert ", the Department of Administration computer network, or other means consistent with the program developed under AS 14.30.750 and AS 44.21.315(c)"

Adopted

7-LS0572P.3

Ford

05/09/92

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 203 (HES)

Page 5, line 3:

Delete "six"

Insert "seven"

Page 5, line 11:

Delete "and"

Page 5, line 13, after "department":

Insert "; and

(4) one member with expertise in telecommunications employed by the
Department of Administration"

HOUSE AMENDMENT

152

TO: CS HB 203 (2nd Fin)

BY: Brown, Barnes
Choquette

Page _____ Line _____

Letter of Intent

It is the intent of the legislature
that the Fiscal Notes for HB 203
be zero.

Submit original amendment to the Chief Clerk.
It will then be numbered and duplicated.

Legislative Information Office
3111 C Street #435
Anchorage, Alaska 99503
(907) 561-7627

During Session
State Capitol
Juneau, Alaska 99801-1182
(907) 465-4998

April 30, 1992

Sponsor Statement Education Technology Fund SCSCSHB 203 (HES)

Background

Alaska must prepare its children to compete in the global marketplace. The computer revolution that has transformed the way industry and government conduct business is creating new demands on America's educational system. Mastery of computers is now required for virtually all occupations, regardless of whether they are technical, professional, entry-level or executive-level.

In addition, educational leaders agree that computers in the classroom can aid in the instruction of numerous subjects. They allow teachers to spend more quality time with students and they improve student performance. When students study a subject at a computer, those who work at a faster pace can move ahead while the teacher is free to work with students who may lag behind.

Helping students keep pace with the computer world is an expensive proposition. Integrating computer technology into every Alaska classroom would cost about \$100 million, which includes \$80 million for hardware and software and \$20 million for teacher training. The state must help or the technology will be purchased and used only by our most affluent school districts - a situation that will further aggravate inequities in Alaska schools.

SCSCS For House Bill 203 (HES)

This bill creates a state Education Technology Fund that would help pay for hardware, software, and telecommunications access for classrooms, teacher training, and technology for libraries. The legislature would appropriate money to the fund from whatever sources it deemed appropriate. The legislature also could ask voters to approve general obligation bonds. This bill does not appropriate money to the Education Technology Fund. The companion funding bill for this legislation is House Bill 204, which is pending before the House Finance Committee.

HB 203 creates an Education Technology Committee, consisting of six members appointed by the Governor and the director of the state Division of Libraries, Archives and Museums. The committee, using specific criteria, would review

DISTRICT 12

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Eastridge • Penland Park • Airport Heights • Government Hill

requests from schools or school districts. It will award permits for use of state-owned equipment and materials and grants for teacher training.

The legislation also enables the the committee to provide permits or grants for publicly funded libraries to expand and update resource sharing and information network systems.

The bill, regardless of whether or not the Education Technology Fund is capitalized, creates an Education Technology Program within the Department of Education. The department would:

- Conduct a statewide survey of existing educational technology in Alaska schools;
- Provide technical assistance to schools and public libraries in planning and purchasing education technology;
- Offer training in the use of education technology;
- Develop a plan for using existing networks for educational uses, including the University of Alaska computer network; and
- Pool grant money or other money available from school districts in order to make bulk purchases of education technology or training.

Fiscal Notes

House versions of this bill contained Department of Education fiscal notes in the amount of \$194,900, which related to the Education Program sections of the bill. The House during floor deliberations approved a letter of intent (attached) stating that the fiscal notes should be zero. It was the House's intent that the department, if necessary, reallocate existing resources to carry out the program.

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3111 C Street #435
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(907) 561-7627

During Session
State Capitol
Juneau, Alaska 99801-1182
(907) 465-4998

April 30, 1992

SECTIONAL ANALYSIS

SCSCSHB 203 (HES)

An Act Establishing the Education Technology Fund

Section 1

Findings and Purpose.

Section 2

The Alaska Education Technology Program is created in the Department of Education. The department will offer technical assistance to schools and publicly funded libraries in planning and purchasing education technology. The department will also provide training to school and library employees in the use of education technology and develop a plan for expanding the use of existing networks, such as the University of Alaska computer network, for educational purposes.

The Alaska Education Technology Fund is established in the Department of Education. Proceeds of the fund will be used to purchase, install, and maintain education technology for use in Alaska public and secondary school classrooms, provide training for teachers and other instructional personnel in the use of the technology, provide network access for public schools through the University of Alaska computer network, and provide computer and resource sharing systems for public libraries. The legislature can appropriate money to the fund or the public can provide funding through general obligation bonds or private donations. The Commissioner of Revenue is designated as treasurer of the fund.

An Education Technology Grant Committee is created consisting of six members appointed by the governor and the director of the Division of Libraries, Archives and Museums. The Committee shall review and approve project and grant requests using specified criteria, including a school or district plan for using technology to improve student performance. The Department of Education will give permits or leases for use of hardware and software to schools, school districts and public libraries whose projects are approved by the committee. Grants can be awarded for training. The

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Committee is charged with developing guidelines to ensure an equitable distribution of project and grant funds.

The state Board of Education shall adopt regulations for the permitting process. The Department of Education shall include in its annual report a report on the projects receiving education technology funding.

Members of the Committee serve without compensation but are entitled to receive per diem and travel expenses.

Terms are defined.

Section 3

Before accepting project or grant applications, the Department of Education shall conduct a survey of existing education technology resources. The department shall also conduct a statewide, education technology project and grant writing seminar available to all public schools, school districts and public libraries.

Section 4

Sunset clause. The Alaska Education Technology Fund established by this legislation is repealed December 31, 1998.

Section 5

Effective date of July 1, 1992.

