

ALASKA LEGISLATURE

1428

HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996

The Board is committed to constantly refining and improving the Storage Tank Assistance Fund consistent with the program's original assistance-oriented intent. Tank owners and operators are a hard working and indispensable segment of Alaska's economy and deserve a hard working, conscientious and diversified Board of Storage Tank Assistance.

As you are aware, funds appropriated by the Alaska State Legislature to the Storage Tank Assistance Fund are allocated annually by the Board of Storage Tank Assistance to different financial assistance programs, the tank cleanup program, the tank upgrading program and the tank closure program.

The Board of Storage Tank Assistance makes the annual allocations after taking into consideration the amount of money in the Fund, the money required to meet the needs for each program, as supported by approved applications and the requirement that the greatest priority be given to funding projects that present the greatest threat or potential threat to public health. Although all regulated tank owners and operators are eligible, all applicants are priority ranked for funding according to regulations and criteria established by the Board of Storage Tank Assistance. The ranking system emphasizes public health threat foremost followed by numerous other considerations such as size of business, number of tanks owned, whether the company is too small to be self-insurable, nearest alternative fuel source and whether the facility is in a rural location. Several other criteria are used to rank applications with an emphasis on small rural tank owners that pose an imminent public health threat and have acted in good faith to undertake as much of the work as possible on their own.

Although the Board has addressed public health threats associated with leaking underground petroleum storage tanks to a considerable extent, the problem is not yet resolved and will take many years to resolve statewide. Again, the Board fully supports the recommendation outlined in the Preliminary Report.

Please feel free to contact me at 465-5219 at your convenience if you have any questions or wish to discuss this matter further.

Sincerely Yours,



John C. Barnett
Executive Director, Board of Storage Tank Assistance

cc: Judy Chadwick-Anderson, Board Chairperson

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347

December 29, 1995

Members of the Legislative
Budget and Audit Committee:

We have reviewed the response of the Board of Storage Tank Assistance to our audit report. We have made the suggested editing changes noted in the letter regarding a dollar amount used in the report and the description of one of the State's underground storage tank programs.

A handwritten signature in cursive script, appearing to read "Randy S. Welker".

Randy S. Welker
Legislative Auditor

HB

456

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/29/96

DATE TURNED INTO OFFICE: 5/05/96

The Finance Committee considered CS FOR HOUSE BILL NO. 456(L&C)

Relating to the Board of Storage Tank Assistance; efd.

REPORTED OUT OF
SFC 5/05/96

and recommends:

- be replaced with S CS HB 456 (FIN)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by Committee
- further referral to the Committee

Senate Bill:

- same title
- new title
- House Bill:**
- same title
- technical change
- new: SCR#

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>			
<i>[Signature]</i>	✓	<i>[Signature]</i>			
<i>[Signature]</i>	✓				
Co-Chair: <i>[Signature]</i>		Co-Chair:			
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

DEC	2/9/96	∅	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

moved Sen Phillips &
Sharp w/o objection
adopted

Amendment to CSHB 456 # |

1 * Section 3 AS 46.03.420 (a) is amended to read:

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

Sec. 46.03.420. TANK CLEANUP PROGRAM. (a) Subject to (b) - (j) of this section, application may be made to the department by the owner or operator of an underground petroleum storage tank system, other than the state or federal government, for grants and loans from the storage tank assistance fund to pay for the costs of risk assessment, containment, corrective action, and cleanup resulting from a release of petroleum from or associated with an underground petroleum storage tank system. Applications for assistance under this section must be submitted to the department before July 1, 1994. Under regulations of the board, the department shall rank requests under this section in order of priority, giving greatest priority to those tank systems that {PRESENT THE GREATEST THREAT OR POTENTIAL THREAT TO HUMAN HEALTH.}

- (1) present the greatest threat or potential threat to human health,
- (2) have the greatest inability to demonstrate the financial responsibility requirements of 40 C.F.R. 280.90 - 40 C.F.R. 280.115 and 40 C.F.R. 281.37. and
- (3) are owned or operated by persons or firms that own or operate 12 tanks or less.

- CHANGE CURRENT SECTION 3 TO SECTION 4

FISCAL NOTE

Bill Version: CSHB 456(L&C)
 (H) Publish Date: 2/21/96

STATE OF ALASKA
 1996 LEGISLATIVE SESSION

Revision Date: 30-Jan-96
 Title: Board of Storage Tank Assistance
 Sponsor: Labor and Commerce
 Requestor: House Labor and Commerce

Department Affected: Environmental Conservation
 BRU: Spill Prevention and Response
 Component: Storage Tanks

COMPONENT SERIAL NO. 2063

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: 5 0.0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Lynn J. Tomich Kent
 Division: Spill Prevention and Response

Phone: 465-5390
 Date: 2/9/96

Approved by Commissioner: [Signature]
 Agency: Department of Environmental Conservation

Date: 2/9/96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

COMMITTEE COPY

A FAX

Alaska State Legislature

Date: 5/05/96

To: Legal Services

Fax #: 2029 Phone #: 2450

From: Sen. Finance Committee - Jerry

Phone #: 4935

Re: please incorporate attached amend. into CS HB 456 (L*) your
work order 4-LS1574\C for final CS HB 456 (FIN.)

Many thanks

Following this page, please find 1 page(s). If this does not reach you in full, please inform us ASAP.



THANK YOU.

House Labor & Commerce Committee

State Capitol
Juneau, Alaska 99801-1182
907-465-4954

TO: Senator Rick Halford
Co-Chair
Senate Finance Committee

Senator Steve Frank
Co-Chair
Senate Finance Committee

FROM: Representative Pete Kotik 
Chair

DATE: May 1, 1996

RE: **CS HB 456 (L&C); Request for Committee Hearing**

I respectfully request that CS HB 456 (L&C) be scheduled for a committee hearing. This bill would extend the Board of Storage Tank Assistance, which sunsets this year, to the year 2000. It adds a public member and removes the Commissioner of the Department of Public Transportation and Public Facilities from the Board.

Please find enclosed herewith a sponsor statement, a sectional, and backup material.

Thank you in advance for your kind assistance in this matter. Should you have any questions, or if I can be of any assistance, please do not hesitate to contact me.

House Labor & Commerce Committee

State Capitol
Juneau, Alaska 99801-1182
907-465-4954

SPONSOR STATEMENT CS HB 456 (L&C)

The Board of Storage Tank Assistance is scheduled to sunset on June 30, 1996 unless it is statutorily extended. This board, as stated by a recent Legislative Audit Report:

"... works in conjunction with the State's Department of Environmental Conservation (DEC) to carry out the various requirements of the UST (underground storage tank) statutes. The board is involved in the making of regulations pertaining to USTs and DEC is responsible for administering the UST program. "

CS HB 456(L&C), as sponsored by the House Labor and Commerce Committee, would extend the Board of Storage Tank Assistance to June 30, 2000, as recommended by the Legislative Audit Report. In addition, also as recommended by the auditors, CS HB 456 (L&C) would add a public member to the Board who has no financial or commercial interest in retrofitting or replacing underground storage tanks. Finally, to prevent an even-numbered Board, the Commissioner of the Department of Transportation and Public Facilities is removed.

I urge your support.

House Labor & Commerce Committee

State Capitol
Juneau, Alaska 99801-1182
907-465-4954

CS HB 456 L&C) SECTIONAL ANALYSIS

Section 1 extends the Board of Storage Tank Assistance to June 30, 2000.

Section 2 removes the Commissioner of Transportation and Public Facilities from the Board and adds a public member to the Board.

Section 3 creates an effective date of July 1, 1996.

STATE OF ALASKA
Boards and Commissions

STORAGE TANK ASSISTANCE

BOARD: Board of Storage Tank Assistance

BOARD IDENTIFICATION NUMBER: 152

DEPARTMENT: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

AUTHORITY: AS 46.03.360

STATUS: Active

SUNSET DATE: June 30, 1996

TERM: 4 years

DESCRIPTION: 7 members: Commissioners of Environmental Conservation and Transportation and Public Facilities, or their designees; and 5 members appointed by the Governor: 1 engineer registered under AS 08.48 and 1 general contractor registered under AS 08.18 who are knowledgeable about installing, upgrading, repairing, or closing underground petroleum storage tank system; 2 persons who own or operate an underground petroleum storage tank system, at least 1 of whom does not own or operate more than 10 underground petroleum storage tanks; and 1 member of the insurance industry.

FUNCTION: To adopt regulations to determine costs of tightness testing, site assessment, tank upgrading, and closure, and cleanup of contamination related to USTS; rank requests for assistance; determine eligibility costs; resolve department and owner/operator eligibility disputes. Approves department regulations on allowable technologies for testing, containment, cleanup or corrective action. Reviews department regulations on cleanup levels.

CHAIR: Board selects.

SPECIAL FACTS: The board may employ a full-time director and no more than 1 other employee. Chair is selected by the members from among the members. Must submit a report to the Legislature not later than the 10th day following the convening of each regular session.

COMPENSATION: Standard Travel and Per Diem.

MEETINGS: Approximately 4 meetings per year, 6 days total; and approx. 8 teleconferences/year, ½ day each.

FOR FURTHER INFORMATION CONTACT:

Mr. John C. Barnett, Executive Director, Board of Storage Tank Assistance, DEC, 410 Willoughby Avenue M/S 1800, Juneau, AK, 99801, Phone: 907 465 5219, Fax: 907 465 5218

STATE OF ALASKA
Boards and Commissions

Membership Roster
STORAGE TANK ASSISTANCE (152)

Member	Appointed	Reappointed	Term Exp.
Judy E. Chadwick Insurance Industry P.O. Box 90913 Anchorage, AK 99509	10/01/92		09/05/95
Kurt Fredriksson Commissioner/Environmental Conservation/or designee Director, Div. of Spill Prev. & Res Dept. of Environmental Conservation 410 Willoughby Avenue, Suite 105 Juneau, AK 99801	03/03/95		
Robert M. Haines Registered General Contractor President B.C. Excavating, Inc. 2251 Cinnabar Loop Anchorage, AK 99507	01/21/94	09/05/94	09/05/98
Steven A. Johnson Registered Engineer Harding Lawson Associates 601 East 57 Place Anchorage, AK 99518	06/30/93	09/05/94	09/05/98
Nate Johnson Commissioner/DOTPF/or designee Statewide Environmental Coordinator Division of Engineering & Operation Dept. of Transportation & Pub. Far. 3132 Channel Drive Juneau, AK 99801-7898	02/21/95		
James Weymiller Owner/operator Tank System/10 or more P.O. Box 70890 Fairbanks, AK 99707	07/10/95		09/05/96
H. Dale Young, Jr. Owner/operator Tank System/Under 10 P.O. Box 167 Tok, AK 99780	09/05/92	09/05/93	09/05/97

STATE LEGISLATURE
LEGISLATIVE BUDGET AND AUDIT COMMITTEE
Division of Legislative Audit

P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347

OF: A Sunset Report on the Department of Environmental Conservation, Board
of Storage Tank Assistance, September 19, 1995.

SCOPE OF THE REPORT

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Storage Tank Assistance. In assessing the operations and performance of the board, we utilized the criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

As required by statute, this report shall be considered during the legislative oversight process followed in determining if the board should be reestablished. The law currently specifies that the Board of Storage Tank Assistance will terminate on June 30, 1996 and will have one year from that date to conclude its affairs.

BACKGROUND INFORMATION

Underground tanks often contain petroleum and other hazardous substances. Typically, these tanks invariably develop leaks which allow the substances stored in them to leak into the surrounding soil, contaminating the groundwater, which in turn could contaminate a drinking water source. The U.S. Congress directed the Environmental Protection Agency to develop regulations for the design, construction, and installation of new tanks. Additionally, new stricter standards were established for the retrofitting of existing tanks. Tanks will be required to be upgraded to provide for leak detection, corrosion prevention, and spill and overflow protection.

In 1990, the legislature created a program to provide both financial and technical advisory assistance to the owners and operators of underground petroleum storage tanks (UST). The assistance was to help UST owners and operators comply with current and prospective state and federal regulations. These regulatory requirements address numerous design and operational aspects of USTs. In addition, UST owners are required to demonstrate they are capable of assuming financial responsibility for the costs involved in taking corrective action and cleaning up releases from their tanks.

The 1990 legislation also established the Board of Storage Tank Assistance. The board works in conjunction with the State's Department of Environmental Conservation (DEC) to

carry out the various requirements of the UST statutes. The board is involved in the making of regulations pertaining to USTs and DEC is responsible for administering the UST program.

REPORT CONCLUSION

In our opinion, the Board of Storage Tank Assistance should be reestablished. The board plays an integral role in the State's underground storage tank program. The board acts as a mediator, sets regulations, and acts as a sounding board for owners and operators of USTs.

The board acts as an independent body in settling disputes between DEC and owners and operators of USTs. Since the board's inception, they have mediated over 11 formal appeal cases. The board has been involved in numerous cases on an informal basis. Owners and operators can call on board staff to informally discuss the applicability of state statutes and regulations to their specific situation.

