

**HB**

**120**

<TARGET><BILL>HB 120</BILL><SUBJECT>HB  
120</SUBJECT><COMM>HEDT27</COMM></TARGET>

HB 120

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Governor Sean Parnell  
STATE OF ALASKA

January 21, 2011

The Honorable Mike Chenault  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Chenault,

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill creating a new markets tax credit assistance guarantee and loan program within the Alaska Industrial Development and Export Authority (AIDEA).

This legislation will enable AIDEA to foster more economic development in Alaska, especially in areas with great need for new investment. Under this legislation, AIDEA could issue guarantees and make loans to help finance projects funded through a federal new markets tax credit program. This federal program offers a competitive process by which federal new markets tax credits are allocated to support the nationwide financing of projects located in low income areas or otherwise serving low income populations. The federal program arises under Section 45D of the Internal Revenue Code, and provides for the allocation of new markets tax credits equal to 39 percent of total qualifying investments, payable over seven years. The tax credits provide a present value investment return of approximately 30 percent of the amount of the qualifying investment, and can substantially reduce the financing costs for a project.

Investments made under the federal new markets tax credit program generally would fund only a portion of total project costs. The balance of the funding must come from other loans or financing. There is a scarcity of capital available and this legislation would enable AIDEA to issue guarantees and make loans to assist in funding amounts not covered by investments made under the federal program.

The proposed legislation requires AIDEA to evaluate the commercial reasonableness of the underlying loan AIDEA would guarantee to determine that the project will promote economic development and requires the financial institution to service the guaranteed loan.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in cursive script that reads "Sean Parnell".

Sean Parnell  
Governor

Enclosure



January 26, 2011

The Honorable Bob Herron  
Chair, Special Committee on Economic Development, Trade and Tourism  
Alaska State Legislature  
State Capitol Room 411  
Juneau, Alaska 99801

RE: HB120, "An Act creating a new markets tax credit assistance guarantee and loan program within the Alaska Industrial Development and Export Authority; and providing for an effective date."

Dear Representative Herron:

On January 24, 2011, HB120 (Companion Bill SB66) was introduced and referred to the House Special Committee on Economic Development, Trade and Tourism. This legislation is intended to allow the Alaska Industrial Development and Export Authority (AIDEA) to foster greater economic development in areas that are underserved and underdeveloped.

HB120 will enable AIDEA to issue guarantees and make loans to help finance projects through the federal New Markets Tax Credit (NMTC) program. This program offers a process by which federal tax credits are allocated to support nationwide financing of projects located in communities with poverty rates above 20 percent; median income less than 80 percent of the state median and with unemployment rates 1.5 times greater than the national average.

The NMTC investments are made up of an equity portion for which federal tax credits worth 39% are paid out over seven years and a leveraged debt portion on which interest only is collected for the seven years of the NMTC project. Since 2008 there has been a scarcity of capital to fund the debt portion of the investment. This legislation would enable AIDEA to issue guarantees and make loans to facilitate funding of the debt portion of the NMTC investments.

We respectfully request you to schedule HB120 for a hearing in your committee and we urge favorable action on this bill. A copy of HB120, the fiscal note, and the sectional analysis are attached, as well as a short whitepaper we commissioned on the New Markets Tax Credit program. We will be happy to meet with you and other members of the committee to provide any other information you may require. Thank you for considering our request.

Sincerely,

ALASKA INDUSTRIAL DEVELOPMENT  
AND EXPORT AUTHORITY

Ted Leonard, CMA, SPHR  
Executive Director

Attachments (4)

**HOUSE BILL NO. 120**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/24/11

Referred: House Special Committee on Economic Development, Trade, and Tourism, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act creating a new markets tax credit assistance guarantee and loan program  
2 within the Alaska Industrial Development and Export Authority; and providing for an  
3 effective date."

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

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

6 (c) Money and other assets of the enterprise development account may be used  
7 to secure bonds of the authority issued to finance the purchase of loans for projects,  
8 [OR MAY BE USED] to purchase participation in the loans for projects, or to fund a  
9 new markets tax credit assistance guarantee or loan under AS 44.88.700 -  
10 44.88.799.

11 \* **Sec. 2.** AS 44.88 is amended by adding a new article to read:

12 **Article 8. New Markets Tax Credit Assistance Program.**

13 **Sec. 44.88.700. New markets tax credit assistance guarantees and loans. (a)**

14 Subject to the requirements of AS 44.88.700 - 44.88.799, the authority may

- 1 (1) guarantee new markets tax credit assistance leveraged loans; and  
 2 (2) make new markets tax credit assistance leveraged loans.

3 (b) New markets tax credit assistance guarantees and loans are limited to  
 4 projects within the state for which new markets tax credits are allocated by a qualified  
 5 community development entity.

6 (c) The authority shall determine that the project will promote economic  
 7 development in the state before guaranteeing a leveraged loan or making a leveraged  
 8 loan under AS 44.88.700 - 44.88.799.

9 (d) The authority may agree to restrictions and guidelines arising from the  
 10 federal new markets tax credit program, including for the seven year tax credit period  
 11 of the new markets tax credit project

- 12 (1) interest only payments on the leveraged loan;  
 13 (2) substantially all capital to remain invested in the project;  
 14 (3) acceptable collateral may be an interest in a qualified community  
 15 development entity or an investment entity rather than in the project; and  
 16 (4) substantive restrictions on foreclosure of collateral.

17 **Sec. 44.88.710. Effect of guarantee.** (a) A guarantee under AS 44.88.700 -  
 18 44.88.799 does not create a debt or liability of the state.

19 (b) A guarantee under AS 44.88.700(a)(1) may not be terminated, canceled, or  
 20 revoked except under its terms. A guarantee held by a participating financial  
 21 institution is presumed to be valid.

22 **Sec. 44.88.715. Qualifications of applicant for new loan guarantee.** (a) A  
 23 business enterprise which qualifies for new markets tax credits for a project may apply  
 24 for a loan guarantee under AS 44.88.700(a)(1).

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

28 **Sec. 44.88.720. Application loan guarantee.** An applicant for a loan  
 29 guarantee shall provide information that the authority may require by regulation. The  
 30 authority may require submission of an economic benefit analysis prepared by a  
 31 person acceptable to the authority.