Jan Foster



ALASKA PTA
Post Office Box 201496
Anchorage, Alaska 99520-1496
(907) 279-9345

FOR THE
I 1992

ALASKA PTA 1992 LEGISLATIVE PRIORITIES

1. Alaska PTA supports increasing the current foundation formula to at least \$64,500 per unit with a provision for the addition of an inflation proofing mechanism within the formula.
2. Alaska PTA supports adequate state funding for school construction including new construction, repair and maintenance, and reimbursement for past debt.
3. Alaska PTA supports legislation and regulations which address our concerns on early childhood education and child care issues.
4. Alaska PTA supports legislation which would establish and fund an Alaska Education Technology Fund.
5. Alaska PTA supports legislation and regulations which provide resources to develop and implement a statewide public awareness campaign to address adolescent pregnancy prevention.

Adopted in convention, April, 1992

Small businesses bridging the computer literacy G A P

The American work force is ill-prepared for the basic computer skills needed to work in today's high-tech workplace. A recent survey conducted by the U.S. Government shows that 95 percent of businesses cite an increasing need for computer literacy for all employees. Workers are handicapped even more by changes in technology that require employee retraining in some industries every 18 to 36 months. The void that has been created by the lack of computer education has created a market for technical training. Many opportunities exist for small businesses to close the computer literacy gap that has come between the work force and the workplace.

Education and training-related businesses have been identified as one of the top 10 small-business opportunities for 1992. Training for information systems was a \$2-billion industry in 1990 and is expected to more than double to \$4.2 billion by 1995.

Bertram Gader of Los Angeles turned his years of experience in advertising into a lucrative small business in computer graphics training. He started the company in 1988 and named it after himself, simply Bertram Gader. Bertram has found a niche in helping advertising-agency art directors and graphic designers keep up with the latest computer technology. He says he has a lot of repeat business because of the constant technological advances in computer hardware and software. In only three and a half years, Bertram has done well. His business grew by 50 percent last year and he expects to grow by at least that much this year. His list of clients now includes many major advertising agencies.

Someone else now is toasting to his own small-business success is Ron Anderson. Ron started his business with a partner three years ago after he was unable to find a job as an engineer. The company, called Associated Computer Lab, provides seminar-style computer training, software packages and consulting to business and government in the area. Bubbling over with success, Associate's business doubled in its first two years, and Ron is expecting to grow by another 50 percent this year. Taking advantage of opportunities in computer training has been a cause for celebration among many small-business owners.

Alert -- (Cont. from pg. 1)

PHONE SCAM and those who receive calls are advised not to agree to make a donation or provide a credit card number to cover the cost of that donation.

If you receive such a call, gather as much information as you can from the caller and make the information available to the police.

If you have a fax and did not receive this alert on February 20, call our office with your fax number so you can be added to our fax tree.

Pass this information along to your business associates, friends and neighbors! Don't become a victim of this scam operation!

CHAMBER FEE SCHEDULES

P_M-91 Database labels (Self Adhesive)

Complete database list of all known businesses in Juneau (P_M-91)

Member \$150

Non-Member \$200

Membership list only

Member \$50

Non-Member \$75

(We will print the labels in any sort order desired by the client.) *The price includes labels, but not mailing costs.*

Chamber membership roster

(Printed list of members) (P-M-91)

Member N/C

Non-Member \$5

Printed list of all information in database—
(P_M-91 FILE ONLY)

Member \$75

Non-Member \$100

Insert of pre-printed literature into Chamber Mailings

Member \$125

Non-Member \$175

YOUR AD COULD BE
HERE FOR AS LITTLE AS
\$48.75 PER MONTH.

Call the office for details.

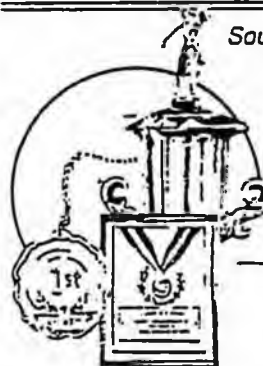
586-6420

Advertising deadline: 25th of the
month prior to publication

Oliver's

Trophies & Engraving, Inc.

Southeast Alaska's Award Center



- Office Signs
- Flags
- Rubber Stamps
- Lapel Pins
- Speciality Advertising
- Quick Quality Work