The board actively participates in the making of statutes and regulations pertaining to USTs. The board is statutorily required to adopt regulations to be used by DEC to administer the UST program. Regulations originally adopted have been amended and are currently in the process of being revised. The board also reviews all regulations pertaining to USTs that are proposed by DEC.

We believe the board should continue until June 30, 2000. The intent of legislation establishing the board was to assist owners and operators of USTs to comply with federal and state laws and regulations. U.S. Environmental Protection Agency (EPA) regulations require USTs to meet new, stricter federal standards by December 22, 1998. The "need" or demand for funding to bring operating USTs into compliance has far outstripped the appropriations made to date.

Prospectively, it is unlikely that the amount of the appropriations will substantially increase over the next few fiscal years. Additionally, it is currently unclear what enforcement actions EPA will take in Alaska against UST owners that are not in compliance with the new regulations. Given these circumstances, we foresee there may be an ongoing public policy role for the board beyond the EPA implementation deadline. Extending the board to June 30, 2000, would result in a reevaluation of board activities and operations through the summer of 1999. A review conducted at that time could evaluate the continuing necessity for the board in the context of how the stricter federal UST regulations are being imposed and enforced.

FINDINGS AND RECOMMENDATION

1. The legislature should consider changing the statute to require the appointment of one public member to the Board of Storage Tank Assistance to represent commercial or financial interests of the State in the administration of the program for underground storage tanks.

Board of Storage Tank Assistance



- 1 The Board is a seven member board comprised of two Commissioners and five citizens from the private sector.
- 2 Board members serve without compensation and have one employee.
- 3 The Board is a judicial appeal board that resolves disputes between the regulated community and the Department of Environmental Conservation thereby saving the state thousands of dollars in potential legal costs.
- 4 The Board mediates disputes regarding eligibility for financial assistance, eligible costs, priority ranking positions and contaminated site cleanup plans.
- 5 The Board provides technical and educational assistance to petroleum storage tank owners and operators throughout Alaska
- 6 There are over 800 unfunded requests for assistance currently on file. The total amount requested is presently over \$50 million. Limited annual funding requires applications to be priority ranked annually using a Board scoring system that emphasizes imminent threats to public health. Additional criteria including size of business, proximity to alternate fuel, rural or urban location and other factors determined relevant to the Board.

Board of Storage Tank Assistance

The 1990 Legislature established the seven-member Board of Storage Tank Assistance with two government members and five public members. The commissioners of the Departments of Environmental Conservation and Transportation and Public Facilities are the government members. Each of the five public members are required to have special knowledge pertaining to underground storage tanks. A registered engineer familiar with tank cleanups, a general contractor familiar with tank installations and closures, a person from the insurance industry that is knowledgeable about pollution liability insurance for underground storage tanks, a owner of more than 10 tanks, and an owner of 10 or less tanks. Former Governor Cowper appointed the original seven board members on September 5, 1990. Members serve without compensation other than per diem and expenses when traveling. They have an Executive Director, who is their sole employee.

The Board of Storage Tank Assistance is an Appeal Board to mediate disputes between the Department of Environmental Conservation and regulated underground petroleum storage tank owners and operators. In regard to disputes arising over eligibility, priority rankings and eligible costs, the Board's decisions are binding upon the department and the owner or operator. For corrective action plan disputes, or denials for payment under the retroactive reimbursement program (sec. 7, ch.96, SLA 1990), the board may only issue recommendations. In addition, the Board works directly with the legislature on funding issues and determines the program distribution of the annual legislative appropriations.

The first duty of the Board was to write regulations relating to financial assistance for UST owners and operators. The Board also jointly developed regulations with DEC pertaining to cleanup standards and allowable technologies to be used in the cleanup of contamination resulting from leaking tanks. The Department of Environmental Conservation is responsible for administering the Storage Tank Assistance Fund. The Department is tasked with advertising the application periods, receiving the applications, processing the requests, administering the grants and auditing project costs. The Division of Investments in the Department of Commerce and Economic Development works in partnership with the DEC to provide cleanup loans for eligible UST owners and operators.

Although the Board developed the financial assistance regulations, the Department of Environmental Conservation actually implements those regulations by physically processing each applicant's request for financial assistance. This enables the Board to remain objective and unbiased when a dispute arises. The Board is then tasked with resolving the matter in a prompt and conscientious manner.

STATE OF ALASKA

FILE COPY
RE: FISCAL NOTE
TONY KNOWLES, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
410 Willoughby Ave., Suite 105
Juneau, AK 99801-1795

Telephone: 465-5065
Fax: 465-5070

May 1, 1996

The Honorable Steve Frank
Alaska State Legislature
Senate Finance Committee
State Capitol, Room 518
Juneau, AK 99811-1182

The Honorable Rick Halford
Alaska State Legislature
Senate Finance Committee
State Capitol, Room 508
Juneau, AK 99811-1182

Dear Senator Frank and Senator Halford:

The following is a Department response to a request made in Senate Resources Committee on April 29, 1996 regarding CSHB 456, "An Act relating to the Board of Storage Tank Assistance; and providing for an effective date", and the impact to the Storage Tank Assistance Program if the Board were not extended.

Background

The Board was established by statute in 1990 to help mediate issues related to the burden of compliance that owner/operators of Underground Storage Tanks (UST) faced when federal UST rules went into effect in 1988. That same legislation authorized DEC and the Board to work together to implement a regulatory program patterned after the federal rules and in addition to provide for the technical and financial assistance necessary to help owner/operators meet the 1998 federal deadlines for tank upgrade. The regulated community has come to expect this partnership and the ease it affords in program administration. We are currently in the sixth year of this joint effort and have awarded over \$17 million in grants and loans for upgrade and cleanup of USTs. Compliance rates are improving but with 1998 deadlines just a short two years away, it is more important than ever to provide assistance in a timely fashion.

A recent Legislative Audit Report (08-1432-95) concluded that the Board be re-established in its integral role in the Storage Tank Program with the additional recommendation that a "public member" be added to the Board.

Department Position

DEC supports the conclusions and recommendations of the Legislative Audit Report and CSHB 456 which implements those conclusions and recommendations. DEC estimates a zero fiscal impact from this legislation. On the other hand, if the Board is not extended, additional costs will accrue for the following reasons:

- Emergency regulations would need to be written to substitute a DEC appeal process for

Board of Storage Tank Assistance



- 1 The Board is a seven member board comprised of two Commissioners and five citizens from the private sector. The current legislation, HB456, would replace one of the Commissioners with a member of the general public.
- 2 Board members serve without compensation and have one employee.
- 3 The Board is a judicial appeal board that resolves disputes between the regulated community and the Department of Environmental Conservation thereby saving the State thousands of dollars in potential legal costs.
- 4 The Board mediates disputes regarding eligibility for financial assistance, eligible costs, priority ranking positions and contaminated site cleanup plans.
- 5 The Board provides technical and educational assistance to petroleum storage tank owners and operators throughout Alaska
- 6 There are over 1000 unfunded requests for assistance currently on file. The total amount requested is presently over \$50 million. Limited annual funding requires applications to be priority ranked annually using a Board scoring system that emphasizes imminent threats to public health. Additional criteria including size of business, proximity to alternate fuel, rural or urban location and other factors determined relevant to the Board. Without the Board to provide oversight to the priority ranking system, the DEC would be able to deny assistance without regard to financial need.
- 7 The Board has been very successful ensuring that smaller businesses, those with the greatest need, have received a higher priority for financial assistance from the State. Although some larger businesses have received assistance, those sites had demonstrated a significantly higher threat to public health and represent a very small percentage of the total.

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

STATE OF ALASKA

FILE COPY
RE: FISCAL NOTE
TONY KNOWLES, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
410 Willoughby Ave., Suite 105
Juneau, AK 99801-1795

Telephone: 465-5065
Fax: 465-5070

May 1, 1996

The Honorable Steve Frank
Alaska State Legislature
Senate Finance Committee
State Capitol, Room 518
Juneau, AK 99811-1182

The Honorable Rick Halford
Alaska State Legislature
Senate Finance Committee
State Capitol, Room 508
Juneau, AK 99811-1182

Dear Senator Frank and Senator Halford:

The following is a Department response to a request made in Senate Resources Committee on April 29, 1996 regarding CSHB 456, "An Act relating to the Board of Storage Tank Assistance; and providing for an effective date", and the impact to the Storage Tank Assistance Program if the Board were not extended.

Background

The Board was established by statute in 1990 to help mediate issues related to the burden of compliance that owner/operators of Underground Storage Tanks (UST) faced when federal UST rules went into effect in 1988. That same legislation authorized DEC and the Board to work together to implement a regulatory program patterned after the federal rules and in addition to provide for the technical and financial assistance necessary to help owner/operators meet the 1998 federal deadlines for tank upgrade. The regulated community has come to expect this partnership and the ease it affords in program administration. We are currently in the sixth year of this joint effort and have awarded over \$17 million in grants and loans for upgrade and cleanup of USTs. Compliance rates are improving but with 1998 deadlines just a short two years away, it is more important than ever to provide assistance in a timely fashion.

A recent Legislative Audit Report (08-1432-95) concluded that the Board be re-established in its integral role in the Storage Tank Program with the additional recommendation that a "public member" be added to the Board.

Department Position

DEC supports the conclusions and recommendations of the Legislative Audit Report and CSHB 456 which implements those conclusions and recommendations. DEC estimates a zero fiscal impact from this legislation. On the other hand, if the Board is not extended, additional costs will accrue for the following reasons:

- Emergency regulations would need to be written to substitute a DEC appeal process for

the **dispute** resolution role currently played by the Board. Before this could be **accomplished**, the legislature would need to change the statute to give DEC all authorities currently vested in the Board.

- Legal costs associated with appeals have been kept low through the Board process. Legal costs associated with an alternative hearing officer process may be higher.
- DEC would need to add a staff position to transition and carry out the duties currently performed by the Board.

These costs are difficult to estimate but would likely be greater than the annual \$115 thousand currently budgeted for Board operations.

Please let me know if you have additional questions regarding this matter.

Sincerely,



Kurt Fredriksson
Acting Deputy Commissioner

JH\mh G:STP:BOARDI WPD

cc: James Hayden, Program Manager, Storage Tank Program, ADEC
John Barnett, Executive Director, Board of Storage Tank Assistance, ADEC
Larry Jones, Director, Administrative Services, ADEC

Board of Storage Tank Assistance



- 1 The Board is a seven member board comprised of two Commissioners and five citizens from the private sector. The current legislation, HB456, would replace one of the Commissioners with a member of the general public.
- 2 Board members serve without compensation and have one employee.
- 3 The Board is a judicial appeal board that resolves disputes between the regulated community and the Department of Environmental Conservation thereby saving the State thousands of dollars in potential legal costs.
- 4 The Board mediates disputes regarding eligibility for financial assistance, eligible costs, priority ranking positions and contaminated site cleanup plans.
- 5 The Board provides technical and educational assistance to petroleum storage tank owners and operators throughout Alaska
- 6 There are over 1000 unfunded requests for assistance currently on file. The total amount requested is presently over \$50 million. Limited annual funding requires applications to be priority ranked annually using a Board scoring system that emphasizes imminent threats to public health. Additional criteria including size of business, proximity to alternate fuel, rural or urban location and other factors determined relevant to the Board. Without the Board to provide oversight to the priority ranking system, the DEC would be able to deny assistance without regard to financial need.
- 7 The Board has been very successful ensuring that smaller businesses, those with the greatest need, have received a higher priority for financial assistance from the State. Although some larger businesses have received assistance, those sites had demonstrated a significantly higher threat to public health and represent a very small percentage of the total.

Board of Storage Tank Assistance

The 1990 Legislature established the seven-member Board of Storage Tank Assistance with two government members and five public members. The commissioners of the Departments of Environmental Conservation and Transportation and Public Facilities are the government members. Each of the five public members are required to have special knowledge pertaining to underground storage tanks. A registered engineer familiar with tank cleanups, a general contractor familiar with tank installations and closures, a person from the insurance industry that is knowledgeable about pollution liability insurance for underground storage tanks, a owner of more than 10 tanks, and an owner of 10 or less tanks. Former Governor Cowper appointed the original seven board members on September 5, 1990. Members serve without compensation other than per diem and expenses when traveling. They have an Executive Director, who is their sole employee.

The Board of Storage Tank Assistance is an Appeal Board to mediate disputes between the Department of Environmental Conservation and regulated underground petroleum storage tank owners and operators. In regard to disputes arising over eligibility, priority rankings and eligible costs, the Board's decisions are binding upon the department and the owner or operator. For corrective action plan disputes, or denials for payment under the retroactive reimbursement program (sec. 7, ch.96, SLA 1990), the board may only issue recommendations. In addition, the Board works directly with the legislature on funding issues and determines the program distribution of the annual legislative appropriations.