1           **Sec. 44.88.730. Conditions of loan guarantee.** (a) The authority may  
2 guarantee a loan under AS 44.88.700 - 44.88.799 if the

3                   (1) loan

4                           (A) is commercially reasonable;

5                           (B) contains payment provisions satisfactory to the authority;

6           and

7                           (C) is secured by acceptable collateral;

8                   (2) project

9                           (A) is allocated new markets tax credits by a qualified  
10 community development entity;

11                           (B) promotes economic development in the state; and

12                           (C) is not a housing project;

13                   (3) borrower demonstrates the ability to repay the loan from either or  
14 both of the following:

15                           (A) net cash flow from the borrower;

16                           (B) proceeds from the sale of current assets that are collateral  
17 for the loan if the sale, or receipt of proceeds from the sale, is an event that  
18 creates a payment obligation; in this subparagraph, "current asset" means  
19 property that will be or could be converted into cash in the normal operation of  
20 a business within one year;

21                           (4) term of the loan does not exceed 10 years;

22                           (5) loan is originated with and serviced by a financial institution.

23           (b) The authority may provide a guarantee for up to 100 percent of a loan that  
24 qualifies under AS 44.88.700 - 44.88.799.

25           **Sec. 44.88.740. Servicing of guaranteed loans.** (a) The financial institution  
26 that holds a loan guaranteed by the authority under AS 44.88.700 - 44.88.799 shall

27                           (1) service the loan;

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

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

30           (b) Amounts received toward satisfaction of a default on a loan guaranteed  
31 under AS 44.88.700 - 44.88.799 shall be allocated between the lender and the fund

1 according to the guaranteed percentage of the loan until the principal balance and  
2 accrued interest have been repaid.

3 **Sec. 44.88.750. New markets tax credit assistance leveraged loan.** (a) The  
4 authority may make a new markets tax credit assistance leveraged loan under  
5 AS 44.88.700(a)(2) only if the authority determines that an applicant for a new  
6 markets tax credit assistance guarantee is unable to obtain a leveraged loan from a  
7 financial institution under commercially reasonable terms. Before making the  
8 determination, the authority shall require the applicant to document that at least two  
9 financial institutions have reviewed an application for a leveraged loan for which the  
10 authority would issue a new markets tax credit assistance guarantee for the loan, and  
11 either rejected the application or approved the application subject to terms the  
12 authority determines are commercially unreasonable. The authority may require the  
13 applicant to submit applications for a leveraged loan to one or more additional  
14 financial institutions.

15 (b) Subject to (a) of this section, the authority may make a new markets tax  
16 credit assistance leveraged loan under AS 44.88.700 - 44.88.799 to the applicant to  
17 finance a portion of the project using funds from the enterprise development account  
18 (AS 44.88.155).

19 **Sec. 44.88.760. Limitations of guarantees and leveraged loans.** The  
20 combined outstanding principal balance of loan guarantees and loans under  
21 AS 44.88.700 - 44.88.799 may not exceed \$50,000,000.

22 **Sec. 44.88.770. Powers of the authority.** The authority may

- 23 (1) adopt regulations to implement AS 44.88.700 - 44.88.799;  
24 (2) establish terms and conditions for loan guarantees and loans,  
25 subject to the requirements of AS 44.88.700 - 44.88.799;  
26 (3) make and execute contracts and other instruments to implement  
27 AS 44.88.700 - 44.88.799;  
28 (4) charge reasonable fees and interest rates that the authority may  
29 establish by regulation for the service it provides under AS 44.88.700 - 44.88.799;  
30 (5) acquire real or personal property by purchase, transfer, or  
31 foreclosure when the acquisition is necessary to protect the authority's interest in a

1 loan or a loan guarantee;

2 (6) exercise any other power necessary to implement AS 44.88.700 -  
3 44.88.799; and

4 (7) to the extent the authority considers it to be in its best interest to do  
5 so, use money to pay expenses relating to the liquidation of collateral securing loans  
6 guaranteed or made by the authority under AS 44.88.700 - 44.88.799.

7 **Sec. 44.88.799. Definitions.** In AS 44.88.700 - 44.88.799,

8 (1) "federal new markets tax credit program" means the program  
9 administered by the Community Development Financial Institutions Fund which  
10 arises out of Section 45D of the Internal Revenue Code (26 U.S.C. 45D) and related  
11 regulations;

12 (2) "new markets tax credit" means tax credits which arise out of  
13 Section 45D of the Internal Revenue Code (26 U.S.C. 45D) and related regulations;

14 (3) "new markets tax credit assistance leveraged loan" and "leveraged  
15 loan" mean a loan made into an investment entity, the proceeds of which, together  
16 with other funds including tax credit equity, are invested as a qualified equity  
17 investment in a qualified community development entity which will use the funds to  
18 finance a project for which the entity allocates new markets tax credits;

19 (4) "qualified community development entity" has the same meaning  
20 mean as the term is defined in Section 45D(c) of the Internal Revenue Code  
21 (26 U.S.C. 45D(c)) and related regulations; and

22 (5) "qualified equity investment" means an equity investment in a  
23 qualified community development entity which satisfies the conditions described in  
24 Section 45D(b) of the Internal Revenue Code (26 U.S.C. 45D(b)) and related  
25 regulations.