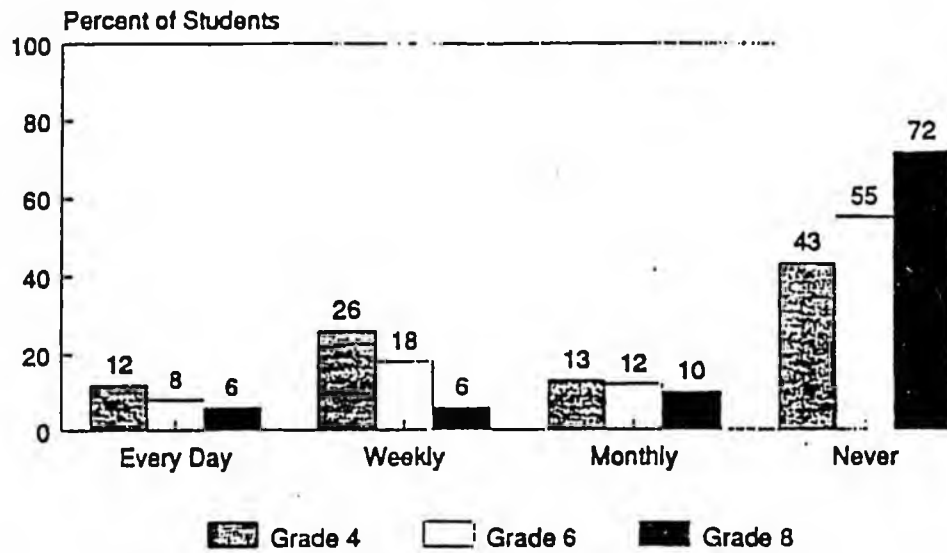
9108 Mendenhall Mall Road

1-800-487-0993 • 789-0993

FAX: (907)789-9535

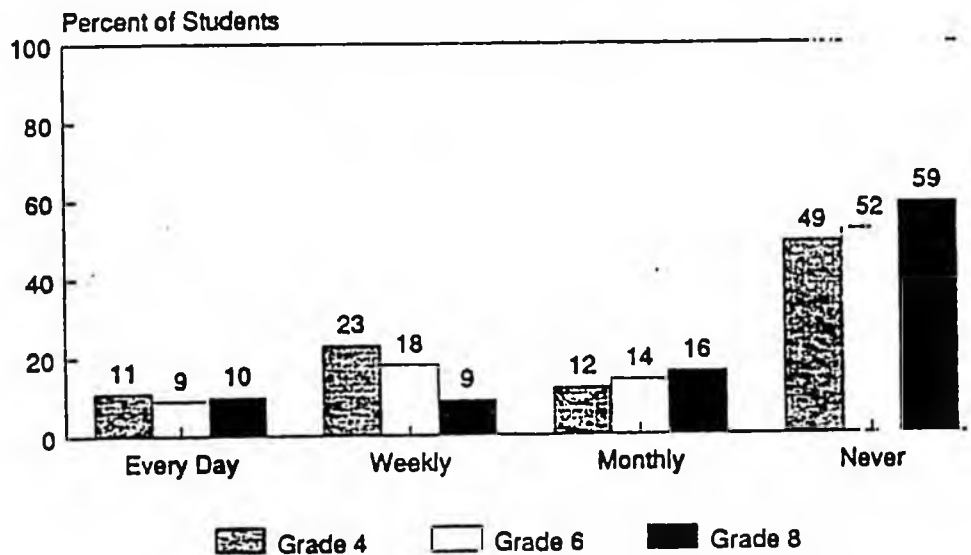
14 years serving Southeast

How Often Do You Use Computers To Work With Numbers In School?



Student Questionnaire Results
1990-91 Alaska Statewide Student
Assessment Program

How Often Do You Use Computers For Reading Or Writing In School?



Student Questionnaire Results
1990-91 Alaska Statewide Student
Assessment Program

HB204

HOUSE BILL NO. 204

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE BROWN, MacLean, B.Davis, Koponen, Ellis, Bruckman, Ulmer

Introduced: 3/8/91

Referred: Health, Education & Social Services, Finance

Funding Information: General Fund \$63,000,000

Other Funds -0-
\$63,000,000

A BILL

FOR AN ACT ENTITLED

1 "An Act making special appropriations for the Alaska education technology fund and
2 grants for publicly funded libraries; and providing for an effective date."

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

4 * Section 1. Contingent on the enactment of an Act passed by the Seventeenth Alaska State
5 Legislature creating the Alaska education technology fund, the sum of \$60,000,000 is appropriated from
6 the general fund to the Alaska education technology fund.

7 * Sec. 2. Contingent on the enactment of an Act passed by the Seventeenth Alaska State Legislature
8 amending AS 14.56.030 to authorize grants to publicly funded libraries, the sum of \$3,000,000 is
9 appropriated from the general fund to the Department of Education, division of libraries, for grants to
10 publicly funded libraries for library computer automation and resource sharing systems.

11 * Sec. 3. The appropriations made by this Act lapse June 30, 1994.

12 * Sec. 4. This Act takes effect July 1, 1991.

7-LS0602J
Utermohle
05/07/91

CS FOR HOUSE BILL NO. 204 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES BROWN, MacLean, B.Davis, Ellis, Bruckman, Ulmer

A BILL
FOR AN ACT ENTITLED

1 "An Act providing for the issuance of general obligation bonds in the amount of
2 \$53,000,000 for the purpose of paying the cost of education and library technology capital
3 grant programs; and providing for an effective date."

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

5 * Section 1. For the purpose of paying the cost of education and library technology capital grant
6 programs, general obligation bonds of the state in the principal amount of not more than \$53,000,000
7 shall be issued and sold. The full faith, credit, and resources of the state are pledged to the payment of
8 the principal of and interest and redemption premium, if any, on the bonds. The bonds shall be issued
9 under the provisions of AS 37.15 as those provisions read at the time of issuance.

10 * Sec. 2. If the issuance of the bonds is authorized by the qualified voters of the state, a special fund
11 of the state to be known as the "1992 Education and Library Technology Fund" shall be established, to
12 which shall be credited the proceeds of the sale of the bonds described in sec. 1 of this Act except for
13 the accrued interest and premiums.

14 * Sec. 3. The amount of \$50,000,000 is appropriated from the "1992 Education and Library

1 Technology Fund" to the Alaska education technology fund to be allocated in accordance with the
2 purposes and procedures of the Alaska education technology fund for grants for capital projects.

3 * Sec. 4. The amount of \$3,000,000 is appropriated from the "1992 Education and Library
4 Technology Fund" to the Department of Education, division of libraries, to be allocated for capital grants
5 to publicly funded libraries for computer automation and resource sharing systems.

6 * Sec. 5. If the issuance of the bonds is authorized by the qualified voters of the state, the amount
7 of \$185,500 or as much of that amount as is found necessary is appropriated from the general fund of
8 the state to the state bond committee to carry out the provisions of this Act and to pay expenses incident
9 to the sale and issuance of the bonds authorized in this Act. The amounts expended from the
10 appropriation authorized by this section shall be reimbursed to the general fund from the proceeds of the
11 sale of the bonds authorized by this Act.

12 * Sec. 6. The unexpended and unobligated balance of the appropriations made in secs. 3 and 4 of this
13 Act lapses under AS 37.25.020 and is appropriated to the state bond committee to redeem bonds sold
14 under this Act. The amounts expended from the general fund to pay the principal, interest, and
15 redemption premium on bonds issued under this Act shall be reimbursed to the general fund from the
16 appropriation made under this section to the extent that the money is not needed to redeem the bonds.

17 * Sec. 7. The question whether the bonds authorized in this Act are to be issued shall be submitted
18 to the qualified voters of the state at the next general election and shall read substantially as follows:

19 PROPOSITION

20 State General Obligation Education and Library

21 Technology Bonds \$53,000,000

22 Shall the State of Alaska issue its general obligation bonds in the principal
23 amount of not more than \$53,000,000 for the purpose of paying the cost
24 of education and library technology capital grant programs?