The first duty of the Board was to write regulations relating to financial assistance for UST owners and operators. The Board also jointly developed regulations with DEC pertaining to cleanup standards and allowable technologies to be used in the cleanup of contamination resulting from leaking tanks. The Department of Environmental Conservation is responsible for administering the Storage Tank Assistance Fund. The Department is tasked with advertising the application periods, receiving the applications, processing the requests, administering the grants and auditing project costs. The Division of Investments in the Department of Commerce and Economic Development works in partnership with the DEC to provide cleanup loans for eligible UST owners and operators.

Although the Board developed the financial assistance regulations, the Department of Environmental Conservation actually implements those regulations by physically processing each applicant's request for financial assistance. This enables the Board to remain objective and unbiased when a dispute arises. The Board is then tasked with resolving the matter in a prompt and conscientious manner.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
410 Willoughby Ave., Suite 105
Juneau, AK 99801-1795

MAY 21 1996

Telephone: 465-5065
Fax: 465-5070

May 1, 1996

The Honorable Steve Frank
Alaska State Legislature
Senate Finance Committee
State Capitol, Room 518
Juneau, AK 99811-1182

The Honorable Rick Halford
Alaska State Legislature
Senate Finance Committee
State Capitol, Room 508
Juneau, AK 99811-1182

Dear Senator Frank and Senator Halford:

The following is a Department response to a request made in Senate Resources Committee on April 29, 1996 regarding CSHB 456, "An Act relating to the Board of Storage Tank Assistance; and providing for an effective date", and the impact to the Storage Tank Assistance Program if the Board were not extended.

Background

The Board was established by statute in 1990 to help mediate issues related to the burden of compliance that owner/operators of Underground Storage Tanks (UST) faced when federal UST rules went into effect in 1988. That same legislation authorized DEC and the Board to work together to implement a regulatory program patterned after the federal rules and in addition to provide for the technical and financial assistance necessary to help owner/operators meet the 1998 federal deadlines for tank upgrade. The regulated community has come to expect this partnership and the ease it affords in program administration. We are currently in the sixth year of this joint effort and have awarded over \$17 million in grants and loans for upgrade and cleanup of USTs. Compliance rates are improving but with 1998 deadlines just a short two years away, it is more important than ever to provide assistance in a timely fashion.

A recent Legislative Audit Report (08-1432-95) concluded that the Board be re-established in its integral role in the Storage Tank Program with the additional recommendation that a "public member" be added to the Board.

Department Position

DEC supports the conclusions and recommendations of the Legislative Audit Report and CSHB 456 which implements those conclusions and recommendations. DEC estimates a zero fiscal impact from this legislation. On the other hand, if the Board is not extended, additional costs will accrue for the following reasons:

- Emergency regulations would need to be written to substitute a DEC appeal process for

May 1, 1996

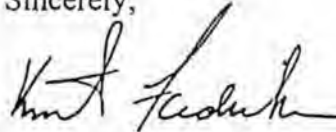
the dispute resolution role currently played by the Board. Before this could be accomplished, the legislature would need to change the statute to give DEC all authorities currently vested in the Board.

- Legal costs associated with appeals have been kept low through the Board process. Legal costs associated with an alternative hearing officer process may be higher.
- DEC would need to add a staff position to transition and carry out the duties currently performed by the Board.

These costs are difficult to estimate but would likely be greater than the annual \$115 thousand currently budgeted for Board operations.

Please let me know if you have additional questions regarding this matter.

Sincerely,



Kurt Fredriksson
Acting Deputy Commissioner

JH\mh G:\STP\BOARD1.WPD

cc: James Hayden, Program Manager, Storage Tank Program, ADEC
John Barnett, Executive Director, Board of Storage Tank Assistance, ADEC
Larry Jones, Director, Administrative Services, ADEC

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 4/22/96

FURTHER: FINANCE

DATE TURNED INTO OFFICE: 4-29-96

The Resources Committee considered CS FOR HOUSE BILL NO. 456(L&C)
 Relating to the Board of Storage Tank Assistance; efd.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR# _____

SIGNING-DC PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓				
		<i>Rick Helford</i>	✓		
		<i>Adrian Taylor</i>	✓		
		<i>George</i>	✓		
CHAIR:		<i>Kevin A. Lewis</i>	✓		

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>NBC</i>	<i>2/24/96</i>	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

HB

457

SFIN

FILE

FISCAL NOTE

No. 2

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Bill Version: SCSCSHB457
(S) Publish Date: 5/1/96

Revision Date: _____ Department: Commerce and Economic Development
 Title: An Act relating to the unlicensed practice of BRU: Occupational Licensing
certain occupations for which licenses are required. Component: Operations
 Sponsor: Representative James
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	31.8	31.8	31.8	31.8	31.8	31.8
TRAVEL	1.0	1.0	1.0	1.0	1.0	1.0
CONTRACTUAL	13.0	13.0	13.0	13.0	13.0	13.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	46.8	46.8	46.8	46.8	46.8	46.8

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

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund	46.8	46.8	46.8	46.8	46.8	46.8
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR						
TOTAL	46.8	46.8	46.8	46.8	46.8	46.8

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME	1	1	1	1	1	1
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 SCS CSHB 457(JUD) expands the department's current enforcement powers against unlicensed activity by providing a \$5,000.00 civil fine option. There is no additional cost for enforcement of unlicensed practice of occupations which are licensed by the department.

 The fiscal impact of the bill is caused by the additional responsibility to impose fines for the unlicensed practice of law. Because the division does not license attorneys, the costs of investigating complaints of unlicensed attorney activity, conducting hearings, etc. must be covered by the general fund.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: April 30, 1996
 Approved by Commissioner: William L. Hensley Date: 4-30-96
 Agency: Commerce and Economic Development

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO.: SCS CSHB 457(JUD)

ANALYSIS: (Continued)

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT FISCAL NOTE CALCULATIONS

The costs identified in this fiscal note are based on the following:

PERSONAL SERVICES \$31.8

1 - Investigator III, Part-Time, Range 18

TRAVEL \$1.0

Funding will provide approximately two in-state trips for investigations.

CONSTRUCTUAL SERVICES \$13.0

Funding will provide legal services from the Department of Law for approximately one month.

COMMODITIES \$1.0

Funding provides for daily operating supplies.

TOTAL: \$46.8

FISCAL NOTE

No. 1
 Bill Version: CSHB 457(STA)
 (H) Publish Date: 2/23/96

STATE OF ALASKA
 1996 LEGISLATIVE SESSION

Revision Date: _____ Department: Commerce and Economic Development
 Title: An Act relating to the unlicensed practice of BRU: Occupational Licensing
certain occupations for which licenses are required. Component: Operations
 Sponsor: Representative James
 Requestor: House State Affairs COMPONENT SERIAL NO. 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 HB 457 authorizes the department to establish a civil penalty for unlicensed practice of a regulated occupation in an amount not to exceed \$5,000.00. The bill expands the department's current enforcement powers for unlicensed activity by providing the civil fine option. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: February 5, 1996
 Approved by Commissioner: William L. Hensley Date: 2-5-96
 Agency: Commerce and Economic Development

SENATE RULES COMMITTEE REPORT

DATE: 4/29/96

DATE TURNED INTO OFFICE: 4/30/96

The Rules Committee considered CS FOR HOUSE BILL NO. 457(STA)

Relating to the unlicensed practice of certain occupations for which licenses are required.

and recommends it be placed on the calendar:

replace with _____ CS _____ (RULES)

attaches amendment(s)

adopts _____ Letter of Intent

same title
 new title
 technical title change
 (HB only)

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

MEMBERS SIGNING FOR PLACEMENT ON THE CALENDAR

Peace

J. E. Sato
Mike Miller

Chair: Signature and Recommendation

OTHER RECOMMENDATIONS:

Calendar on: 5/1/96

Approved by: M. E...

SENATE COMMITTEE REPORT

has no effect

DATE: 4/19/96

DATE TURNED INTO OFFICE: 4/19/96

The Judiciary Committee considered CS FOR HOUSE BILL NO. 457(STA)

Relating to the unlicensed practice of certain occupations for which licenses are required.

φ

and recommends:

- be replaced with S CS HB 457 (JUD)
- adopt previous CS (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical change
- new: SCR# _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Lyle Green</i>	<input checked="" type="checkbox"/>	<i>Ad L. Clark</i>	<input checked="" type="checkbox"/>		
<i>Mike Miller</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>Adrian L. Taylor</i>	<input checked="" type="checkbox"/>				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 3/20/96

FURTHER: Judiciary

DATE TURNED INTO OFFICE: 4/18/96

The Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 457(STA)
 Relating to the unlicensed practice of certain occupations for which licenses are required.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

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

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Mike Miller</i>	✓		
		<i>John Ferguson</i>	✓		
CHAIR: <i>Tom Kelly</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
DCED	2/5/96	Y	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

No. 2

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Bill Version: SCS CSHB 457(JUD)
(S) Publish Date: 5/1/96

Revision Date: _____ Department: Commerce and Economic Development
 Title: An Act relating to the unlicensed practice of BRU: Occupational Licensing
certain occupations for which licenses are required. Component: Operations
 Sponsor: Representative James
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 1844

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	31.8	31.8	31.8	31.8	31.8	31.8
TRAVEL	1.0	1.0	1.0	1.0	1.0	1.0
CONTRACTUAL	13.0	13.0	13.0	13.0	13.0	13.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	46.8	46.8	46.8	46.8	46.8	46.8

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

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund	46.8	46.8	46.8	46.8	46.8	46.8
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR						
TOTAL	46.8	46.8	46.8	46.8	46.8	46.8

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME	1	1	1	1	1	1
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

SCS CSHB 457(JUD) expands the department's current enforcement powers against unlicensed activity by providing a \$5,000.00 civil fine option. There is no additional cost for enforcement of unlicensed practice of occupations which are licensed by the department.

The fiscal impact of the bill is caused by the additional responsibility to impose fines for the unlicensed practice of law. Because the division does not license attorneys, the costs of investigating complaints of unlicensed attorney activity, conducting hearings, etc. must be covered by the general fund.

Prepared by: Jennifer Strickler, Administrative Officer
 Division: Occupational Licensing
 Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Phone: 465-2144
 Date: April 30, 1996
 Date: 4-30-96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO.: SCS CSHB 457(JUD)

ANALYSIS: (Continued)

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT FISCAL NOTE CALCULATIONS

The costs identified in this fiscal note are based on the following:

PERSONAL SERVICES \$31.8

1 - Investigator III, Part-Time, Range 18

TRAVEL \$1.0

Funding will provide approximately two in-state trips for investigations.

CONSTRUCTUAL SERVICES \$13.0

Funding will provide legal services from the Department of Law for approximately one month.

COMMODITIES \$1.0

Funding provides for daily operating supplies.

TOTAL: \$46.8

HB

466

HFIN

FILE

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 15, 1996

FURTHER REFERRALS:

Date of Committee Action: 3/18/96

The FINANCE Committee considered:

HB 466

HOUSE BILL NO. 466

ADAK REUSE AUTHORITY

"An Act establishing the Adak Reuse Authority."

recommends it be replaced with the following committee substitute CSAB 466 (Fin) [] the same title [] a new title

[] additional referral to _____ Committee

[] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[X] fiscal note(s) CRA

[] fiscal note(s)

[] zero fiscal note(s)

[X] zero fiscal note(s) MVA, 2/15/96

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Richard Foster</i>	Foster	X			
<i>Richard Foster</i>	Navage				X
<i>Richard Foster</i>	Mulder	X			
<i>Terrey Martin</i>	Martin			X	
<i>Richard Foster</i>	Kohring	X			
<i>Fay Brown</i>	Brown				X

10- CHAIR'S SIGNATURE

Richard Foster

FISCAL NOTE

Revision Date: March 12, 1996 Dept. Affected: Community & Regional Affairs
 Title: An Act relating to Reuse of Adak Naval Air Fa BRU: Adak Reuse Authority
 Component none
 Sponsor: Rep. Moses
 Requestor: House Finance COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	128.0	174.1				
TRAVEL	40.0	44.0				
CONTRACTUAL	91.0	103.0				
SUPPLIES	6.0	6.5				
EQUIPMENT	16.5	0.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	281.5	327.6	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts	100.0	100.0				
1003 GF Match	33.3	33.3				
1004 GF	148.2	194.3				
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	281.5	327.6	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	2	2				
PART-TIME						
TEMPORARY						

Estimate of current (FY94) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

This analysis covers on Authority core management staff. Any staff to operate facilities and deliver services would be funded entirely by charges or contracts for these services and facilities. Analysis also assumes the Authority management staff would become self-supporting from lease revenues or other service contracts after a two-year period. It also assumes that the Department of Defense Office of Economic Adjustment will provide at least \$100,000 per year for the first two years.
(Cont'd. on attached.)