26 \* **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

# FISCAL NOTE

**STATE OF ALASKA**  
**2011 LEGISLATIVE SESSION**

Fiscal Note Number 1  
 Bill Version HB 120  
 (H) Publish Date 1/24/11

Identifier (file name) 1747-CED-AIDEA-01-10-11 Dept. Affected DCCED  
 Title AIDEA New Markets Tax Credit Assistance Guarantee Appropriation AIDEA  
 Allocation AIDEA Operations  
 Sponsor Rules Committee  
 Requester Request of the Governor OMB Component Number 1234

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

|                               | Appropriation<br>Required | Information |            |            |            |            |            |            |
|-------------------------------|---------------------------|-------------|------------|------------|------------|------------|------------|------------|
|                               |                           | FY 2012     | FY 2012    | FY 2013    | FY 2014    | FY 2015    | FY 2016    | FY 2017    |
| <b>OPERATING EXPENDITURES</b> |                           |             |            |            |            |            |            |            |
| Personal Services             |                           |             |            |            |            |            |            |            |
| Travel                        |                           |             |            |            |            |            |            |            |
| Contractual                   |                           |             |            |            |            |            |            |            |
| Supplies                      |                           |             |            |            |            |            |            |            |
| Equipment                     |                           |             |            |            |            |            |            |            |
| Land & Structures             |                           |             |            |            |            |            |            |            |
| Grants & Claims               |                           |             |            |            |            |            |            |            |
| Miscellaneous                 |                           |             |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b>        | <b>0.0</b>                | <b>0.0</b>  | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|--|--|

|                           |  |  |  |  |  |  |  |  |
|---------------------------|--|--|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES</b> |  |  |  |  |  |  |  |  |
|---------------------------|--|--|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

|                            |            |            |            |            |            |            |            |            |
|----------------------------|------------|------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts      |            |            |            |            |            |            |            |            |
| 1003 GF Match              |            |            |            |            |            |            |            |            |
| 1004 GF                    |            |            |            |            |            |            |            |            |
| 1005 GF/Program Receipts   |            |            |            |            |            |            |            |            |
| 1037 GF/Mental Health      |            |            |            |            |            |            |            |            |
| Other Interagency Receipts |            |            |            |            |            |            |            |            |
| <b>TOTAL</b>               | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2011) cost \_\_\_\_\_

**POSITIONS**

|           |  |  |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |  |  |

**Why this fiscal note differs from previous version**

Prepared by Sara Fisher-Goad, Deputy Director - Operations  
 Division Alaska Industrial Development & Export Authority  
 Approved by Susan K. Bell, Commissioner  
Commerce, Community & Economic Development

Phone 907-771-3012  
 Date/Time 1/21/11 12:30 PM  
 Date 1/21/2011

FISCAL NOTE #1

STATE OF ALASKA  
2011 LEGISLATIVE SESSION

BILL NO. HB 120

**Analysis**

This bill establishes a new market tax credit assistance program within AIDEA and enables AIDEA to use money in its enterprise development account to fund guarantees and loans AIDEA would make under this program.

This legislation has no operational fiscal impact to AIDEA.

## SB 66 and HB 120

An Act creating a new markets tax credit assistance guarantee and loan program within the Alaska Industrial Development and Export Authority; and providing for an effective date.

### Sectional Analysis

| Section | Analysis   |
|---------|--|
| 1       | Amends AS 44.88.155(c) to allow assets of the enterprise development account to be used to fund a new markets tax credit assistance guarantee or loan  |
| 2       | <p>Amends AS 44.88 by adding a new article – New Markets Tax Credit Assistance Program.</p> <p>44.88.700 allows AIDEA to issue guarantees and make loans to help finance projects funded through a federal new markets tax credit program. The assistance is limited to projects within Alaska for which tax credits are allocated by a qualified community development entity; the authority shall determine that the project will promote economic development; the authority may agree to certain restrictions and guidelines arising from the federal program.</p> <p>44.88.710 provides that a guarantee does not create a debt or liability of the state; a guarantee may not be canceled except under its terms</p> <p>44.88.715 establishes applicant qualifications</p> <p>44.88.720 requires an applicant to provide certain information required by AIDEA in regulation including the potential submission of an economic benefit analysis prepared by a person acceptable to the authority.</p> <p>44.88.730 establishes condition of a loan guarantee</p> <p>44.88.740 requires financial institution holding a guarantee shall service the loan</p> <p>44.88.750 allows AIDEA to make leverage loans if AIDEA determines an applicant is not able to obtain a leveraged loan from a financial institution</p> <p>44.88.760 sets a cumulative \$50 million limit under this program</p> <p>44.88.770 provide AIDEA the authority to adopt regulations, establish terms and conditions, execute contracts, charge fees and interest rates, acquire property through purchase, transfer or foreclosure</p> <p>44.88.799 defines terms used in the new article</p> |
| 3       | Immediate effective date   |



To: Ted Leonard; Michael Catsi; Mark Davis  
From: Vincent Ravaschiere *VR*  
Date: October 11, 2010  
Re: Enhancing the Value of the Federal New Markets Tax Credit Program in Alaska

### Introduction

Some weeks ago, you asked me for my thoughts, initially in draft form, on how the Alaska Industrial Development and Export Authority ("AIDEA" or the "Agency") could help stimulate and facilitate New Markets Tax Credit ("NMTC") transactions in the State of Alaska. In this regard, we had preliminary discussions regarding the possibility that AIDEA might act as the leveraged lender in NMTC transactions. You asked me to help determine how such a program might work, consider how AIDEA might protect itself from exposure in acting as a leveraged lender, and suggest other ways in which AIDEA might assist in making the NMTC program work in Alaska. Finally, you asked me to address several specific questions that relate to AIDEA acting as a NMTC leveraged lender.

In response, I submitted a draft memo to AIDEA on October 4, 2010 and attended a meeting to discuss these topics with you at AIDEA's offices on October 6, 2010. As part of that meeting, we met with representatives of Alaska Growth Capital, the only Alaska based NMTC allocatee, to hear and understand their views on how AIDEA could be helpful in promoting NMTC transactions in Alaska. Following that meeting, you asked me to revise my draft memo in light of our discussions and submit this final version to you.

### Background

In December 2000, Congress enacted the New Markets Tax Credit Program as part of the Community Renewal Tax Relief Act of that same year. Intended to address the lack of investment capital available for business and other economic development activities in low income communities, the Program operates by providing a federal subsidy to many different project types developed in eligible areas. The Program is codified at Sec. 45D of the Internal Revenue Code and is administered by the Community Development Financial Institutions ("CDFI") Fund in the Department of the Treasury.

Once a year, through a highly competitive process, the credits are awarded to financial institutions that are certified by the CDFI Fund as Community Development Entities ("CDEs"). The CDEs then offer the credits to investors in exchange for equity capital, which is then used to subsidize below market financing for eligible projects. Except for rental housing, NMTCs can be used to subsidize almost any type of business or real estate project, including community facilities and other nonprofit uses such as schools, health clinics and cultural institutions. In addition, and under certain circumstances, even residential rental units can qualify for the subsidy if they are part of a mixed-use development.