25 Bonds Yes []

26 Bonds No []

27 * Sec. 8. This Act takes effect on the date of enactment of an Act passed by the Seventeenth Alaska
28 State Legislature creating the Alaska education technology fund and authorizing grants to publicly funded
29 libraries.

FISCAL NOTE

**STATE OF ALASKA
1991 LEGISLATIVE SESSION**

**BILL NO. CSHB 204
5/10/91 DRAFT**

Revision Date: May 10, 1991
Title: Appropriation: Education Technology Programs

Department Affected: University of Alaska
BRU: Statewide Networks
Component: Statewide Networks

Sponsor: Rep. Kay Brown
Requestor:

Component Serial No.

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY92	FY93	FY94	FY95	FY96	FY97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	155.0	167.7	181.1	195.1	209.9	225.4
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	155.0	167.7	181.1	195.1	209.9	225.4

CAPITAL	100.0	0.0	0.0	0.0	0.0	0.0
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REVENUE						
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FUNDING: (Thousands of Dollars)	FY92	FY93	FY94	FY95	FY96	FY97
GENERAL FUND	255.0	167.0	181.0	195.1	209.0	225.4
FEDERAL FUNDS						
OTHER						
TOTAL	255.0	167.0	181.0	195.1	209.0	225.4

POSITIONS:	FY92	FY93	FY94	FY95	FY96	FY97
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY						

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Please see attached.

Prepared by: Marsha A. Hubbard
Division: Statewide Budget Office

Approved by: Brian Rogers, Vice President for Finance
Agency: University of Alaska

Phone: 474-7593
Date: 5/10/91

Date: 5/9/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE ANALYSIS . CSHB 204 (HESS)

This appropriation would provide toll-free access to the University of Alaska computer network.

The capital appropriation would pay for equipment, and the operating appropriation would pay for telecommunication services.

SECTIONAL ANALYSIS

CS HB 204 (5/10/91) GO Bond Authorization — Education Technology

Section 1

Contingent on the enactment of CS HB 203 (HES), general obligation bonds of not more than \$53 million in value shall be issued and sold for the purpose of paying education and library technology capital grant programs.

Section 2

Contingent upon the approval of the issuance of bonds by qualified voters of the state, the proceeds of the bonds shall be credited to the "1992 Education and Library Technology Fund.

Section 3

Contingent on the enactment of CS HB 203 (HES), the sum of \$50 million is appropriated from the "1992 Education and Library Technology Fund" to the Education Technology Fund and allocated for education technology grants.

Section 4

Contingent on the enactment of CS HB 203 (HES), the sum of \$3 million is appropriated from the "1992 Education and Library Technology Fund" to the Department of Education, division of libraries to fund grants for computer automation and resource sharing systems.

Section 5

Contingent on the authorization of general obligation bonds, the sum of \$185,500 is appropriated from the general fund to carry out the sale and issuance of bonds, to be reimbursed to the general fund from the proceeds of the sale of the bonds.

Section 6

Provides that the unexpended and unobligated balance of the appropriations authorized by sections 3 and 4, after expenditures to lapse into the general fund under AS 37.25.020.

Section 7

Describes the proposition by qualified voters of the state for the sale and issuance of general obligation bonds to the sum of not more than \$53 million.

Section 8

Effective date.

HB206

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. ¹¹² CS 206 (L&C)

Revision Date: April 15, 1991 Department Affected: Commerce & Economic Dev.
 Title: An Act revising the loan authority of the AK Industrial Dev. & Export Authority BRU: AK Industrial Dev. & Export Authority
 Authority: Choquette, Baker Component: _____
 Sponsor: _____
 Requestor: _____

COMPONENT SERIAL NO.	1	2	3	4
----------------------	---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	25,000	25,000	25,000	25,000	25,000	25,000
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REVENUE	25,000	25,000	25,000	25,000	25,000	25,000
---------	--------	--------	--------	--------	--------	--------

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	25,000	25,000	25,000	25,000	25,000	25,000
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

SEE ATTACHED

Prepared By: Bertram L. Wagnon, Executive Director Phone: (907) 561-8050
 Division: AK Industrial Dev. & Export Authority Date: April 15, 1991

Approved by Commissioner: Glenn A. Olds
 Agency: Department of Commerce & Economic Development Date: 4/30/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE - CSSB 206 (L&C)

ANALYSIS:

Raising the loan limits from \$10 to \$15 million will tend to increase the amounts loaned and, in conjunction with shorter amortization on the originators' (banks) part, increase the number of loans. The new language restricting the program to "new business ventures" will tend to decrease usage of the program. The preparer's best estimate is that the net effect will result in the \$25 million range subject, of course, to external economic factors which impact lending.

Note: All funds are available for these purposes and require no appropriation from the Legislature.

CS FOR HOUSE BILL NO. 206 (FINANCE)
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
 Referred:

Sponsor(s): REPRESENTATIVES CHOQUETTE, Baker

A BILL

FOR AN ACT ENTITLED

1 "An Act revising the loan authority of the Alaska Industrial Development and Export
 2 Authority, and amending the requirements relating to the authority's loan guarantees under
 3 its business assistance program; and providing for an effective date."

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

5 * Section 1. AS 44.88.155(d) is amended to read:

6 (d) A loan purchased in whole or in part by the authority with assets of the enterprise
 7 development account or with proceeds of bonds secured by assets of the enterprise development
 8 account, other than a loan which is financed with the proceeds of bonds of the authority and
 9 secured only by a project applicant or a project,

10 (1) may not exceed \$15,000,000 [\$10,000,000];

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

14 (3) may not be for a term longer than three-quarters of the authority's estimate

1 of the life of the project or 25 years from the date the loan is made, whichever is earlier;

2 (4) shall contain [COMPLETE] amortization provisions; the amortization
3 provisions

4 (A) must be complete and satisfactory to the authority and require
5 [REQUIRING] periodic payments by the borrower;

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

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

11 (ii) the accelerated amortization schedule is required to induce
12 the originator to make the loan;

13 (5) shall be in the form and contain the terms and provisions with respect to
14 insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency
15 charges, default remedies, acceleration of maturity, secondary liens, and other matters the
16 authority prescribes;

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

20 (7) may not be made unless

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

25 (B) with respect to the loan.