Prepared by: Lamar Cotten, Deputy Commissioner Phone: 465-4708
Community & Regional Affairs Date: 3/12/96
 Approved by Commissioner: [Signature] Date: 3/12/96
 Agency: Community & Regional Affairs

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

HB466 FISCAL NOTE Cont'd

Office furniture to be provided by Navy. Office space to be provided by free by Navy or in a facility which the LRA will own. Utilities to be provided by Navy free first year and thereafter purchased by the LRA.

Staffing and costs with benefits: Executive Director \$112,500; Executive Secretary/Administrative Assistant \$53,600. Staffing for first year would be for 9 months. 3% inflation.

Travel based on 2 trips per month between Adak and Anchorage lasting three days.

Contractual includes \$50,000 per year for small contracts for legal, real estate, marketing and engineering professional services.

FISCAL NOTE

1
 Bill Version: HB 466
 (H) Publish Date: 2/15/96

STATE OF ALASKA
 1996 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Military and Veterans Affairs
 Title: Adak Reuse Authority FRU: Ak National Guard
 Component: Office of the Commissioner
 Sponsor: Rep. Carl Moses
 Requestor: Rep. Carl Moses COMPONENT SERIAL NO. 414.0

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

HB 466 would create an Authority with the responsibility to explore opportunities to develop Adak subsequent to federal closure of the military base. The Authority could complete feasibility studies, sell bonds, etc. There is no impact on the department.

Prepared by: Carol Carroll, Director Phone: 465-4780
 Division: Administrative Services Division Date: 2/14/96
 Approved by Commissioner: MG Jake Loeferer Date: _____
 Agency: Military and Veterans Affairs

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

Amended on

pg 6
pg 7
pg 9

9-LS1580G
Lauterbach
3/14/96

Adopted 3/18/96

CS FOR HOUSE BILL NO. 466()

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE MOSES

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing the Adak Reuse Authority."**

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

3 *** Section 1. AS 30 is amended by adding a new chapter to read:**

4 **CHAPTER 17. ADAK REUSE AUTHORITY.**

5 **ARTICLE 1. ESTABLISHMENT.**

6 **Sec. 30.17.010. CREATION OF AUTHORITY.** There is created the Adak
7 Reuse Authority. The authority is a public corporation of the state and a body corporate
8 and is an instrumentality of the Department of Community and Regional Affairs, but
9 with separate and independent legal existence.

10 **Sec. 30.17.020. MEMBERSHIP OF AUTHORITY.** (a) The membership of the
11 authority consists of

- 12 (1) the commissioner of community and regional affairs;
- 13 (2) two other persons selected by the governor who serve as the heads
- 14 of principal departments of the executive branch of state government; and
- 15 (3) four public members appointed by the governor, two of whom must

1 be residents of the area that is within the boundaries of the Aleut Corporation, a Native
2 regional corporation established under 43 U.S.C. 1606 (Alaska Native Claims Settlement
3 Act).

4 (b) If a member described in (a)(1) or (2) of this section is unable to attend a
5 meeting of the authority, the member may, by an instrument in writing filed with the
6 authority, designate a deputy or assistant to act in the member's place as a member at
7 the meeting. For purposes of this chapter, the designee is a member of the authority at
8 the meeting.

9 (c) Members of the authority described in (a)(2) and (3) of this section serve
10 two-year terms but serve at the pleasure of the governor.

11 (d) If a vacancy occurs in the membership of the authority, the governor shall
12 immediately appoint a member for the unexpired portion of the term.

13 Sec. 30.17.030. CHAIR AND VICE-CHAIR. The members of the authority
14 shall elect a chair from among themselves. A vice-chair may be elected by the authority
15 from among its other members. The vice-chair presides over all meetings in the absence
16 of the chair and has other duties that the authority may prescribe.

17 Sec. 30.17.040. MEETINGS, COMPENSATION, OFFICERS, AND
18 EMPLOYEES. (a) A majority of the members of the authority constitutes a quorum for
19 the transaction of business or the exercise of a power or function at a meeting of the
20 authority. In case of a tie vote on a motion or resolution pending before the authority,
21 the motion or resolution shall be presented to the governor and, if approved by the
22 governor, is considered adopted by the authority. The authority may meet and transact
23 business by electronic media if (1) public notice of the time and locations where the
24 meeting will be held by electronic media has been given in the same manner as if the
25 meeting were held in a single location; (2) participants and members of the public in
26 attendance can hear and have the same right to participate in the meeting as if the
27 meeting were conducted in person; and (3) copies of pertinent reference materials,
28 statutes, regulations, and audio-visual materials are reasonably available to participants
29 and to the public. A meeting by electronic media as provided in this subsection has the
30 same legal effect as a meeting in person.

31 (b) The public members of the authority are entitled to \$100 compensation for
32 each day spent on official business of the authority and may be reimbursed by the

1 authority for actual and necessary expenses at the same rate paid to members of state
2 boards under AS 39.20.180.

3 (c) The authority may appoint persons as officers it considers advisable,
4 including an executive director, and may employ professional advisors, legal counsel,
5 technical experts, agents, and other employees it considers advisable. The executive
6 director and employees of the authority are in the exempt service under AS 39.25.

7 (d) The authority shall keep minutes of each meeting and send a certified copy
8 to the governor and to the Legislative Budget and Audit Committee.

9 ARTICLE 2. PURPOSE AND GENERAL POWERS.

10 Sec. 30.17.100. PURPOSE OF THE AUTHORITY. The purpose of the
11 authority is to develop and implement a comprehensive reuse and redevelopment plan
12 for the territory encompassed by the Adak Naval Air Facility in a manner that will attract
13 business, create jobs, and advance the general prosperity and economic welfare of the
14 people of the state by

15 (1) administering in a manner consistent with the purpose of the authority
16 the assets transferred to the authority by the federal government, including facilities and
17 other real or personal property, located at the Adak Naval Air Facility;

18 (2) entering into necessary agreements with the federal government for
19 operation of the facilities comprising the Adak Naval Air Facility;

20 (3) operating or contracting with others to operate enterprises and other
21 facilities located at the Adak Naval Air Facility; and

22 (4) cooperating and acting in conjunction with other organizations, public
23 and private, the objects of which are the promotion and advancement of economic use
24 of the facilities located at the Adak Naval Air Facility.

25 Sec. 30.17.110. POWERS OF THE AUTHORITY. In furtherance of its
26 corporate purposes, the authority may, in addition to other powers that it may have by
27 law,

28 (1) sue and be sued;

29 (2) have a seal and alter the seal at its pleasure;

30 (3) adopt and amend bylaws for its organization and internal
31 management;

32 (4) adopt regulations governing the exercise of its corporate powers;

1 (5) subject to AS 30.17.130(c), accept title to, or other interest in, assets
2 transferred to the authority by the federal government, including facilities and other real
3 or personal property, located at the Adak Naval Air Facility;

4 (6) lease to others a project acquired by it for the rentals and upon the
5 terms and conditions the authority may consider advisable, including, without limitation,
6 provisions for options to purchase or renew;

7 (7) issue and secure the payment of bonds, including revenue bonds;
8 provide for the rights of holders of the bonds; and purchase, hold, and dispose of bonds;

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

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

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

18 (11) acquire, manage, and operate projects as the authority considers
19 necessary or appropriate to serve a public purpose;

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

23 (13) charge fees or other forms of remuneration for the use or possession
24 of the projects described in (11) of this section in accordance with the agreements
25 described in (12) of this section, other agreements pertaining to the projects, covenants,
26 or representations made in bond documents pertaining to the projects, or regulations of
27 the authority pertaining to the projects.

28 Sec. 30.17.120. ADMINISTRATIVE PROCEDURE. The provisions of the
29 Administrative Procedure Act regarding the adoption of regulations under AS 44.62.040 -
30 44.62.320 apply to the authority.

31 Sec. 30.17.130. LIMITATION ON POWERS. (a) The authority has only the
32 powers expressly granted in this chapter, reasonably implied from this chapter, or

1 reasonably necessary or convenient to carry out its corporate purposes and to exercise
2 the powers expressly granted in or reasonably implied from this chapter.

3 (b) The authority does not have powers of

- 4 (1) eminent domain;
- 5 (2) taxation;
- 6 (3) land use planning;
- 7 (4) zoning;
- 8 (5) permitting; or
- 9 (6) other similar governmental powers.

10 (c) The authority may not accept transfer by the federal government of title to,
11 an interest in, control over, or responsibility for a facility or other real or personal
12 property located at the Adak Naval Air Facility unless sufficient federal or other money
13 is available to the authority to manage the property or operate the facility at a minimal
14 level for two years after the date of the transfer. The director of the office of
15 management and budget shall determine whether sufficient money is available to the
16 authority with respect to each proposed transfer subject to this subsection, and approve
17 or disapprove the proposed transfer.

18 ARTICLE 3. PROJECTS; BONDS.

19 Sec. 30.17.200. CONSIDERATION OF PROJECTS TO BE FINANCED. (a)
20 Before issuing bonds for a project under this chapter, the authority must find, on the
21 basis of all information reasonably available to it, that the

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

25 (2) project is financially sound and can be expected to produce revenue
26 adequate to repay the bonds with which it is financed; and

27 (3) scope of the project is sufficient to provide a reasonable expectation
28 of a benefit to the region and the economy of the state.

29 (b) The authority shall give fair and reasonable consideration to a project
30 presented to it for financing. When the authority determines whether to finance or assist
31 in the financing of a project, the authority shall state the reasons for its determination in
32 a written resolution upon request by a person who presented the project to the authority

1 or a person who presented opposition to the project. The authority shall base its reasons
2 on the information presented to it concerning the project and on other information
3 considered appropriate by the authority.

4 (c) The authority may not finance or assist in financing a project ~~for which the~~
5 ~~authority's share of the financing would be more than \$10,000,000~~ unless the authority
6 has received legislative approval to do so for a specified project.

Adopt

7 Sec. 30.17.210. BONDS OF THE AUTHORITY. (a) Subject to the provisions
8 of AS 30.17.200, the authority may borrow money and may issue revenue bonds,
9 including bonds on which the principal and interest are payable

10 (1) exclusively from the income and receipts or other money derived
11 from the project financed with the proceeds of the bonds;

12 (2) exclusively from the income and receipts or other money derived
13 from designated projects whether or not they are financed in whole or in part with the
14 proceeds of the bonds; or

15 (3) from the income and receipts or assets generally, or a designated part
16 or parts of them, of the authority or of any other person.

17 (b) Bonds issued under this chapter shall be authorized by resolution of the
18 authority, and shall be dated and shall mature as the resolution may provide, except that
19 a bond may not mature more than 40 years from the date of its issuance. The bonds
20 shall bear interest at the rate or rates, be in the denominations, be in the form, either
21 coupon or registered, carry the registration privileges, be executed in the manner, be
22 payable in the medium of payment, at the place or places, and be subject to the terms
23 of redemption that the resolution or a subsequent resolution may provide.

24 (c) Bonds issued under this chapter, regardless of form or character, shall be
25 negotiable instruments for the purposes of the Uniform Commercial Code.

26 (d) Bonds issued under this chapter may be sold at public or private sale in the
27 manner, for the price or prices, and at the time or times that the authority may determine.

28 (e) The superior court shall have jurisdiction to hear and determine suits, actions,
29 or proceedings relating to the authority, including suits, actions, or proceedings brought
30 to foreclose or otherwise enforce a mortgage, pledge, assignment, or security interest or
31 brought by or for the benefit or security of a holder of its bonds or by a trustee for or
32 other representative of the holders.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

(f) Before issuing bonds for a project under this chapter, the authority shall submit to the state bond committee a description of the bond issue and an independent economic feasibility analysis of the project and expected revenue. This information may be contained in a preliminary prospectus, offering circular, or official statement relating to the bond issue. Bonds may not be issued under this chapter unless the state bond committee finds, based upon the information submitted by the authority under this subsection and other information that is reasonably available to the committee, that the project revenue can be reasonably expected to be adequate for payment of the principal and interest on the bonds to be issued if the bonds are to be secured by project revenue alone, and in any event that issuance of the bonds by the authority would not be expected to adversely affect the ability of the state or its political subdivisions to market bonds.