Under the NMTC Program, it is possible for a project to obtain a loan at a below market rate of interest, or to obtain the equivalent of an equity subsidy of approximately 15% of total project cost. However, there is no guarantee as to either the type or level of subsidy available to a particular project. Both will depend upon the outcome of negotiations among and between the project developer, the CDE and the tax credit investor.

#### AIDEA Acting as a NMTC Leveraged Lender

The NMTC subsidy is delivered to specific projects via discrete transactions that generally require the participation of a lender to provide debt as a portion of the financing. (See attached Structure Chart.) Every dollar of debt provided to a NMTC transaction attracts approximately \$.35 in federal equity subsidy, though the actual amount will vary from transaction to transaction. Recently, due to the financial crisis and the resulting lack of available credit, it has become increasingly difficult to find commercial lenders to participate in these transactions, thereby diminishing the use of the federal subsidy in Alaska and elsewhere.

The lack of leveraged lenders currently participating in the Program creates a need for AIDEA or some other source to fulfill that role. By creating a loan fund, or otherwise directing loans to NMTC transactions, AIDEA could stimulate the delivery of federal dollars to projects within Alaska, and do so in such a way as to exert its influence over which types of projects receive the subsidy. It is anticipated that this initiative would be at little or no cost to the State because the NMTC Program permits the leveraged lender to be paid a market rate of interest on the loan and then allows the repayment of the principal in full at the end of the seven year NMTC compliance period.

#### Specific Questions Regarding AIDEA's Possible Role as a NMTC Leveraged Lender

You have asked me to address the following specific questions regarding AIDEA's possible role as a NMTC leveraged lender:

1. What, if any, are the federal requirements for being a leveraged lender?

There are no federal requirements of which I am aware for acting as a leveraged lender.

2. Are there any exemptions from federal requirements for public entities?

N/A. See No. 1 above.

3. What are the benefits for AIDEA in being the leveraged lender?

The benefits of AIDEA in being a NMTC leveraged lender are that AIDEA could stimulate the delivery of federal dollars to projects in Alaska while exercising its

influence on the types of projects that receive the federal subsidy. AIDEA could also earn a reasonable rate of return by making leveraged loans.

4. What are the disadvantages?

The disadvantages are that such loans would entail credit risk, and that that risk would be compounded by the fact that the loans are nonrecourse over the seven year NMTC compliance period. In addition, as a leveraged lender, AIDEA would have only an indirect security interest in the underlying project asset. Also to be considered are the opportunity costs of utilizing AIDEA funds in NMTC projects rather than for other programs and purposes.

5. How can a leveraged lender minimize its risk when it has no recourse to the assets of the QALICB for seven years?

Leveraged lenders can attempt to minimize their risk in a number of ways, including: (1) implementing appropriate underwriting standards and procedures; (2) acting as the servicing agent for the CDE loans; (3) obtaining a letter of credit to mitigate construction risk; (4) obtaining a priority interest in cash flow distributions and other proceeds that may be received; (5) obtaining additional collateral and guarantees, so long as they are not derived from the underlying project; (6) establishing the right to assume management control of the investment fund in the event problems arise. It is important to note, however, that most of these rights would have to be negotiated with the other parties to the transaction, including the equity investor and the CDE, who might not agree to them.

6. Are there other state development finance authorities that play the role of leveraged lender? If so, please provide a list.

I have not done a 50 state review of the practices of state development finance authorities with regard to making leveraged loans. However, I understand that in connection with its own NMTC allocation, the New Jersey Economic Development Authority provides a subordinated leveraged loan product to facilitate its NMTC transactions.

Other Ways in Which AIDEA Might Help Facilitate the NMTC Program in Alaska

The following are several other ideas about how AIDEA might help facilitate NMTC transactions within the State. First, AIDEA could examine its existing grant and loan programs to determine whether these programs can be modified in some way so as to facilitate their use in conjunction with the NMTC structure. Second, AIDEA could consider being the guarantor of all or a portion of independent leveraged loans, similar to the SBA loan guaranty program. Third, AIDEA might consider being a guarantor on the compliance indemnity, particularly with regard to targeted population transactions. Fourth, AIDEA might consider acting as the tax credit investor and then syndicating the tax credits to corporate taxpayers. Finally, it would be helpful if there were a procedure for the

expeditious designation of State economic incentive zones so as to help certain projects qualify for the Program.

#### The October 6, 2010 Meeting at AIDEA

We met at AIDEA's offices on October 6, 2010 to review the draft memo and further discuss how AIDEA could help stimulate and facilitate NMTC transactions in the State of Alaska. As part of that meeting, we met with representatives of Alaska Growth Capital to share our ideas with them and to hear their views on how AIDEA could help in promoting NMTC transactions. The meeting concluded with the understanding that AIDEA should stimulate and facilitate NMTC transactions by participating as both a guarantor of NMTC leveraged loans and as a lender of last resort to NMTC transactions if and when the existence of the AIDEA guarantee proves insufficient to cause a private financial institution to make the particular leveraged loan.

This conclusion was reached for two basic reasons. First, due in part to the lack of available credit in general, it is exceedingly difficult at the present time for NMTC projects to obtain leveraged loans from private financial institutions. Guaranteeing or providing leveraged loans should help alleviate a serious bottleneck that has developed and is preventing many eligible NMTC transactions from moving forward.

Second, of the various roles considered for AIDEA, acting as a guarantor or provider of leveraged loans was deemed to be the one most consistent with AIDEA's historic role in promoting economic development. One of AIDEA's three major program initiatives has been its loan participation program, in which the Agency works closely with the private sector to provide loans to economic development projects. Acting as a leveraged loan guarantor or provider, therefore, is closely related to AIDEA's experience in debt financing, and is consistent with the principle that AIDEA's approach should be to assist private financial institutions in providing that financing, stepping in directly only when the private sector does not respond.