26 (i) at least 20 percent of the principal amount of the loan is
27 retained by the loan originator [OF THE LOAN AS LONG AS THE LOAN IS
28 OUTSTANDING]; or

29 (ii) [(B)] 100 percent of the principal amount of the loan is
30 guaranteed by the United States or an agency or instrumentality of the United
31 States;

- 1 (8) must be
2 (A) financed from the proceeds of bonds; or
3 (B) expected by the authority to be financed from the proceeds of bonds.

4 * Sec. 2. AS 44.88.535(a) is amended to read:

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

6 (1) loan

7 (A) is commercially reasonable;

8 (B) [,] contains amortization provisions satisfactory to the authority;

9 (C) [,] is secured by adequate collateral; however, the authority may
10 waive on a case-by-case basis the requirement of collateral for a loan guarantee of
11 \$50,000 or less for which the proposed loan amortization period does not exceed five
12 years, but the ability to waive the requirement of this subparagraph or the grant of
13 a waiver does not prevent the financial institution that holds the loan guaranteed by
14 the authority from requiring reasonable collateral for the loan:

15 (2) [AND THE] net cash flow from the borrower provides adequate coverage for
16 the debt service on the loan;

17 (3) [(2)] term of the loan does not exceed 20 years;

18 (4) [(3)] loan is originated with and serviced by a state chartered or federally
19 chartered financial institution;

20 (5) [(4)] portion of the loan not guaranteed by the authority is held by the
21 originating financial institution or another financial institution approved by the authority;

22 (6) [(5)] loan is made to a business with a majority interest held by state
23 residents; and

24 (7) [(6)] loan guarantee provides a benefit to the borrower.

25 * Sec. 3. AS 44.88.535(b) is amended to read:

26 (b) The authority may provide a guarantee from the fund

27 (1) of 80 percent of a loan of \$50,000 or less that qualifies under
28 AS 44.88.500 - 44.88.599;

29 (2) for up to 80 percent of a loan of more than \$50,000 that qualifies under
30 AS 44.88.500 - 44.88.599; the [. THE] ratio of the guarantee to the outstanding principal of the
31 loan may not increase over the term of the loan.

1 * Sec. 4. LOAN RATIOS NOT TO BE INCREASED. For a loan of \$50,000 or less for which a loan
2 guarantee was made from the business assistance fund of the Alaska Industrial Development and Export
3 Authority before the effective date of this Act, the authority may not increase the ratio of the guarantee
4 to the outstanding principal of the loan in effect on the effective date of this Act over the term of the
5 loan.

6 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

AH. AMENDMENT #1
- 30/91
HB 206

AMENDMENT

BY REPRESENTATIVE CHOQUETTE

TO: CSHB 206 (L&C)

* WAS NOT BROUGHT UP FOR
VOTE. 4/30/91

I Page 2, line 8, following "or":

insert "at the option of the loan originator"

This amendment is offered to assuage the concerns of AIDEA expressed in their fiscal note and their amendment regarding required amortization by the banks in at most 10 years. This amendment will allow banks to amortize their portion of the loan over a period of time greater than 10 years, if they so choose.

II Page 2, line 17:

Delete 7 (a)

Inclusion of 7 (a) in this section of the bill will limit the ability of AIDEA to refinance existing loans; a valuable option in most cases. Acceptance of the amendment will provide AIDEA with the authority to finance new loans and refinance existing loans as long as a project applicant or all members of a business enterprise constituting a project applicant are not currently in default on another loan made by the state.

III Page 3, lines 6-9:

Delete "except that security may not be required for a guarantee that is no more than \$50,000 for which the proposed loan amortization period does not exceed five years;

(2) [AND THE]"

Insert "; the authority may not require security for a loan guarantee of \$50,000 or less for which the proposed loan amortization period does not exceed five years, but the limitation of this subparagraph does not prevent the financial institution that holds the loan guaranteed by the authority from requiring reasonable collateral for the loan;

(2) [,AND THE]"

By Bert WAGNON

AK. Inv. Dir. & Exp. M.H.

ATTACHMENT # 2

4/30/91

1113200

Proposed AIDEA Amendment to HB 206 (L & C)

* WAS NOT BROUGHT UP FOR VOTE 4/30/91

Section 1. AS 44.88.155(d) is amended by deleting paragraph (4)(B) and adding a new paragraph (4)(B) to read:

(B) may allow the loan originator to amortize the portion of the loan retained by the loan originator on a shorter amortization schedule than the amortization schedule for the portion of the loan held by the authority when;

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

(ii) the accelerated amortization schedule is required to induce the originator to make the loan.

and by deleting paragraph (7)(A)

A M E N D M E N T

OFFERED IN THE HOUSE
TO: CSHB 206 (L&C)

BY REPRESENTATIVE CHOQUETTE

Page 3, lines 6 - 9:

Delete "except that security may not be required for a guarantee that is no more than \$50,000 for which the proposed loan amortization period does not exceed five years;

(2) [AND THE]"

Insert "; the authority may not require security for a loan guarantee of \$50,000 or less for which the proposed loan amortization period does not exceed five years, but the limitation of this subparagraph does not prevent the financial institution that holds the loan guaranteed by the authority from requiring reasonable collateral for the loan;

(2) [, AND THE]"

CS HB 206 (L&C): An Act revising the loan authority of the Alaska Industrial Development & Export Authority

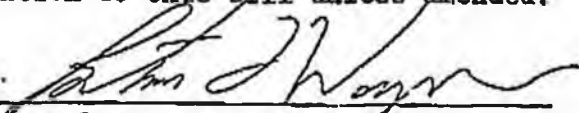
The Authority is concerned about the impacts CS HB 206 (L&C) will have on the Authority.