~~(g) The total principal sum of bonds issued under this chapter may not exceed \$100,000,000, exclusive of refunding bonds.~~

delete

Sec. 30.17.220. TRUST INDENTURES AND TRUST AGREEMENTS. In the discretion of the authority, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee, which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state, or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee, after this in this section referred to as "trust agreement," by means of which the authority may

(1) make and enter into the covenants and agreements with the trustee or the holders of the bonds that the authority determines necessary or desirable, including, without limitation, covenants, provisions, limitations, and agreements as to

(A) the application, investment, deposit, use, and disposition of the proceeds of the bonds of the authority or of money or other property of the authority or in which it has an interest;

(B) the fixing and collection of rents or other consideration for, and the other terms to be incorporated in, an agreement with respect to a project;

(C) the assignment by the authority of its rights in a mortgage or other security interest created with respect to a project to a trustee for benefit of bondholders;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

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

(E) the vesting in a trustee of rights, powers, duties, funds, or property in trust for the benefit of bondholders, including, without limitation, the right to enforce payment, performance, and all other rights of the authority or of the bondholders under a lease, contract of sale, mortgage, security agreement, or trust agreement with respect to a project by appropriate judicial proceeding or by taking possession of by agent or otherwise and operating a project and collecting rents or other consideration and applying the same in accordance with the trust agreement;

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

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

Sec. 30.17.230. VALIDITY OF PLEDGE. (a) It is the intent of the legislature that a pledge made in respect of bonds issued under this chapter is perfected, valid, and binding from the time the pledge is made; that the money or property so pledged and thereafter received by the authority is immediately subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority whether or not the parties have notice. Neither the resolution, trust agreement, nor any other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code to be perfected or to be valid, binding, or effective against the parties.

(b) This section does not affect title to or conveyances of real property, and does not limit the applicability of AS 40.17.080.

Sec. 30.17.240. NONLIABILITY ON BONDS. (a) Neither the members of the authority nor a person executing the bonds are liable personally on the bonds issued by the authority or are subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the authority do not constitute an indebtedness or other

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

liability of the state or of a political subdivision of the state, but shall be payable solely from the income and receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or of a political subdivision of the state, except the authority, to the payment of a bond, and the issuance of a bond by the authority does not directly, indirectly, or contingently obligate the state or a political subdivision of the state to apply money from, levy, or pledge any form of taxation to the payment of the bond.

(c) The authority shall print the language of (b) of this section in substantial form on the face of all bonds issued and in any offering circular, or statement issued in connection with the bonds.

Sec. 30.17.250. PLEDGE OF THE STATE. The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency that loans or contributes funds in respect to a project, that the state will not limit or alter the rights and powers vested in the authority by this chapter to fulfill the terms of a contract made by the authority with the holders or federal agency, or in any way impair the rights and remedies of the holders until the bonds, together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority may include this pledge and agreement of the state, insofar as it refers to holders of bonds of the authority, in a contract with the holders, and insofar as it relates to a federal agency, in a contract with the federal agency.

Sec. 30.17.260. EXEMPTION FROM TAXATION. (a) The real and personal property of the authority and its assets, income, and receipts are declared to be the property of a political subdivision of the state and, ~~together with a project financed under this chapter,~~ are exempt from taxes and special assessments of the state or a political subdivision of the state. Bonds of the authority are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose and to be a public instrumentality, and the bonds, the interest on them, the income from them, and the transfer of the bonds, and all assets, income, and receipts pledged to pay or secure the payment of the bonds or interest on them shall at all times be exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death.

A 207

1 (b) This section does not affect or limit an exemption from license fees, property
2 taxes, or excise, income, or other taxes, provided under any other law, nor does it create
3 a tax exemption with respect to the interest of any business enterprise or other person,
4 other than the authority, in any property, assets, income, receipts, project, or lease
5 whether or not financed under this chapter.

6 Sec. 30.17.270. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
7 bonds of the authority are securities in which public officers and bodies of the state;
8 municipalities and municipal subdivisions; insurance companies and associations and
9 other persons carrying on an insurance business; banks, bankers, trust companies, savings
10 banks, savings associations, including savings and loan associations and building and
11 loan associations, investment companies, and other persons carrying on banking business;
12 administrators, guardians, executors, trustees, and other fiduciaries; and other persons
13 who are now or may afterward be authorized to invest in bonds or other obligations of
14 the state, may properly and legally invest money, including capital in their control or
15 belonging to them. Notwithstanding any other provisions of law, the bonds of the
16 authority are also securities that may be deposited with and may be received by public
17 officers and bodies of the state and municipalities and municipal subdivisions for any
18 purpose for which the deposit of bonds or other obligations of the state is now or may
19 afterward be authorized.

20 Sec. 30.17.280. ENTERPRISE DEVELOPMENT ACCOUNT. (a) The
21 enterprise development account is established in the authority. The enterprise
22 development account is a trust fund for the uses and purposes of this chapter. The
23 enterprise development account consists of money or assets appropriated or transferred
24 to the authority and other money or assets deposited in it by the authority.

25 (b) The authority may establish in the enterprise development account the
26 accounts it considers appropriate.

27 (c) Money and other assets of the enterprise development account may be used
28 to secure bonds of the authority issued to finance the purchase of loans for projects or
29 may be used to purchase participation in the loans for projects.

30 (d) A loan participation purchased by the authority with assets of the enterprise
31 development account or with proceeds of bonds secured by assets of the enterprise
32 development account

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

(1) may not be purchased unless

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

(B) the project applicant has, or, if the applicant is not a single proprietorship, all members of the business enterprise or enterprises constituting the project applicant have, paid all taxes due to the state, has satisfied financial requirements for state tax cases that are under appeal, and is current on all payment schedules relating to state taxes or settlement of tax disputes with the state; and

(C) at least 20 percent of the principal amount of the loan is retained by the loan originator;

(2) may not be purchased if the loan to be purchased exceeds the cost of the project or 75 percent of the appraised value of the project, whichever is less, unless the amount of the loan in excess of this limit is federally insured or guaranteed or is insured by a qualified mortgage insurance company;

(3) may not be purchased if the participation in the loan to be purchased is for a term longer than three-quarters of the authority's estimate of the life of the project or 25 years from the date the loan is made, whichever is earlier; however, in the case of a loan participation for a power transmission intertie, the term may not be longer than 50 years from the date the loan is made;

(4) may be made only if the participation in the loan to be purchased contains amortization provisions; the amortization provisions

(A) must be complete and satisfactory to the authority and require periodic payments by the borrower;

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

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

(ii) the accelerated amortization schedule is required to

1 induce the originator to make the loan;

2 (5) may be made only if the participation in the loan to be purchased is
3 in the form and contains the terms and provisions with respect to insurance, repairs,
4 alterations, payment of taxes and assessments, default reserves, delinquency charges,
5 default remedies, acceleration of maturity, secondary liens, and other matters the
6 authority prescribes; and

7 (6) may be made only if the participation in the loan to be purchased is
8 secured as to repayment by a mortgage or other security instrument in the manner the
9 authority determines is feasible to assure timely repayment under a loan agreement
10 entered into with the borrower.

11 (e) The authority may adopt regulations for the administration of the enterprise
12 development account including provisions for fees and agreements relating to application,
13 loan commitment, servicing, and origination of loans by other lenders.

14 (f) The authority may enter into agreements as to the use of the money in the
15 enterprise development account including trust or custody arrangements with banks or
16 trust companies. It may also pledge, assign, or grant the agreement, interests under an
17 agreement, or interests in the enterprise development account as may be necessary or
18 appropriate to provide for payment and security for bonds of the authority issued to
19 finance the purchase by the authority of loans for projects.

20 (g) Notwithstanding any other provision of this section, the authority may waive
21 or modify the requirements of this section as it considers appropriate and prudent in
22 order to finance a project if the authority intends to own the project or in order to
23 finance a power transmission intertie project.

24 (h) The provisions of this section apply only with respect to a loan participation
25 purchased by the authority for projects under this chapter.

26 ARTICLE 4. MISCELLANEOUS PROVISIONS.

27 Sec. 30.17.300. AUDIT. The legislative auditor shall audit or shall cause to
28 have audited annually the financial records of the authority. The legislative auditor may
29 prescribe the form and content of the financial records of the authority and shall have
30 access to these records at reasonable times.

31 Sec. 30.17.310. EQUAL USE AND ACCESS. If the authority owns, leases, or
32 otherwise operates or controls, or participates in the financing of, a facility, the authority

1 shall, to the maximum extent possible, provide for equal rights of access to and use of
2 the facility by members of the public and other persons or entities upon terms and
3 conditions that are fair and reasonable. However, this section does not prevent the
4 authority from establishing fair and reasonable limitations on use of or access to a facility
5 to the extent the limitations are necessary in connection with the nature of the facility or
6 the demand for use of or access to the facility. This section applies to the establishment
7 of rates and rate structures as well as all other factors, terms, and conditions relating to
8 the use of or access to the facility, including without limitation the design and location
9 of the facility. The members of the authority shall make a written finding concerning
10 compliance of the facility with this section. A written finding signed by a majority of
11 the authority members complies with the provisions of this section and shall constitute
12 a conclusive presumption of compliance.

13 Sec. 30.17.320. SUCCESSION. Whenever a municipality, other than a second
14 class city, is created with an area coterminous with or inclusive of the area of the
15 authority, the authority shall be integrated into the municipality within one year after
16 incorporation. On integration, the municipality succeeds to the rights, powers, duties,
17 assets, and liabilities of the authority.

18 Sec. 30.17.330. PURCHASE OF PROJECT AND LEASES. (a) This chapter
19 does not prevent the inclusion in a lease or other agreement relating to a project of a
20 provision granting the right to purchase the project, or to renew or extend the lease or
21 agreement, upon the terms and conditions that may be provided for in the lease or
22 agreement.

23 (b) A lease with respect to a project may provide for two or more lessees with
24 the legal relationship between themselves and the authority that the authority may
25 approve, including provisions to the effect that the obligations of the lessees under the
26 lease for payment of rental or otherwise between themselves and the authority are
27 several, joint, or joint and several and that the lessees lease the project as
28 tenants-in-common, or otherwise.

29 Sec. 30.17.340. CONFLICTS OF INTEREST. (a) A member of the authority
30 may not vote on a matter relating to a lease or contract entered into or to be entered into
31 by the authority under this chapter if the member is a party to the lease or contract or
32 has a direct ownership or equity interest in a firm, partnership, corporation, or association

1 that may be a party to the contract or lease. A matter relating to a lease or contract that
2 is approved by a majority of the members who are not barred from voting under this
3 section is a valid action of the authority for all purposes.

4 (b) Members of the authority are subject to AS 39.52 (Alaska Executive Branch
5 Ethics Act).

6 Sec. 30.17.350. OPERATION OF CERTAIN STATUTES EXCEPTED. (a) The
7 authority may not be considered to be or constitute (1) a political subdivision of the state
8 as the term is used in AS 37.10.085, (2) a municipal corporation or political subdivision
9 of the state as the terms are used in AS 29, or (3) except as provided in AS 30.17.360,
10 a state agency as the term is used in AS 37, but for all other purposes the authority
11 constitutes a political subdivision and an instrumentality of the state as provided in this
12 chapter.

13 (b) The funds, income, or receipts of the authority may not be considered to be
14 or constitute money of the state, nor may real property in which the authority has an
15 interest be considered land owned in fee by the state or to which the state may become
16 entitled or in any way land belonging to the state, or state land referred to in art. VIII,
17 Constitution of the State of Alaska.

18 Sec. 30.17.360. COMPLIANCE WITH EXECUTIVE BUDGET ACT;
19 AUTHORITY FINANCES. (a) The operating budget of the authority is subject to
20 AS 37.07 (Executive Budget Act).

21 (b) To further ensure effective budgetary decision making by the legislature, the
22 authority shall

23 (1) annually review the authority's assets to determine whether assets of
24 the authority exceed an amount required to fulfill the purposes of the authority as defined
25 in this chapter; in making its review, the members of the authority shall determine
26 whether, and to what extent, assets in excess of the amount required to fulfill the
27 purposes of the authority during at least the next fiscal year are available without

28 (A) breaching an agreement entered into by the authority;

29 (B) materially impairing the operations or financial integrity of
30 the authority; or

31 (C) materially affecting the ability of the authority to fulfill the
32 authority's purposes; and

1 (2) present to the legislature by January 10 of each year a complete
2 accounting of all assets of the authority and a report of the review and determination
3 made under (1) of this subsection; the accounting shall be audited by the auditor who
4 conducts the audit required by AS 30.17.300, including income earned on assets of the
5 authority during that period.

6 Sec. 30.17.370. REPORTS AND PUBLICATIONS. By January 10 of each
7 year, the authority shall publish a report for distribution to the governor, legislature, and
8 the public. The authority shall notify the legislature that the report is available. The
9 report shall be written in easily understandable language. The report must include a
10 financial statement audited by an independent outside auditor, a statement of the
11 authority's investments under this chapter, including an appraisal of the investments at
12 market value, a comparison of the authority's performance with the goals of the
13 authority, and other information the members of the authority believe would be of
14 interest to the governor, the legislature, and the public. The annual income statement and
15 balance sheet of the authority shall be published in at least one newspaper circulating in
16 each judicial district. The authority may also publish other reports it considers desirable
17 to carry out its purposes.