In concluding, there was also discussion at the meeting of other ways in which AIDEA might help facilitate NMTC use in Alaska, specifically in the rural hubs. For example, there was some consideration given to AIDEA serving as a guarantor on the tax credit compliance indemnity, particularly with regard to targeted population transactions, where projects not located in NMTC qualified areas are nonetheless eligible for the credits because of the characteristics of the project's customers, employees or owners. Because obtaining the tax credit equity investment in these transactions has been problematic, this is an area in which in the future AIDEA may wish to consider playing a role.

#### Disclaimer

Please note that this memorandum is not intended to constitute legal, accounting or tax advice.



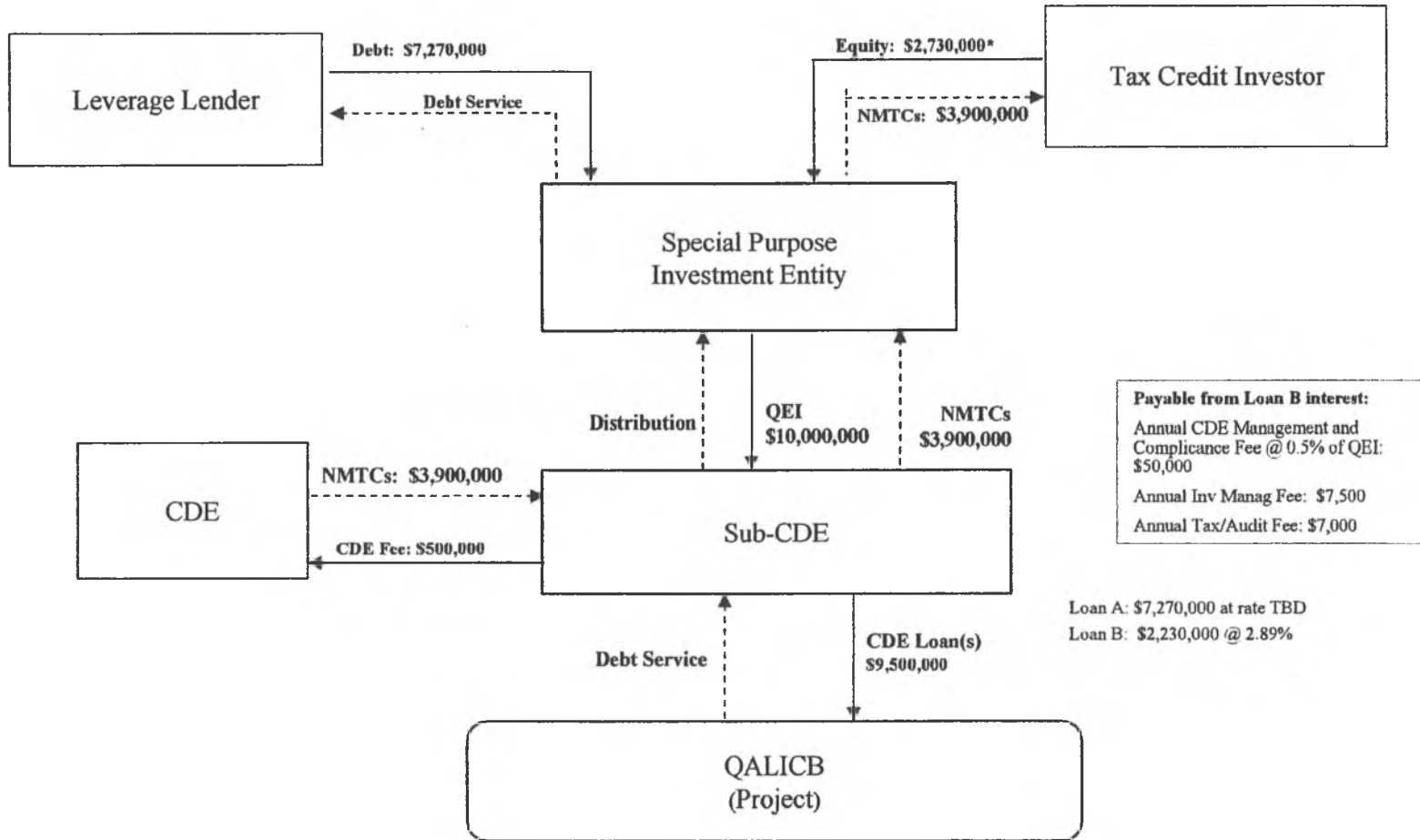
**New Markets**  
Capital Company

Specialists in the New Markets Tax Credit Program

# Sample NMTC Structure Chart

## \$10,000,000 QEI

10/11/10



- Transaction costs not reflected.
- Numbers are approximate.

\*Credits priced at \$.70 for illustrative purposes only.

## HB120 SUMMARY

“An Act creating a new markets tax credit assistance guarantee and loan program within the Alaska Industrial Development and Export Authority; and providing for an effective date.”

- AS 44.88.155 is amended so that money and other assets of the enterprise development may be used to fund a new markets tax credits assistance guarantee or loan under AS 44.88.700 – 44.88.799 in addition to securing bonds of the authority issued to finance the purchase of loans
- Creates a new markets tax credit assistance guarantee and loan program within the Alaska Industrial Development and Export Authority (AIDEA)
- The purpose is to allow AIDEA to foster more economic development in Alaska, specifically in areas with great need
- AIDEA will be enabled to issue guarantees and make loans to help finance projects
- The federal by which the new tax credits are allocated arises under Section 45D of the Internal Revenue Code, and provides for allocation of new markets tax credits equal to 39% of total qualifying investments, payable over seven years
- The tax credits provide a present value investment return of approximately 30% of the amount of the qualifying investment, and can substantially reduce the financing costs of a project
- Investments under the federal new markets tax credit would fund only a portion of total project costs; the balance of funding for the project comes from other sources
- The bill aims to alleviate economic conditions where capital is scarce by allowing AIDEA to issue guarantees and make loans to assist in funding amounts not covered by investments under the federal program
- AIDEA is charges with evaluating the commercial reasonableness of underlying loans on a case by case basis and must find that it will promote economic development and that the financial institution will service the guaranteed loan

**EDT 2.8.11            HB 120 – AIDEA: NEW MARKETS TAX CREDIT PROGRAM**  
Questions for AIDEA

*Committee Question #1*

HB 120, P.2, lines 29-31 says that AIDEA “may require submission of an economic benefit analysis prepared by a person acceptable to the authority.” Please describe the criteria for determining whether or not AIDEA would actually require such an analysis of the applicant.