Page 1, line 10, raises the loan limit from \$10 to \$15 million. While this in and of itself is not unreasonable, when taken in conjunction with the second change on page 2, lines 6 thru 8, the potential for assuming a significant high level of risk is present. This second change mandates that on a participation loan the banks portion will never exceed 10 years no matter how long the loan term. As an example, if this bill passed as drafted a \$15 million, 20 year loan would have the bank paid out in 10 years and only the Authority exposed for years 10 thru 20. Staff strongly recommends that this section be amended to perhaps allow differential amortization but not make it mandatory in all cases.

The House Labor & Commerce also made an amendment on page 2, line 17, that will create problems. The new language mandates that a loan not be made unless the project applicant is a new business venture. It is hard to understand how a newly created start-up firm could qualify for a \$15 million loan and as written would exclude any existing businesses from qualifying for a loan.

Other changes on page 3 & 4 relate to denying loans to applicants who have defaulted on previous loans and amendments to the loan guaranty programs. As drafted the bill could be constructed to mandate an 80% guaranty of loans of \$50,000 or less which is currently set at 60%.

Staff of the Authority recommends opposition to this bill unless amended.


Bertram L. Wagnon, Executive Director
Alaska Industrial Development and
Export Authority

Date: April 15, 1991

Alaska State Legislature
House of Representatives



INTERIM

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SESSION

P.O. Box V
Juneau, Alaska 99811
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Representative Dave Choquette

April 29, 1991

To: Representative Eileen MacLean
Representative Mike Navarre
Co-Chairs, Finance Committee

From: Representative Dave Choquette
Representative Larry Baker

Re: CSHB 206, An Act revising the loan authority of the
Alaska Industrial Development and Export Authority
(AIDEA)

Representative Baker and myself introduced HB 206, an act revising the loan authority of the Alaska Industrial Development and Export Authority (AIDEA), for two reasons. First, to increase bank participation in AIDEA programs, and, second, to foster a small business loan guarantee program better suited to meet the needs of this sector of the economy.

CSHB 206 has four components.

- a. It sets up a differential amortization schedule for banks participating in the commercial loan program so that they may liquidate their debt prior to the authority.
- b. It increases the size of loans that may be made under the commercial loan program from \$10 million to \$15 million.
- c. It provides that AIDEA may increase the loan guarantee from 60% to 80% for loans of \$50,000 or less.
- d. It provides that AIDEA may remove the security requirement for loans of \$50,000 or less provided the loans do not amortize for longer than 5 years. Discretion is left in the hands of the bank to determine a reasonable collateral requirement.

A more detailed overview follows.



AIDEA BACKGROUND

The Alaska Industrial Development and Export Authority (AIDEA) is a public corporation of the State of Alaska, and a political subdivision within the Department of Commerce and Economic Development (DCED). It maintains a separate and independent legal existence from DCED. AIDEA's objective is to promote, develop, and advance the general prosperity of Alaskans. It serves this end by financing industrial, manufacturing, and other business enterprises located within the state, and by developing projects that will provide employment and economic development opportunities.

AIDEA activities are funded through the revolving fund established in the authority. The fund consists of legislative appropriations, money or assets transferred to the revolving fund by the authority, and unrestricted payments on loans made or purchased by the authority.

The activities of the AIDEA revolving fund are accounted for in the Enterprise Development Account and the Economic Development Account. Both accounts were established by the Legislature for separate and distinct purposes. The Enterprise Development Account is a trust fund established to finance industrial, manufacturing, and business enterprises not owned or operated by AIDEA.¹ The Economic Development Account is used only to finance, acquire, manage, and operate development projects that AIDEA intends to own or operate.

A. The commercial loan program

¹ According to AIDEA's 1990 Annual Report, since July 1, 1980, this account consists of:

a. \$32,212,300 in appropriations

b. all rights, title, and interest in loans, with principal balances totalling approximately \$166,000,000 at the date of transfer, previously held by the Department of Revenue and the Department of Commerce and Economic Development.

c. assets and liabilities of the Alaska State Development Corporation, the Small Business Development Corporation, and the Alaska Toll Bridge Authority, with a fund balance of \$2,554,055.

The commercial loan program is funded within the Enterprise Development Account. At present, money within the account may be used to purchase loans or to secure bonds issued to finance the purchase of loans for commercial projects. At present, a loan may be secured by bond or purchased so long as it:

1. does not exceed, \$10,000,000;
2. does not exceed the cost of the project or 75% of the appraised value of the project, whichever is less, unless the amount in excess of this limit is federally insured or guaranteed or insured by a qualified mortgage insurance company;
3. is not for a term longer than 3/4 of the authority's estimate of the life of the project, or for 25 years from the date of the loan, whichever is earlier;
4. contains complete amortization provisions, these provisions set the schedule for liquidation of a debt by installment payments; and
5. contains provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, etc.

Additionally:

repayment is to be secured by mortgage, or another security instrument;

at least 20% of the principal amount of the loan is required to be retained by the originator of the loan, or 100% of the principal is to be guaranteed by the United States;

and the loan should be financed or expected to be financed from the proceeds of bonds.

Proposed Amendments to the Commercial Loan Program

The commercial loan guarantee program has not been a resounding success. Banks are reticent to participate in it. According to the Alaska Banker's Association, the loan program could better fulfill its purpose of providing capital to small and medium sized businesses by allowing banks participating in the AIDEA program to be paid back on a faster amortization schedule than AIDEA.

As it presently stands, the requirement that a bank retain at least 20% of the principal amount of the loan for as much as 25 years works against the capital structure under which banks operate.

Banks do not have a lot of capital available for long term lending because virtually all their cash, in the form of customer deposits, is short term. To tie up a disproportionate share of assets in long term loans would be detrimental to the banks, and would subject them to a high degree of scrutiny by bank examiners. AIDEA, on the other hand, is an instrument capable of maintaining long term loans.