18 ARTICLE 5. GENERAL PROVISIONS.

19 Sec. 30.17.900. DEFINITIONS. In this chapter,

20 (1) "authority" means the Adak Reuse Authority created by this chapter;
21 (2) "bonds" means bonds or other obligations issued under this chapter;
22 (3) "business enterprise" means a single proprietorship, cooperative,
23 corporation, firm, partnership, or other association of persons organized in any manner,
24 for any credit worthy business purpose;

25 (4) "facility" means real property, whether above or below mean high
26 water, or an interest in it, and the buildings, improvements, and structures constructed
27 or to be constructed on or in it, and may include fixtures, machinery, and equipment on
28 it or in it, and tangible personal property, regardless of whether the tangible personal
29 property is attached to or connected with real property, if the owner has agreed not to
30 remove the tangible personal property permanently from the state for the period the
31 authority sets; "facility" does not include work in process or stock in trade;

32 (5) "federal agency" means the United States and any officer, department,

1 agency or instrumentality of the United States;

2 (6) "lease" includes, when used as a noun, an interest in, or when used
3 as a verb, the transfer of an interest in, property less than fee simple title, including,
4 when used as a noun, agreements to use or occupy property;

5 (7) "person" includes a corporation, company, partnership, firm,
6 association, organization, business trust, society, state or agency or subdivision of the
7 state, municipality of the state, a resource development authority, as well as a natural
8 person;

9 (8) "project" means

10 (A) a facility used or intended for use in connection with making,
11 processing, preparing, transporting, or producing goods, products, or substances
12 of any kind or nature or in connection with developing or using a natural
13 resource, or extracting, smelting, transporting, converting, assembling, or
14 producing minerals, raw materials, chemicals, compounds, alloys, fibers,
15 commodities and materials, products, or substances of any kind or nature;

16 (B) a facility used or intended for use in connection with a
17 business enterprise;

18 (C) commercial activity by a small enterprise;

19 (D) a facility demonstrating technological advances of new
20 methods and procedures and prototype commercial applications for the
21 exploration, development, production, transportation, conversion, and use of
22 energy resources;

23 (E) infrastructure for a new tourism destination facility or for the
24 expansion of a tourism destination facility;

25 (F) a facility, other than a facility described in (D) of this
26 paragraph, for the generation, transmission, development, transportation,
27 conversion, or use of energy resources;

28 (9) "project applicant" means a business enterprise or enterprises
29 proposing to

30 (A) use or occupy a project; or

31 (B) agree to permit others to use or occupy a project;

32 (10) "real property" means land and rights and interests in land, including

1 interests less than full title such as easements, uses, leases, and licenses.

2 * **Sec. 2.** AS 39.25.110(11) is amended to read:

3 (11) the officers and employees of the following boards, commissions,
4 and authorities:

5 (A) [REPEALED

6 (B)] Alaska Permanent Fund Corporation;

7 (B) [(C)] Alaska Industrial Development and Export Authority;

8 (C) [(D)] Alaska Commercial Fisheries Entry Commission;

9 (D) [(E)] Alaska Commission on Postsecondary Education;

10 (E) [(F)] Alaska Aerospace Development Corporation;

11 (F) Adak Reuse Authority;

12 * **Sec. 3. INITIAL TERMS.** Notwithstanding AS 30.17.020, enacted in sec. 1 of this Act,
13 the initial term of one member appointed under (a)(2) of that section, and the initial terms of two
14 members appointed under (a)(3) of that section, shall be one year.

Alaska State Legislature
Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE
VICE-CHAIRMAN
HOUSE SPECIAL COMMITTEE ON FISHERIES

SESSION:
STATE CAPITAL BUILDING
JUNEAU, ALASKA 99801-1182
PHONE (907) 465-4451
FAX: (907) 465-3445

INTERIM:
716 W. 4TH AVE #630
PHONE (907) 258-8167
FAX: (907) 258-3468

MEMORANDUM

DATE: March 18, 1996
TO: Rep. Mark Hanley, Co-Chairman
Rep. Richard Foster, Co-Chairman
Members, House Finance Committee
FROM: Rep. Carl E. Moses, Chairman
House Rules Committee
SUBJ: Revised CS For HB 466 - Adak Reuse Authority

HB 466 is back before you today in the committee meeting. A draft CS is attached (9LS1580/G), which addresses improvements as suggested by bond counsel. In addition, we have amended the board membership criteria to put more emphasis on regional resident participation.

At today's meeting, Mr. Ken Vassar, bond counsel, will again be available by teleconference. Also, Mr. Jim Baldwin of the Attorney General's office.

The changes in this CS are:

1. p. 1, line 15 through p. 2, line 3 - provides that two of the four public members of the authority must be residents of the area within the boundaries defined by the Aleut Regional Corporation. This will ensure greater regional participation.

ADAK • AKUTAN • AMCHITKA • ATKA • ATTU • BELKOFSKI • CHERNOFSKI • CHIGNIK • CHIGNIK LAGOON • CHIGNIK LAKE • COLD BAY • CUTCH HARBOR
EGEGIK • FALSE PASS • IGIUGIG • ILIAMNA • IVANOF BAY • KING COVE • KING SALMON • KOKHANOK • KOKHANOK BAY • LEVELOCK • NAKNEK
NELSON LAGOON • NEWHALEN • NIKOLSKI • NONDALTON • PEDRO BAY • PERRYVILLE • PILOT POINT • PORT ALSWORTH • PORT HEIDEN • PORT MOLLER
SAND POINT • S-EMYA • SQUAW HARBOR • SOUTH NAKNEK • ST GEORGE ISLAND • ST PAUL ISLAND • UGASHIK • UNALASKA • UNGA

3/18/96
Attachment ①

2. p. 3, lines 18-19 - changed language from "jointly operate" to "for operation of" in order to preclude joint operating agreements with federal entities.
3. p. 4, line 7 - language was added to clearly express the authority's ability to issue revenue bonds.
4. p. 4, line 28 - Sec. 30.17.120 already provides for the immediate expediting of regulations when waiting for the statutory 30-day period would not be prudent. No change to this CS needed.
5. p.5, line 10 - reflects the deletion from the previous CS which restricted the authority's ability to use state grants, appropriations, or other transfers to satisfy bond obligations, or otherwise establish collateral. Also deleted the restriction on the authority to use rents, fees, or other charges for financing development or improvement of unrelated facilities.
6. p. 6, lines 5-6 - added the provision that the legislature must approve the authority's share of any financing which exceeds \$10 million.
7. p.11, lines 8-11 - expanded the language providing that project applicants be current with state tax matters. Now states that they would be considered current if they are meeting payment schedules, have a tax case under appeal, or are meeting terms of tax dispute settlements.
8. p. 13, line 17 - deleted language from the previous CS which restricted a future municipality's option to accept the indebtedness of the authority when succession occurs.

Please contact Tim Benintendi of my staff at 3764 if more information is needed.

Alaska State Legislature
Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

VICE-CHAIRMAN
HOUSE SPECIAL COMMITTEE ON FISHERIES

SESSION:
STATE CAPITAL BUILDING
JUNEAU, ALASKA 99801-1182
PHONE (907) 465-4451
FAX (907) 465-3445

INTERIM:
716 W 4TH AVE #630
PHONE (907) 258-8167
FAX (907) 258-3468

MEMORANDUM

DATE: March 12, 1996
TO: Rep. Mark Hanley, Co-Chairman
Rep. Richard Foster, Co-Chairman
Members, House Finance Committee
FROM: Rep. Carl E. Moses, Chairman *CEM*
House Rules Committee
SUBJ: Update on House Bill 466 - Adak Reuse Authority

HB 466 is back before you today in the committee meeting. A draft CS is attached, which addresses several concerns raised at previous hearings. The changes are described below.

At today's meeting, Mr. Ken Vassar of the offices of Wohlforth, Argetsinger, Johnson & Brecht, advisors to the Municipal Bond Bank, will be available by teleconference. Also available to testify in person will be Lamar Cotten, Deputy Commissioner, C. R. & A, and Sarah Felix of the Attorney General's office.

Also attached is a copy of preliminary general comments by bond counsel, and an opinion discussing exemption from taxation (reference p. 9, lines 23-32, and p. 10, lines 1-6).

Changes included in this CS:

1. p. 17, lines 12-14, setting out staggered terms of authority board members.

2. p. 5, lines 14-21, adding a precondition to transfer and acceptance of assets that states the authority cannot do so unless there is sufficient funding to manage or operate at a minimal level for two years; also identifies the director of OMB as the one to determine sufficiency of funding, with authority to approve or disapprove. This gives the administration oversight opportunity.
3. adding (1), p. 3, line 12, to more clearly state the administrative function relative to receiving federal assets.
4. p. 3, line 27, changing "make and alter bylaws..." to "adopt and amend bylaws..."
5. p. 3, line 30, at (5), adding language specifying the ability to accept title to, or other interest in, assets.
6. p. 7, line 15, reducing bonding limit from \$400 million to \$100 million.
7. p. 11, line 7-9, adding a provision (B) that applicants for loan participations not be in arrears on taxes due the state.
8. deleting references to loan participations for power transmission intertie projects.
9. p. 13, lines 11-17, refined language dealing with succession by using "municipality, other than a second class city..." instead of "borough of the first or second class, or home rule municipality..." to clarify the type of entity into which the Adak Reuse Authority would integrate. Additionally, this section provides that a municipality may not use taxes to pay the indebtedness acquired from the authority. As this reads, there is no choice on the part of the municipality.
10. p. 13, lines 29-32, and p. 14, lines 1-3, changing "resolution" to "contract or lease" when specifying circumstances wherein a member of the authority may not vote under a conflict of interest.
11. p. 14, lines 4-5, adding language to subject the authority to the Executive Branch Ethics Act.

12. p. 14, lines 13-20, still needs discussion to resolve.

Please contact Tim Benintendi of my staff at 3764 if more information is needed.

CEM/tb/m16

WOHLFORTH, ARGETSINGER, JOHNSON & BRECHT

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

988 WEST 17TH AVENUE, SUITE 600
ANCHORAGE, ALASKA 99501-2045

TELEPHONE
(907) 576-6441

FACSIMILE
(907) 272-0550

JULIAN J. BRECHT
CYNTHIA L. HARTLEBER
ROBERT M. JOHNSON
THOMAS P. KLINGNER
BRADLEY S. MEYER
KENNETH S. VASSTAS
ERIC S. WOHLFORTH

OF COUNSEL
PETER ARGETSINGER

MEMORANDUM

TO: Norm Laveaque
FROM: Eric Wohlforth
DATE: March 8, 1996
SUBJECT: HB 466 - An act establishing the Adak Reuse Authority

I have the following comments with respect to this bill:

1. Page 2, line 7. Consideration should be given to staggered terms of members so that all the members' terms do not expire at once.
2. Page 3, line 14. The purpose of the Authority is drafted in a limited manner. An operation agreement with the federal government would have to be for joint operation of the facilities. Is this intended, or are any agreements with the federal government or others intended to be authorized?
3. Page 4, line 21. Certain other authority acts contain an expedited administrative procedure section under which regulations may be in effect immediately instead of on a 30-day delay basis.
4. Page 5, line 6. The limitation that state appropriations cannot be used to establish bond security may well mean that the Authority does not have the practical ability to issue bonds. The limitation on using rents to finance unrelated facilities is unclear. The facilities at the Adak Naval Air Facility are the only ones which are dealt with under the act. The other facilities would be beyond the corporate purposes of the Authority.
5. It is noted that the bonding provisions, (page 7, line 8 through page 10, line 18) contain no provisions authorizing moral obligation debt.

CS

p. 17
l. 12-14

p. 3
l. 15

p. 4
l. 25-27

p. 5
l. 7

HB 466
3/12/96
Attachment 4

6. Page 10, line 17 through page 12, line 21. These provisions seem to contemplate that the Authority will be in the business of making loan participations. Is there any reasonable anticipation that participation lenders will be found for entrepreneurial loans with respect to the naval facility? I note also the reference that page 10, line 31 to "power transmission intertie" which I apprehend comes from copying this from another legislative bill.

- deleted

7. Page 13, line 10. If a borough is created for the area of the Adak naval facility, the authority would be integrated into the borough. An alternative suggestion is to make this an option as the borough may have reasons to allow the authority to continue after it is created.

- no

In general, I feel that in order to be a useful and effective redevelopment tool the Adak Reuse Authority should have at least the right to pledge any state appropriations made to it which are not limited on their face to non-bond purposes, and perhaps the right to issue tax exempt bonds secured by the moral obligation of the state.



550 W. 7th Ave., Suite 1325
Anchorage, AK 99501

Tel (907) 274-7366
FAX (907) 276-1691

DATE: 3/7/96 #of pages including cover letter 3
 TO: Tim Benintendi Fax#: 1-907-465-3445
 FROM: Rea Moses OFFICE FROM: 0 Toni Phillipa
 FROM: Norm Lovesque
 COMMENTS: _____

Bond Counsel preliminary comments
on HB 466 are attached.

Will notify you as to date
and time that we can teleconference
with Bond Counsel.

Neen

If you don't receive the total number of pages, please call our office within 15 minutes, otherwise we will assume you have received this transmission satisfactorily.