*AIDEA’s Response*

It is AIDEA's intention to make sure that projects for which it might offer a New Markets Tax Credit loan guarantee or a direct loan support the agency's economic development goals. Therefore, AIDEA does anticipate that, if this bill becomes law, it would, at times, require the submission of a written report documenting the economic development objectives furthered by a project financed with NMTCs. Such goals would include new job creation, diversification of the economy, or the development and application of new technology. AIDEA would also be interested in projects that bring new economic opportunities to rural areas, as well as to areas that are experiencing economic difficulties due to high-energy costs or a lack of needed infrastructure.

This screening of projects is consistent with AIDEA's Strategic Plan, which is aimed at the concept of AIDEA supporting projects that enhance and develop Alaska's economy. Further, a goal of the Plan is to document what AIDEA does and how it arrives at its decisions. Requiring an economic benefit analysis authored by a qualified person would meet this objective.

*Committee Question #2*

AIDEA's hearing request letter states that The federal tax credits are only eligible to communities “with poverty rates above 20 percent; median income less than 80 percent of the state median and with unemployment rates 1.5 times greater than the national average.” Has AIDEA already determined which Alaskan communities would be eligible under these criteria?

*AIDEA’s Response*

AIDEA's Business Development Officer, Mike Catsi, has been researching the location of census tracts in Alaska that could qualify for the NMTC program. As noted in AIDEA's hearing request letter, NMTCs are usually available in census tracts in which poverty rates are significant. However, this federal tax credit program, like many other federal programs, is complex and has a significant number of rules. The IRS Circular that describes the program and gives general guidance is 51 pages long.

In addition to poverty levels in a census tract, the program can also apply, for example, to census tracts that have less than 2000 in population. The program can be used in conjunction with projects that offer economic opportunities to what is termed "targeted populations"; Native Americans can be considered such a "targeted population".

In sum, AIDEA does not have a definitive list of areas that would qualify for NMTCs. It has, however, identified census tracts that have poverty levels that would satisfy the program's qualification requirements. While many of these census tracts are in rural areas, they also are in boroughs, which are more urban or which are close to metropolitan areas.

### *Committee Question #3*

The White Paper dated Oct. 11, 2010 on New Market Tax Credits mentions only New Jersey as a state whose development finance authority is making leveraged loans. Has AIDEA contacted the New Jersey Economic Development Authority to learn how leveraged loans are working out for them? Has AIDEA become aware of any other states with a development finance authority making such loans?

### *AIDEA's Response*

AIDEA has been in contact with the New Jersey Economic Development Authority ("NJEDA"). AIDEA conducted a survey of states in which an economic development agency is involved with NMTCs. To our knowledge, NJEDA is the only state agency that offers loan guarantees on the leveraged lender side of NMTC financing; this is the role proposed for AIDEA in HB 120.

States that have used NMTCs have usually acted as their own Community Development Entities ("CDEs) by becoming certified by the Community Financial Institutions fund in the U.S. Department of Treasury. As explained in the October 11, 2010 memorandum by Vincent Ravaschiere to AIDEA, a qualified CDE annually applies to the Treasury for an allocation of NMTCs. Once a CDE receives a federal tax credit allocation, it then offers the tax credits to investors in exchange for equity capital which is invested in the project. New Mexico's economic development agency, for example, acts as a CDE and this same approach is used in New York. In these states, the state agency is brokering the transaction, but is usually not putting any funds into the project or guaranteeing any funds.

As AIDEA examined the use of NMTCs in Alaska, it noted that a qualified CDE already exists here, Alaska Growth Capital. Further, in researching the use of NMTCs in Alaska, AIDEA determined that there are a number of CDEs willing to offer credits to potential projects in this state. However, due to the national constriction of credit, it has become difficult to find commercial lenders willing to provide the debt portion of the required NMTC financing structure. That is, there are potential NMTC equity investors and CDEs for Alaska projects, but there is a paucity of available loans. As Mr. Ravaschiere noted, "The lack of leveraged lenders currently participating in the Program

creates a need for AIDEA... to fulfill that role". See October 11, 2010 letter at p.2.  
Alaska Growth Capital made a similar recommendation.

As a result, AIDEA determined that its appropriate role with regard to NMTCs would be to offer loan guarantees as a means to encourage lenders to participate in the program. Additionally, AIDEA could act as a direct lender if no lender was available.



## ALASKA GROWTH CAPITAL

*An ASRC Company*

February 03, 2011

The Honorable Bob Herron  
Chair, Special Committee on Economic Development, Trade and Tourism  
Alaska State Legislature  
State Capitol Room 411  
Juneau, Alaska 99801

Re: HB120, "An Act creating a new markets tax credit assistance guarantee and loan program within the Alaska Industrial Development and Export Authority; and providing for an effective date."

Dear Representative Herron:

I am writing on behalf of Alaska Growth Capital (AGC) to express support for HB120. This bill allows Alaska Industrial Development and Export Authority (AIDEA) to guarantee loans for use with US Treasury's New Markets Tax Credits (NMTC) program. We at Alaska Growth Capital are sure this bill will result in more economic development in Alaska.

Alaska Growth Capital has participated in the New Markets Tax Credit program since 2004. Since then, AGC has been awarded \$90 million in NMTC allocation. Our most recent work in the NMTC program has been to leverage equity investments for projects that experience gaps in their financing. One of our major accomplishments has been the financing of Maniilaq Association's Elder Care Facility. This transaction utilized equity from New York Community Bank that allows the Elder Care Facility to offset expected losses during the first years after opening.

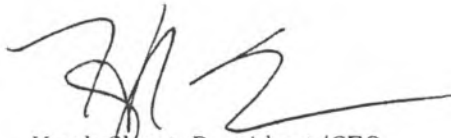
Lenders must accept limitations on loans made to NMTC projects, which drives away their desire to participate. To maximize community benefit, loans to an NMTC project must be interest-only for seven (7) years. During that time the lender must also sign a forbearance agreement preventing it from foreclosing on the loan. Finally, during that seven (7) year period, the lender's lien on property is indirect. These provisions benefit the community in which NMTC investments are occur but they are often too arduous for banks to accept without guarantees or additional forms of security.