The amendments proffered in Section 1 of the bill address this needed change. First, they allow the banks to amortize their portion of the loan over a time period less than the amortization period for the portion of the loan held by the authority; or for ten years, whichever is less. Second, they remove the requirement that at least 20% of the principal amount of the loan be retained by the bank for as long as the loan is outstanding.

Section One also increases the size of loans that AIDEA may purchase or finance from \$10 million to \$15 million. This increase will allow AIDEA to provide additional support to commercially sound projects. Funds within the Enterprise Development Account are quite sufficient to handle this increase.

Lastly, as a security to protect the financial well-being of the Enterprise Development Account, Section One requires that AIDEA may not guarantee a loan if the project applicant is currently in default on another loan made by the state or a public corporation of the state.

B. Business Assistance Program

AIDEA also operates a business assistance fund, commonly known as a loan guarantee program. The purpose of the loan guarantee program is to furnish up to an 80% guarantee of the principal balance to the financial institution making the loan. This added degree of support is intended to make project financing, refinancing, and working capital loans, available to borrowers that might not otherwise be financed.

The fund is established in the authority from money within the authority's reserves. By statute as much as \$50,000,000 may be reserved for the program, with at least \$25,000,000 of this amount reserved for loans of \$500,000 or less. At present, the authority only has \$3.6 million within the fund, and has only lent out \$500,000. The program is not filling the financing void it was created to alleviate.

Amendments to the Business Assistance Program

The business assistance program can be more successful if incentives can be created to make private banks more willing participants in the program. Just as importantly, it can be an effective vehicle for financing the programs and needs of Alaska's small business community. These amendments are an attempt to meet these ends. Additionally, they respond to the recommendations of

the 1989 Governor's Conference on Small Business on this matter.

Sections 2 through 5 of the bill lay out the amendments.

Section 2 addresses the conditions by which the authority may guarantee a loan under the business assistance program. At present, the authority may guarantee a loan made to a business with a majority interest held by state residents so long as that loan is: commercially reasonable; contains satisfactory amortization provisions; is secured by adequate collateral; so long as the net cash flow of the borrower provides adequate coverage for debt service; and so long as the borrower's credit check is satisfactory.

Section 2 amends the framework by providing that the authority may guarantee a commercially reasonable loan of \$50,000 or less that amortizes in five years without requiring security. Currently, AIDEA regulations place a difficult burden on Alaskan businesses attempting to get small loans. Namely, they provide that a bank will only get a guarantee on a loan if the business provides collateral for up to 75% of the requested amount. Despite the fact that the borrower's loan request may be commercially sound, that he or she may have adequate cash flow to service the debt, and that their credit history is satisfactory, many Alaskan small business owners simply cannot fulfill this collateral requirement. Resultingly, many cannot get an AIDEA guaranteed loan from the bank.

This amendment will allow the bank to more accurately weigh the security requirement for worthy loans of \$50,000 or less, and to accordingly set up differential collateral requirements.

Section 3 amends existent statute and provides that the authority may guarantee 80% of a loan of \$50,000 or less. By regulation, the authority guarantees only 60% of loans of this total.

Often banks finds that a small loan is not worth the time and expense of administering it. As a matter of practice, many small loans made to businesses for inventory, accounts receivable, or working capital do not exceed one year in duration. A bank manager generating this type of credit might turn down marginally qualifying loans due to time considerations and administrative costs.

Increasing the guarantee to 80% is intended to offset this difficulty and to offer opportunities for credit to new businesses and marginally capitalized businesses that otherwise would have a difficult time obtaining credit. A 20% risk factor for most bankers would be sufficient for a bank to maintain quality standards. The collection of excess bad debts by a bank is a drain on profitability which they are not willing to undertake.

Section 4 provides that the authority may not increase its

guarantee of loan of \$50,000 or less for loans made before the effective date of these amendments.

Lastly, section 5 provides an immediate effective date.

C. Conclusion

House Bill 206 is an attempt to further AIDEA's resolve to advance the economic prosperity of the State. This is completed by increasing bank participation within the AIDEA framework and by responding to the call of Alaskan small businesses unable to secure loans of \$50,000 or less. We look forward to working with the committee to achieve these ends.

National Bank of Alaska



Corporate Headquarters P.O. Box 100600 Anchorage, Alaska 99510-0600 (907) 276-1132

April 29, 1991

Alaska State Legislature
House Finance Committee

Re: Alaska Industrial Development and Export Authority

Dear Honorable Co-Chairman:

The Alaska Banker's Association recommended a proposal which we felt would make AIDEA a more viable enterprise for providing capital to small and medium sized businesses in the state of Alaska. Our proposal was based on a resolution from the Alaska Banker's Association which would support legislation and an ammendment to AIDEA's regulations which would allow their required participation in an AIDEA loan to be paid back on a faster amortization schedule than funds advanced by AIDEA. This concept was gleaned from the recent recommendations of the Institute of Social and Economic Research of the University of Alaska Anchorage which indicated that commercial banks and AIDEA have different capital structures which cause some conflict. They stated that "since banks abhor long-term financing, the joint financing could be arranged so that banks could be paid back more quickly and since AIDEA's main interest is long-term economic development, it could be paid back over a longer period, possibly accepting smaller principal payments at the start and higher ones as the cash flow was adequate."

We believe that such a program would facilitate the movement of long-term capital which is otherwise not available in the state of Alaska today to business enterprises throughout the state and secondarily enhance and strengthen the banking community, which was seriously shaken by the economic depression in Alaska to the late 1980s, which ultimately resulted in the failure of over half of the banking institutions.

Since the 1950s, NBA acted as a catalyst for attracting capital into the state from various sources. Until the introduction of Industrial Revenue Bond financing in the 1980s, NBA did not

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April 26, 1991
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generate for our own portfolio long-term real estate or development loans to any extent as we felt these loans did not match our capital structure and our inability to meet the long-term capital demands for development in the state.