Revised 9/21/95



The **Aleut Corporation**

MEMORANDUM

March 12, 1996

TO: Rep. Mark Hanley, Co-Chair
Rep. Richard Foster, Co-Chair
House Finance Committee

FROM: Aleut Community of the Aleutian Islands/Pribilof Region

RE: House Bill 466 "Adak Reuse Authority"

We respectfully ask your assistance in addressing the following issues either by amending HB 466 or by remanding it back to the subcommittee.

- 1) **Representation** - Please agree that those who stand to win or lose with this authority should have the majority of representation on the board.
- 2) **Stripping of assets** - Please agree with the Aleut people to build in protections against stripping the Island of important assets for at least the first three years.
- 3) **Succession** - Please don't force the dissolution of the authority with the creation of a municipality. It should read "may" not "shall" in HB 466.
- 4) **Use of funds** - Please don't let the authority use Adak revenue funds to finance mortgages on projects outside of Adak. HB 466 does not restrict this.

We hope that the proposed CS for HB 466 can be analyzed and the new fiscal note currently being developed by the Dept. of Community & Regional Affairs be evaluated before the bill is moved from committee.

Both the state and the Aleut Community will bring advantages to the authority. We for example have the ability to access substantial federal assistance. We are committed to being team players with the state to gain the best chance at successfully reusing Adak for the good of the Aleut people, the region, and the state.



March 11, 1996

Representative Mark Hanley
Representative Richard Foster
Co-Chairman, House Finance Committee
State of Alaska
House of Representatives
Capitol Building
Juneau, Alaska

Re: Adak Reuse Authority House Bill 466

Dear Sirs,

The Aleut people of the Aleutians have a tremendous interest in the creation of an Adak Reuse Authority that truly represents the interests of the people who will suffer or prosper at the hands of the Adak Reuse Authority. This letter addresses some important concerns the Aleut people have with House Bill 466 (HB 466). We ask for your help in addressing these concerns.

We have just learned that our discussion with the staff of the bill's sponsor have been to no avail. He has chosen not to include any of our suggested changes to HB 466, even though there are a number of technical and housekeeping changes which we thought were approved in concept.

So we come to House Finance, seeking your support to amend HB 466. We fully understand the power of the Rules Chairman to ask and receive what he wants in a bill; however, this bill is too important to the future of the Aleut people and the region to accept mistakes which can easily be avoided. Please consider helping the Aleut people make the following changes prior to passing the bill from committee.

1. Representation - The Aleut communities in the region believe and ask that a majority of Reuse Authority Board members come from the Aleutian geographic region. While we understand that legally we can not ask the local communities, or villages have specific representation, we request that House Finance change the membership of the authority to read:

Representative Mark Hanley
Representative Richard Foster
March 11, 1996
Page 2

The membership of the authority consists of nine members. Seven of the members shall be appointed from the area comprised of the Aleutian/Pribilof Islands. The intent of the legislature regarding such membership is that:

- A Two members from the State of Alaska, at large, appointed by the Governor.
- B Seven members from the Aleutian/Pribilof Islands geographic area, including to the extent possible:
 - 1. Two members from a list submitted by the twelve tribal governments located in the Aleutian/Pribilof Islands.
 - 2. Two representatives from a list submitted by the fifteen village corporations located within the Aleutian/Pribilof Islands region.
 - 3. One representative appointed from a list submitted by The Aleut Corporation
 - 4. One representative appointed from a list submitted by Aleutian/Pribilof Islands Association.
 - 5. One representative from a list submitted by the City of Atka.

Our concern with the present arrangement is that:

- 1. The vast majority, if not all, of the land base at Adak is about to be transferred to the Aleut people in full satisfaction of outstanding Regional Corporation land claims throughout the Aleutians¹. The Department of Interior desires to eliminate the normal and legitimate unfulfilled land claims of the Aleut people and consolidating remaining entitlements onto Adak - an island they believe to be compromised from a wilderness or monument point of view. It will be very confusing and inefficient to have control of the Adak Reuse Authority which will receive title to buildings and personal property different from the owners of the underlying land². The current authority make-up allows a majority of board members to come from outside the region with a make-up of members with perhaps a different set of interests and values than the Aleut people.
- 2. If, as in the last general election, our region does not happen to support a particular governor, we are concerned that he would have the ability to appoint out-of-region representatives in a politically motivated manner which may not inure to the benefit of

¹ Department of Interior managers have initiated draft agreements which are currently being finalized to transfer over 73,000 acres to the Aleut people in full satisfaction of legitimate and outstanding land claims located throughout the Aleutian/Pribilof Islands.

² There is a possibility that the HB 466 Reuse Authority may not be needed, and that the authority could be the same regional entity which owns the underlying land. This will make it far easier for a commercial entity to actually start operations on a "reused" Adak. However, the Aleut people are willing to work with the LRA suggested in HB 466 if it can be organized in a way that allows regional control.

Representative Mark Hanley
Representative Richard Foster
March 11, 1996
Page 3

the Aleutian/Pribilof region, or the state as a whole. The Aleut region is a small region, made smaller by the closing of Adak.

- 3 Just as it was felt to be important to include geographic representation on the Alaska Railroad Authority bill in the 1980s, the Aleutian people are the ones to be primarily hurt or helped at the success or failure of the authority. The people who are in charge of the decisions of the authority should be the ones with the most to gain or lose by its proper functioning.

The Aleut people ask for your help in bringing representation of this authority to the region and not to statewide political appointees of the Governor.

There are other changes which we have discussed with the author of the CS which we suggest will improve the practical operation of this bill. We still have hope that, unlike the above representation concept which has been specifically refused, that other improvements may still be forthcoming. These improvements include:

1. A change in the bill to reduce the chances of "stripping off" of important community assets, by other entities, for at least five years without a super majority vote of the authority's Board of Directors.
2. A change in the bill to keep the bonds, or the development account from financing second mortgages to restaurants at Dutch Harbor, or other similar inappropriate uses of development account bond funds. The use of bond and authority generated funds needs to be focused specifically on the development of jobs and economic activity on a reused Adak Naval Air Station. Currently, the use of the funds is not tied to Adak at all, but the overall economic interests of the state, which have been loosely interpreted in the past³.
3. A change to add performance and/or "intent" audits of the authority's annual performance in addition to its financial audit requirements.
4. A change to protect commercial entities who are considering establishing jobs and facilities on a reused Adak from the harsh light of press or public disclosure while in the embryonic solicitation/marketing/initial interest phase. However, when a company submits an actual proposal to the reuse authority, of any type, all non-proprietary information would then be disclosed and available to the general public.

³ One provision of the bill does state that the funds can be used for the good of the state "and region", but we feel this will provide an open door incentives to use the authority's bonding and financing capabilities to do projects all over the region which may be totally unrelated to the reuse of Adak Island. We believe this should be tightened in statute.

Representative Mark Hanley
Representative Richard Foster
March 11, 1996
Page 4

The Aleut people and The Aleut Corporation have been totally frustrated in the handling of the Adak reuse authority. This frustration, especially with the inability to have a majority of representation come from the Aleutian region - without any good explanation of why not - has caused some to want to abandon the legislative process and try to accomplish the same goals through tribal/federal means. Please understand it is the frustrations with not being well dealt with by DCRA and the bill's sponsor which have led to any such talk. Please help us reduce the frustration level and get back to a more normal working relationship with the state government on the reuse of Adak issue.

Thank you for your time to read this letter. Please help us get regional representation on the authority's board.

Sincerely,



Elary Gromoff, Jr.
for the Aleut community

cc: House Finance Committee

*NOT USING
THIS ONE*

CS FOR HOUSE BILL NO. 466()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE MOSES

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Adak Reuse Authority."

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

3 * Section 1. AS 30 is amended by adding a new chapter to read:

4 CHAPTER 17. ADAK REUSE AUTHORITY.

5 ARTICLE 1. ESTABLISHMENT.

6 Sec. 30.17.010. CREATION OF AUTHORITY. There is created the Adak
7 Reuse Authority. The authority is a public corporation of the state and a body corporate
8 and is an instrumentality of the Department of Community and Regional Affairs, but
9 with separate and independent legal existence.

10 Sec. 30.17.020. MEMBERSHIP OF AUTHORITY. (a) The membership of the
11 authority consists of

- 12 (1) the commissioner of community and regional affairs;
- 13 (2) two other persons selected by the governor who serve as the heads
- 14 of principal departments of the executive branch of state government; and
- 15 (3) four public members appointed by the governor.

1 (b) If a member described in (a)(1) or (2) of this section is unable to attend a
2 meeting of the authority, the member may, by an instrument in writing filed with the
3 authority, designate a deputy or assistant to act in the member's place as a member at the
4 meeting. For purposes of this chapter, the designee is a member of the authority at the
5 meeting.

6 (c) Members of the authority described in (a)(2) and (3) of this section serve
7 two-year terms but serve at the pleasure of the governor.

8 (d) If a vacancy occurs in the membership of the authority, the governor shall
9 immediately appoint a member for the unexpired portion of the term.

10 Sec. 30.17.030. CHAIR AND VICE-CHAIR. The members of the authority
11 shall elect a chair from among themselves. A vice-chair may be elected by the authority
12 from among its other members. The vice-chair presides over all meetings in the absence
13 of the chair and has other duties that the authority may prescribe.

14 Sec. 30.17.040. MEETINGS, COMPENSATION, OFFICERS, AND
15 EMPLOYEES. (a) A majority of the members of the authority constitutes a quorum for
16 the transaction of business or the exercise of a power or function at a meeting of the
17 authority. In case of a tie vote on a motion or resolution pending before the authority,
18 the motion or resolution shall be presented to the governor and, if approved by the
19 governor, is considered adopted by the authority. The authority may meet and transact
20 business by electronic media if (1) public notice of the time and locations where the
21 meeting will be held by electronic media has been given in the same manner as if the
22 meeting were held in a single location; (2) participants and members of the public in
23 attendance can hear and have the same right to participate in the meeting as if the
24 meeting were conducted in person; and (3) copies of pertinent reference materials,
25 statutes, regulations, and audio-visual materials are reasonably available to participants
26 and to the public. A meeting by electronic media as provided in this subsection has the
27 same legal effect as a meeting in person.

28 (b) The public members of the authority are entitled to \$100 compensation for
29 each day spent on official business of the authority and may be reimbursed by the
30 authority for actual and necessary expenses at the same rate paid to members of state
31 boards under AS 39.20.180.

32 (c) The authority may appoint persons as officers it considers advisable,

1 including an executive director, and may employ professional advisors, legal counsel,
2 technical experts, agents, and other employees it considers advisable. The executive
3 director and employees of the authority are in the exempt service under AS 39.25.

C.R.A.
F.N.

4 (d) The authority shall keep minutes of each meeting and send a certified copy
5 to the governor and to the Legislative Budget and Audit Committee.

6 ARTICLE 2. PURPOSE AND GENERAL POWERS.

7 Sec. 30.17.100. PURPOSE OF THE AUTHORITY. The purpose of the
8 authority is to develop and implement a comprehensive reuse and redevelopment plan
9 for the territory encompassed by the Adak Naval Air Facility in a manner that will attract
10 business, create jobs, and advance the general prosperity and economic welfare of the
11 people of the state by

12 (1) administering in a manner consistent with the purpose of the authority
13 the assets transferred to the authority by the federal government, including facilities and
14 other real or personal property, located at the Adak Naval Air Facility;

15 (2) entering into necessary agreements with the federal government to
16 jointly operate the facilities comprising the Adak Naval Air Facility;

17 (3) operating or contracting with others to operate enterprises and other
18 facilities located at the Adak Naval Air Facility; and

19 (4) cooperating and acting in conjunction with other organizations, public
20 and private, the objects of which are the promotion and advancement of economic use
21 of the facilities located at the Adak Naval Air Facility.

22 Sec. 30.17.110. POWERS OF THE AUTHORITY. In furtherance of its
23 corporate purposes, the authority may, in addition to other powers that it may have by
24 law,

25 (1) sue and be sued;

26 (2) have a seal and alter the seal at its pleasure;

27 (3) adopt and amend bylaws for its organization and internal
28 management;

29 (4) adopt regulations governing the exercise of its corporate powers;

30 (5) subject to AS 30.17.130(d), accept title to, or other interest in, assets
31 transferred to the authority by the federal government, including facilities and other real
32 or personal property, located at the Adak Naval Air Facility;

1 (6) lease to others a project acquired by it for the rentals and upon the
2 terms and conditions the authority may consider advisable, including, without limitation,
3 provisions for options to purchase or renew;

4 (7) provide for and secure the payment of bonds and the rights of holders
5 of them and to purchase, hold, and dispose of bonds;

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

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

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

15 (11) acquire, manage, and operate projects as the authority considers
16 necessary or appropriate to serve a public purpose;

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

20 (13) charge fees or other forms of remuneration for the use or possession
21 of the projects described in (11) of this section in accordance with the agreements
22 described in (12) of this section, other agreements pertaining to the projects, covenants,
23 or representations made in bond documents pertaining to the projects, or regulations of
24 the authority pertaining to the projects.