Competition for allocation of New Markets Tax Credits, the equity from investors and loans to make this program possible is intense, particularly for Alaskans. Projects in New York or Chicago have the benefit of being close to the major financial institutions. If a potential investor has questions, they can often "go down the street" to inspect the project and speak with staff. That is often impractical if the project is in rural Alaska and the investor is in New York.

Compounding this problem, NMTC program has seen fewer and fewer banks provide loans to projects. These loans are essential to realizing the economic benefits of New Markets Tax Credits; without them projects must self-leverage with existing cash. As a result, lending is scarce and thus expensive in this program. AIDEA's guarantee will lower the borrowing costs for projects, which can be the difference between projects that get built and projects that stay on the drawing board. Further, loans often provide faster and larger capital sources than fundraising campaigns. Passing HB120 will help to alleviate these problems and make Alaska more competitive for this important program.

I respectfully request you to schedule hearings on this piece of legislation and for your support. I am happy to answer any questions; should you or your committee have any please contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "H Short", with a long horizontal flourish extending to the right.

Hugh Short, President/CEO  
Alaska Growth Capital

# Maniilaq Association

P.O. Box 256  
Kotzebue, Alaska 99752  
(907) 442-3311

February 4, 2011

The Honorable Bob Herron  
Chair, Special Committee on Economic Development, Trade and Tourism  
Alaska State Legislature  
State Capitol Room 411  
Juneau, Alaska 99801

Re: HB120, "An Act creating a new markets tax credit assistance guarantee and loan program within the Alaska Industrial Development and Export Authority; and providing for an effective date."

Dear Representative Herron:

I am writing on behalf of Maniilaq Association to express support for HB120. This bill allows Alaska Industrial Development and Export Authority (AIDEA) to guarantee loans for use with US Treasury's New Markets Tax Credits (NMTC) program. We at Maniilaq Association believe this bill will result in more economic development in Alaska.

Maniilaq Association has direct experience with NMTC's. With the help of Alaska Growth Capital, Maniilaq Association was able to secure several million dollars in assistance to complete our Elder Care Facility at the end of 2010. This assistance filled the gap between funds we had secured and funds required to complete construction and operate the facility. This has several direct economic benefits. First, temporary jobs are created during construction and permanent jobs are being created to operate the facility. Second, the NMTC program preserves Maniilaq's cash reserves during the first several years of operations when this facility will have operating losses during its start-up, allowing more health-care services to be delivered in Northwest Alaska.

The NMTC program allowed Maniilaq Association to realize its goal of providing culturally appropriate care for our elders, rather than having them in Fairbanks or Anchorage. This mission of providing benefits for the community is part of the entire NMTC program. The program requires investment dollars to go (1) into low-income areas or, (2) to businesses that serve low-income customers or, (3) to businesses that employ low-income workers. This structure leverages additional equity for projects which in many cases is the key to making these projects a reality.

## Member Villages

*Ivisaappaat, Nunatchiaq, Ipnatchiaq, Katyaak, Kivaliniq, Laugviik, Qikiqtagruk, Nautaaq, Nuurvik, Akuligaq, Isinnaq, Tikigaq  
Ambler, Buckland, Deering, Kiana, Kivalina, Kobuk, Kotzebue, Noatak, Noorvik, Selawik, Shungnak, Pt. Hope*

AIDEA's guarantee will lower the borrowing costs for projects, which can make the difference between self-sustainable projects and unsustainable projects. Further, access to loans can be speedier and provide more capital than fundraising. These factors combine to make many more projects, like Maniilaq's Elder Care Facility, more feasible and thus more likely to generate economic benefits.

Alaskan organizations face stiff competition from Lower 48 organizations. Projects in downtown Seattle or San Francisco are often less expensive and serve more people than projects in downtown Kotzebue or even Anchorage. In addition, organizations with the ability to make large equity investments do not understand Alaskan construction issues such as timing or high costs due to remoteness and/or terrain. Finally, when a bank contemplates assisting a project, they can visit it. That is often impractical if the project is in rural Alaska. In short, securing the lending and equity investments is more difficult for Alaskan organizations and would become feasible with passage of HB120.

I respectfully request you to schedule hearings on this piece of legislation. In addition, I respectfully request you support this bill.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ian Erlich', with a stylized flourish at the end.

Ian Erlich, President/CEO  
Maniilaq Association



## Mike Coumbe

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**From:** Bustamante, Linda (DOT) [linda.bustamante@alaska.gov]  
**Sent:** Monday, February 07, 2011 11:37 AM  
**To:** Mike Coumbe  
**Cc:** Freer, Peter K (DOT); Hatter, Steve D (DOT); Vanderzanden, Michael J (DOT); Parrott, John E (DOT)  
**Subject:** Air Cargo Transfer Rights in Alaska  
**Attachments:** Air Cargo Transfer Rights.pdf; Cargo Transfer Summary.pdf

Hi Mike,

Attached are two handouts on Alaska's air cargo transfer rights. I'll leave it up to you as to which one best meets your needs.

In addition, here is a brief summary that may be of assistance:

Federal exemptions exist that allow international carriers operating in Alaska (and Hawaii) more opportunities to transfer international cargo among themselves and between airlines than anywhere else in America. These opportunities equal flexibility - flexibility to fly cargo on a partner airline to a city not otherwise served; flexibility to break down cargo and put on different aircraft for different legs of the journey - flexibility that opens markets, opens opportunity, and adds value to Alaska's International Airport System(AIAS) already bustling international gas and go (tech-stop) cargo business. AIAS is aggressively following up on these options via a Cargo Summit - attended by 18 international carriers - in August, 2010, a visit to Asia to meet with these same customers, and another Cargo Summit this August, 2011 to connect parties interested in partnering on these options.

Please let me know if we may provide any additional information.