We were able to attract labor union pension funds, state pension funds, insurance companies, and thrift institutions into investing in various projects. We also participated with such programs as the Farmer's Home Administration Business and Industrial Loan Program, the SBA Guaranteed Loan Program, the Bureau of Indian Affairs, and various government programs. In recent years, all of these programs except the Federal SBA and the BIA have dried up. In discussions with other commercial banks, I can find no recent instance where a major institutional investor has recently provided new long-term capital in the state. Robert Gray, President of NBA, in a recent talk indicated that he felt, due to the credit crunch in the United States, that Alaska would be the last state in the union to begin to attract long-term capital when the credit crunch relaxes, primarily due to the more attractive investment opportunities in other parts of the U.S. and problems lenders sustained during the 80s.

Alaska is rapidly coming out of an economic depression and once again seems poised for economic expansion without a ready source of long-term capital available for the development. The state does have the Alaska Industrial Development and Export Authority with a substantial capacity due to its credit rating and capital reserves to meet the needs of small and medium sized business expansion. Our loan policy of terms to ten years does not suit well with impact projects that generally relied on 20 to 25-year amortization. The recommended program should provide somewhat higher payments than a normal 20-year amortization but not substantially higher as can be demonstrated by the examples. We are aware of projects and commercial development waiting for suitable financing in Kenai, Kodiak, Anchorage, and Fairbanks.

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What sort of effect on small and medium size businesses will the availability of long-term capital have? I have over 15 years of experience in economic development financing in the state of Alaska plus an additional seven years of banking experience in the state. Certainly, in the earlier years of my development experience we did not have long-term capital to provide. We used a combination of programs in attracting capital. Such projects as a fisheries plant in Homer created substantial employment that was not previously available in the community.

Due to the combining of various capital sources and guaranteed programs, we were able to provide the company with a market interest rate loan comparable to other rates available and created a facility that in itself employs in excess of 200 people in season. Such a plant also creates a substantial multiplier effect in the employment of fishermen, local merchants, and the supply and transportation industry.

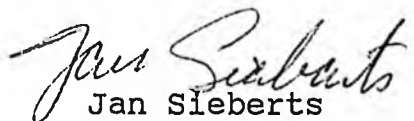
The reason for this recommendation for a change in the law was the general differences in corporate structures between commercial banks which are predominate in Alaska and AIDEA which was created with the intent to provide long-term capital which is lacking in the state of Alaska. Our internal policies consider a long-term financing as amortizing over 10 years. We therefore would strongly support a resolution that has been prepared by the Alaska Bankers Association to the effect to amend AIDEA's laws and regulations which would allow the banks required participation's in AIDEA's various loan programs to be paid on a faster amortization schedule than funds advanced by AIDEA. The risk to AIDEA should decrease as actual equity build up in loans would increase.

During the 1990 legislature, AIDEA obtained changes to the law which changed the bank participation requirements under Section 44.88.155(7)(A) to "at least 20% of the principal amount of the loan is retained by the originator of the loan as long as the loan is outstanding. This change increased the bank participation from 10% to 20% and required the bank to retain that percentage as long as the loan is outstanding." AIDEA also made changes in their regulations under Section 3AAC 99.350(a) to read "the originator of the loan shall retain at least a 20% share of the principal amount of the loan as loan as the loan is outstanding." Due to these changes in the last legislature, it would seem that a change in the law and regulations is required to bring about the changes we request.

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Page Four

If you have any questions, please feel free to contact me at
265-2991 or my fax number 263-2582.

Sincerely yours,

A handwritten signature in cursive script that reads "Jan Sieberts".

Jan Sieberts
Senior Vice President

mlc

ed
KENAI PENINSULA BOROUGH

**ECONOMIC
DEVELOPMENT
DISTRICT, INC.**

March 19, 1991

To: House Labor and Commerce Committee

From: Mike Tagliavento, Executive Director, Kenai Peninsula
Borough Economic Development District

RE: HB 206, Act Revising Loan Authority of AIDEA

Our organization is working very closely with local entrepreneurs to create employment through the retention, expansion and creation of small businesses. I applaud the efforts of this bill's sponsors to find creative ways to overcome the problems small businesses are having in accessing capital.

AIDEA has the potential of contributing to the capital needs of small businesses to a greater extent than it has in the past. HB 206 provides new options for AIDEA in this regard, and I would urge your support.

MBT/ss

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To	DAVE / JOAN	From
Co.		V. SAMSON
Dept.		Phone #
Fax #	465-2244	FAX #
		278-5891

To: Rep. Dave Choquette

From: Virginia Samson, (Former) Executive Director
Governor's Conference on Small Business

Date: March 17, 1991

Subject: HB 206

Thank you for your follow up on the Recommendations from the 1989 Governor's Conference on Small Business and for asking me to comment on HB 206. Also, thanks to Rep. Baker for co-sponsoring the bill.

HB 206 responds to Problem 4A: "Small business requires better access to loans from \$10,000 to \$100,000". Within that problem area, this bill seems to address Recommendations:

1. The State guaranteed loan program should be simplified and have less costly documentation process; and
3. The State should provide incentives to banks to make \$10,000 - \$100,000 loans to small businesses in rural communities.

The main thrust of the bill seems to be to expand and clarify AID&EA's involvement with loan guarantees by allowing 80% guarantee for a qualifying loan under \$50,000 and allows the option of no security for an amortization period under 5 years.

To the extent that AID&EA will work with and provide incentives to private banks to make funds available to small businesses around the state, this bill will help. But, if the banks continue to think that "it's not worth the trouble to do small loans" (ie they can't make enough money for the time and paperwork it takes), no bill will help.

Administrative follow up is still needed on Recommendation 3: "The State needs to provide for the dissemination of information broadly throughout the state." Lack of knowledge about what financing programs are available through or assisted by the state is a big problem.

In summary, I support the general idea of HB 206 as a great step in the right direction to help make small loan amounts available to small businesses.