25 Sec. 30.17.120. ADMINISTRATIVE PROCEDURE. The provisions of the
26 Administrative Procedure Act regarding the adoption of regulations (AS 44.62.040 -
27 44.62.320) apply to the authority.

28 Sec. 30.17.130. LIMITATION ON POWERS. (a) The authority has only the
29 powers expressly granted in this chapter, reasonably implied from this chapter, or
30 reasonably necessary or convenient to carry out its corporate purposes and to exercise
31 the powers expressly granted in or reasonably implied from this chapter.

32 (b) The authority does not have powers of

- 1 (1) eminent domain;
- 2 (2) taxation;
- 3 (3) land use planning;
- 4 (4) zoning;
- 5 (5) permitting; or
- 6 (6) other similar governmental powers.

7 (c) The authority may not use

8 (1) state grants, appropriations, or other transfers from the state to satisfy
9 bond obligations or otherwise establish collateral or security for bonds issued by the
10 authority;

11 (2) rents, rates, fees, or other charges collected through operation of a
12 facility owned by the authority to finance the improvement, establishment, and
13 development of unrelated facilities.

14 (d) The authority may not accept transfer by the federal government of title to,
15 an interest in, control over, or responsibility for a facility or other real or personal
16 property located at the Adak Naval Air Facility unless sufficient federal or other money
17 is available to the authority to manage the property or operate the facility at a minimal
18 level for two years after the date of the transfer. The director of the office of
19 management and budget shall determine whether sufficient money is available to the
20 authority with respect to each proposed transfer subject to this subsection, and approve
21 or disapprove the proposed transfer.

22 ARTICLE 3. PROJECTS; BONDS.

23 Sec. 30.17.200. CONSIDERATION OF PROJECTS TO BE FINANCED. (a)
24 Before issuing bonds for a project under this chapter, the authority must find, on the
25 basis of all information reasonably available to it, that the

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

29 (2) project is financially sound and can be expected to produce revenue
30 adequate to repay the bonds with which it is financed; and

31 (3) scope of the project is sufficient to provide a reasonable expectation
32 of a benefit to the region and the economy of the state.

1 (b) The authority shall give fair and reasonable consideration to a project
2 presented to it for financing. When the authority determines whether to finance or assist
3 in the financing of a project, the authority shall state the reasons for its determination in
4 a written resolution upon request by a person who presented the project to the authority
5 or a person who presented opposition to the project. The authority shall base its reasons
6 on the information presented to it concerning the project and on other information
7 considered appropriate by the authority.

8 Sec. 30.17.210. BONDS OF THE AUTHORITY. (a) Subject to the provisions
9 of AS 30.17.200(a), the authority may borrow money and may issue revenue bonds,
10 including bonds on which the principal and interest are payable

11 (1) exclusively from the income and receipts or other money derived
12 from the project financed with the proceeds of the bonds;

13 (2) exclusively from the income and receipts or other money derived
14 from designated projects whether or not they are financed in whole or in part with the
15 proceeds of the bonds; or

16 (3) from the income and receipts or assets generally, or a designated part
17 or parts of them, of the authority or of any other person.

18 (b) Bonds issued under this chapter shall be authorized by resolution of the
19 authority, and shall be dated and shall mature as the resolution may provide, except that
20 a bond may not mature more than 40 years from the date of its issuance. The bonds
21 shall bear interest at the rate or rates, be in the denominations, be in the form, either
22 coupon or registered, carry the registration privileges, be executed in the manner, be
23 payable in the medium of payment, at the place or places, and be subject to the terms
24 of redemption that the resolution or a subsequent resolution may provide.

25 (c) Bonds issued under this chapter, regardless of form or character, shall be
26 negotiable instruments for the purposes of the Uniform Commercial Code.

27 (d) Bonds issued under this chapter may be sold at public or private sale in the
28 manner, for the price or prices, and at the time or times that the authority may determine.

29 (e) The superior court shall have jurisdiction to hear and determine suits, actions,
30 or proceedings relating to the authority, including suits, actions, or proceedings brought
31 to foreclose or otherwise enforce a mortgage, pledge, assignment, or security interest or
32 brought by or for the benefit or security of a holder of its bonds or by a trustee for or

1 other representative of the holders.

2 (f) Before issuing bonds for a project under this chapter, the authority shall
3 submit to the state bond committee a description of the bond issue and an independent
4 economic feasibility analysis of the project and expected revenue. This information may
5 be contained in a preliminary prospectus, offering circular, or official statement relating
6 to the bond issue. Bonds may not be issued under this chapter unless the state bond
7 committee finds, based upon the information submitted by the authority under this
8 subsection and other information that is reasonably available to the committee, that the
9 project revenue can be reasonably expected to be adequate for payment of the principal
10 and interest on the bonds to be issued if the bonds are to be secured by project revenue
11 alone, and in any event that issuance of the bonds by the authority would not be
12 expected to adversely affect the ability of the state or its political subdivisions to market
13 bonds.

14 (g) The total principal sum of bonds issued under this chapter may not exceed
15 \$100,000,000, exclusive of refunding bonds.

16 Sec. 30.17.220. TRUST INDENTURES AND TRUST AGREEMENTS. In the
17 discretion of the authority, an issue of bonds may be secured by a trust indenture or trust
18 agreement between the authority and a corporate trustee, which may be a trust company,
19 bank, or national banking association, with corporate trust powers, located inside or
20 outside the state, or by a secured loan agreement or other instrument or under a
21 resolution giving powers to a corporate trustee, after this in this section referred to as
22 "trust agreement," by means of which the authority may

23 (1) make and enter into the covenants and agreements with the trustee
24 or the holders of the bonds that the authority determines necessary or desirable,
25 including, without limitation, covenants, provisions, limitations, and agreements as to

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

29 (B) the fixing and collection of rents or other consideration for,
30 and the other terms to be incorporated in, an agreement with respect to a project;

31 (C) the assignment by the authority of its rights in a mortgage or
32 other security interest created with respect to a project to a trustee for benefit of

1 bondholders;

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

4 (E) the vesting in a trustee of rights, powers, duties, funds, or
5 property in trust for the benefit of bondholders, including, without limitation, the
6 right to enforce payment, performance, and all other rights of the authority or of
7 the bondholders under a lease, contract of sale, mortgage, security agreement, or
8 trust agreement with respect to a project by appropriate judicial proceeding or
9 by taking possession of by agent or otherwise and operating a project and
10 collecting rents or other consideration and applying the same in accordance with
11 the trust agreement;

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

15 (3) provide for other matters that affect the security or protection of the
16 bonds.

17 Sec. 30.17.230. VALIDITY OF PLEDGE. (a) It is the intent of the legislature
18 that a pledge made in respect of bonds issued under this chapter is perfected, valid, and
19 binding from the time the pledge is made; that the money or property so pledged and
20 thereafter received by the authority is immediately subject to the lien of the pledge
21 without physical delivery or further act; and that the lien of the pledge is valid and
22 binding against all parties having claims of any kind in tort, contract, or otherwise
23 against the authority whether or not the parties have notice. Neither the resolution, trust
24 agreement, nor any other instrument by which a pledge is created need be recorded or
25 filed under the provisions of the Uniform Commercial Code to be perfected or to be
26 valid, binding, or effective against the parties.

27 (b) This section does not affect title to or conveyances of real property, and does
28 not limit the applicability of AS 40.17.080.

29 Sec. 30.17.240. NONLIABILITY ON BONDS. (a) Neither the members of the
30 authority nor a person executing the bonds are liable personally on the bonds issued by
31 the authority or are subject to personal liability or accountability by reason of the
32 issuance of the bonds.

1 (b) The bonds issued by the authority do not constitute an indebtedness or other
2 liability of the state or of a political subdivision of the state, but shall be payable solely
3 from the income and receipts or other funds or property of the authority. The authority
4 may not pledge the faith or credit of the state or of a political subdivision of the state,
5 except the authority, to the payment of a bond, and the issuance of a bond by the
6 authority does not directly, indirectly, or contingently obligate the state or a political
7 subdivision of the state to apply money from, levy, or pledge any form of taxation to the
8 payment of the bond.

9 (c) The authority shall print the language of (b) of this section in substantial
10 form on the face of all bonds issued and in any offering circular, or statement issued in
11 connection with the bonds.

12 Sec. 30.17.250. PLEDGE OF THE STATE. The state pledges to and agrees
13 with the holders of bonds issued under this chapter and with the federal agency that
14 loans or contributes funds in respect to a project, that the state will not limit or alter the
15 rights and powers vested in the authority by this chapter to fulfill the terms of a contract
16 made by the authority with the holders or federal agency, or in any way impair the rights
17 and remedies of the holders until the bonds, together with the interest on them with
18 interest on unpaid installments of interest, and all costs and expenses in connection with
19 an action or proceeding by or on behalf of the holders, are fully met and discharged.
20 The authority may include this pledge and agreement of the state, insofar as it refers to
21 holders of bonds of the authority, in a contract with the holders, and insofar as it relates
22 to a federal agency, in a contract with the federal agency.

23 Sec. 30.17.260. EXEMPTION FROM TAXATION. (a) The real and personal
24 property of the authority and its assets, income, and receipts are declared to be the
25 property of a political subdivision of the state and, together with a project financed under
26 this chapter, are exempt from taxes and special assessments of the state or a political
27 subdivision of the state. Bonds of the authority are declared to be issued by a political
28 subdivision of the state and for an essential public and governmental purpose and to be
29 a public instrumentality, and the bonds, the interest on them, the income from them, and
30 the transfer of the bonds, and all assets, income, and receipts pledged to pay or secure
31 the payment of the bonds or interest on them shall at all times be exempt from taxation
32 by or under the authority of the state, except for inheritance and estate taxes and taxes

1 on transfers by or in contemplation of death.

2 (b) This section does not affect or limit an exemption from license fees, property
3 taxes, or excise, income, or other taxes, provided under any other law, nor does it create
4 a tax exemption with respect to the interest of any business enterprise or other person,
5 other than the authority, in any property, assets, income, receipts, project, or lease
6 whether or not financed under this chapter.

7 Sec. 30.17.270. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
8 bonds of the authority are securities in which public officers and bodies of the state;
9 municipalities and municipal subdivisions; insurance companies and associations and
10 other persons carrying on an insurance business; banks, bankers, trust companies, savings
11 banks, savings associations, including savings and loan associations and building and
12 loan associations, investment companies, and other persons carrying on banking business;
13 administrators, guardians, executors, trustees, and other fiduciaries; and other persons
14 who are now or may afterward be authorized to invest in bonds or other obligations of
15 the state, may properly and legally invest money, including capital in their control or
16 belonging to them. Notwithstanding any other provisions of law, the bonds of the
17 authority are also securities that may be deposited with and may be received by public
18 officers and bodies of the state and municipalities and municipal subdivisions for any
19 purpose for which the deposit of bonds or other obligations of the state is now or may
20 afterward be authorized.

21 Sec. 30.17.280. ENTERPRISE DEVELOPMENT ACCOUNT. (a) The
22 enterprise development account is established in the authority. The enterprise
23 development account is a trust fund for the uses and purposes of this chapter. The
24 enterprise development account consists of money or assets appropriated or transferred
25 to the authority and other money or assets deposited in it by the authority.

26 (b) The authority may establish in the enterprise development account the
27 accounts it considers appropriate.

28 (c) Money and other assets of the enterprise development account may be used
29 to secure bonds of the authority issued to finance the purchase of loans for projects or
30 may be used to purchase participation in the loans for projects.

31 (d) A loan participation purchased by the authority with assets of the enterprise
32 development account or with proceeds of bonds secured by assets of the enterprise

1 development account

2 (1) may not be purchased unless

3 (A) the project applicant is not, or, if the applicant is not a single
4 proprietorship, all members of the business enterprise or enterprises constituting
5 the project applicant are not, in default on another loan made by the state or by
6 a public corporation of the state;

7 (B) the project applicant has, or, if the applicant is not a single
8 proprietorship, all members of the business enterprise or enterprises constituting
9 the project applicant have, paid all taxes due to the state; and

10 (C) at least 20 percent of the principal amount of the loan is
11 retained by the loan originator;

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

16 (3) may not be purchased if the participation in the loan to be purchased
17 is for a term longer than three-quarters of the authority's estimate of the life of the
18 project or 25 years from the date the loan is made, whichever is earlier; however, in the
19 case of a loan participation for a power transmission intertie, the term may not be longer
20 than 50 years from the date the loan is made;

21 (4) may be made only if the participation in the loan to be purchased
22 contains amortization provisions; the amortization provisions

23 (A) must be complete and satisfactory to the authority and require
24 periodic payments by the borrower;

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

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

30 (ii) the accelerated amortization schedule is required to
31 induce the originator to make the loan;

32 (5) may be made only if the participation in the loan to be purchased is