Thanks,

Linda

**Linda Bustamante**  
Project Assistant  
Statewide Aviation - DOT&PF  
4111 Aviation Ave.  
Anchorage, AK 99502  
(907) 269-8654  
[www.dot.alaska.gov](http://www.dot.alaska.gov)

## **Expanded Air Cargo Transfer Rights at ANC and FAI Creates New Opportunities**

The Alaska International Airports System has the most liberalized air cargo transfer rights in the United States. Air carriers can create new opportunities for global cargo logistics and integrated alliance partner networks by taking advantage of expanded cargo transfer rights at Ted Stevens Anchorage International Airport (ANC) and Fairbanks International Airport (FAI). As of January 2004, a new law permits air cargo to or from a foreign country to be transferred to another airline in Alaska without being considered to have broken its international journey.

### **Background**

In 1996, the USDOT (USDOT Docket OST 96-1600) granted Anchorage International Airport the following expanded air cargo transfer rights:

1. Interline to/from non-US carriers
2. Interline to/from US carriers
3. Transfer on-line between flights
4. Change of gauge/"starburst" service
5. Commingling of US and non-US traffic on the same flight

In 1999 the USDOT, in the matter of Expanded Air Services at Alaska International Airports, expanded transfer rights further by:

Granting all foreign air carriers which currently hold, or which may subsequently receive effective Department authority, to serve any point or points in Alaska, and to coterminize points in Alaska with other US points for which they hold Department authority (excludes carriers from the UK);

Inviting foreign air carriers to apply for exemption authority to serve additional US points on an extrabilateral basis, where those additional points would be served only on flights also serving Alaska.

### **New Initiative for Expanded Cargo Transfer Rights**

As of January 2004, a new initiative was approved in the U.S. to expand air cargo transfer rights at ANC to their logical conclusion. The new law allows the carriage of international origin or destination cargo on foreign air carrier aircraft between Alaska and other points in the US in the course of continuing international transportation. These expanded air cargo transfer rights will allow air carriers utilizing ANC and FAI to:

- Take advantage of alliance partnerships through true interlining capabilities.

- Lower operating costs by eliminating lower revenue producing legs.
- Increase market penetration while at the same time reducing costs by eliminating beyond ANC or FAI flights.
- Higher aircraft utilization.
- Opportunities for true transfer and transload operations.
- Test market conditions without committing aircraft by utilizing code-share agreements.

Anchorage and Fairbanks Airport offers unmatched access to the world's markets. For air carriers both airports are less than nine hours by air from 90 percent of the industrialized world. Its liberalized air cargo transfer rights and location allow for both cost and operational efficiencies not available elsewhere. Air carriers can achieve efficiencies by locating their aircraft operations centers at this strategic location. For manufacturers and 3PLs there are numerous global logistics efficiencies inherent in an Anchorage location. Anchorage is a suitable location for central customer service and repair hubs; final product assembly, packaging, testing, and distribution operations; and international warehousing and distribution of highvalue, time-sensitive products.

## Unique Cargo Transfer Opportunities

- ◆ Alaska offers international air carriers unique opportunities to operate a flexible and efficient system of air cargo services
- ◆ In 2003 the US Congress passed a law granting a limited exception to the cabotage prohibition for certain cargo operations at Alaska
- ◆ Eligible cargo taken on or off in Alaska is not deemed to have broken its international journey allowing interline between non-US carriers (49 U.S.C. § 41701 Navigation of foreign civil aircraft)
  
- ▶ On-Line Transfers: No Restrictions
- ▶ Interline To/From US: A foreign flag carrier can carry cargo on domestic US segment (in either direction) if (a) under a US carrier code (e.g., UA) or for a US Indirect air carrier (a freight forwarder) and (b) connection is in Alaska
- ▶ Comingling Non-US Cargo with US Cargo
- ▶ Transferring Non-US cargo in Alaska: No Restrictions

Reference Resource: Mr. George Wellington,  
USDOT Foreign Air Carrier Licensing,  
email: [george.wellington@dot.gov](mailto:george.wellington@dot.gov)





a.2 Amendment doubles the rural incentive from 2% to 4%.

a.3 This amendment raises the maximum population for off-road communities to still be considered rural from 5500 to 6500 (which would have the effect of adding Bethel).

#### **HB 67 Presentations/Invited Testimony:**

- TENTATIVE: On the Ice - Andrew McClain Director / Cara Marcous Producer – By phone – Alaska rocks, film incentives are reason it works to produce here. 8 min. plus questions (Film clips preceding 3 minutes)
- Alaska Crew Training Inc. – Deborah Schlidt – in person – putting Alaskans to work (8 minutes) POWERPOINT (Some guy named Bryce is clicking the PP for her for some reason. Getting his last name and affiliation at meeting)
- NANA – Robin Kornfeld (VP of Comm. of Marketing) and John Rense (Sr. Ops. Manager) NANA – in person (might have to go before AK Film Group to make timing work out) POWERPOINT (8 minutes) (Kornfeld doing powerpoint, Rense answering questions).
- Twetos (on the phone, maybe) – I'll try to show a clip right before they testify (Leg. Legal said there is a very small chance we'll get sued, but the Committee won't be monetarily responsible)
- AK Film Group - Bob Crockett – telephonic – how well the incentives work to bring production to AK (8 minutes)
- Ted Smith, Actor from "On the Ice" in Person (we should let him testify again briefly since he flew down here for this.) (4 minutes)

#### **Available for Q's on HB 67:**

- Johanna Bales – Revenue, Director of Tax Division (questions only)
- Don Bullock – Bill Drafter (questions only) In person?
- DCCED (Thayer probably - questions only)

Assuming you want to move the bill:

#### **The chair would entertain a motion to move HB67 from committee.**

- version number with individual recommendations and attached fiscal notes

**Take a brief at ease for the signing of the committee report**

**Lunch & Learn Preview:** Low Flow Issues for the Trans-Alaska Pipeline  
Tom Barrett, Pres./CEO Alyeska Pipeline Services Co.: (15 minutes?)

## **ENDNOTES: DO NOT READ**

**The members have a draft CS before them, can I have a motion to adopt?**

**Object for purposes of discussion**

**Ask Tuck to explain the changes.**

Assuming you want to move the bill:

**The chair would entertain a motion to move HB377 from committee.**

- version number with individual recommendations and attached fiscal notes \*

