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Effect of amendments. — The 1987 amendment deleted "(b) — (e)" preceding "this section" in the second and last sentences of subsection (a), rewrote subsection (c), deleted "on a subject specified in (c) of this section" following "repeal of a regulation" in the first sentence of subsection (d), in subsection (e) in the first sentence deleted "on a subject specified in (c) of this section" following "repeal of a regu-

lation" and "loan and bonding" preceding "programs," and in the second sentence deleted "covering a subject specified in (c) of this section" following "emergency regulation", in subsection (f) deleted "(b) — (e) of preceding "this section" and substituted "another time specified" for "such other time as specified", and added subsections (g) and (h).

Article 3. Financial Provisions.

Section	Section
90 Bonds of the authority	155 Enterprise development account
100 Trust indentures and trust agreements	156 [Repealed]
105 Capital reserve funds and capital reserve fund requirement	157 Loan insurance and loan insurance account
130 Pledge of the state	158 Small business enterprise loan account
140 Exemption from taxation	159 Interest rates

Sec. 44.88.090. Bonds of the authority. (a) Subject to (g) of this section, the authority may borrow money and may issue bonds, including but not limited to bonds on which the principal and interest are payable

(1) exclusively from the income and receipts or other money derived from the project or development project financed with the proceeds of the bonds or derived from the exporter or exporting transaction financed, guaranteed, or insured with the proceeds of the bonds;

(2) exclusively from the income and receipts or other money derived from designated projects or development projects or other sources whether or not they are financed, insured, or guaranteed in whole or in part with the proceeds of the bonds; or

(3) from its income and receipts or other assets generally, or a designated part or parts of them.

(b) Bonds shall be authorized by resolution of the authority, and be dated and shall mature as the resolution may provide, except that a bond may not mature more than 40 years from the date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption which the resolution or a subsequent resolution may provide.

(c) All bonds, regardless of form or character, shall be negotiable instruments for all the purposes of AS 45.01 — AS 45.09 (Uniform Commercial Code).

(d) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the time or times which the authority may determine.

(e) Before issuing bonds, the authority shall provide for consideration at least sufficient, in the judgment of the authority, to pay the principal of and interest on the bonds as they become due and to create and maintain the reserves for the payments that the authority considers necessary or desirable, and to meet all obligations in connection with the lease or agreement and all costs necessary to service the bonds, unless the lease or agreement provides that the obligations are to be met or costs are to be paid by a party other than the authority. If the bonds are being issued to finance a project or projects under AS 44.88.155 — 44.88.159, then the consideration shall be provided by lease or other agreement regarding the project or projects. If the bonds are being issued to finance a development project or development projects under AS 44.88.172 — 44.88.177, then the consideration shall be provided by lease or other agreement regarding the development project or development projects. If the bonds are being issued to provide money to finance, guarantee, or insure an exporting transaction under AS 44.88.300 — 44.88.390, then the consideration shall be provided by agreement with the exporter.

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

(g) The authority may not

(1) issue bonds, other than refunding bonds, in any 12-month period beginning after June 30, 1982, in an amount that exceeds the amount of bonds authorized to be issued during the preceding 12-month period, unless a different amount is authorized by the legislature; or

(2) issue revenue bonds other than refunding bonds for a project under AS 44.88.155 — 44.88.159, for a development project under AS 44.88.172 — 44.88.177, or to provide money to finance, guarantee, or insure an exporting transaction under AS 44.88.300 — 44.88.390, in an amount greater than \$50,000,000 during any 12-month period beginning after June 30, 1981, unless the issuance is included separately in the estimates required in the report of the authority under AS 44.88.210(b) and unless the legislature, by law, approves the issuance.

(h) The authority may combine, for the purposes of a single offering, bonds financing more than one project or development project under AS 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, and bonds issued to provide money to finance, guarantee, or insure an exporting transaction under AS 44.88.300 — 44.88.390.

(i) After January 1, 1990, the authority may not issue bonds, other than refunding bonds, without securing the prior approval of the legislature. (1 ch 64 SLA 1967; am §§ 60, 61 ch 106 SLA 1980; am § 35

This language is in Sec 7 of bill introduced (a) & (b) except \$400,000,000 is deleted with the new limit.

ch 115 SLA 1981; am §§ 13 — 16 ch 42 SLA 1987; am § 1 ch 162 SLA 1988)

Effect of amendments. — The 1987 amendment in subsection (a) in paragraph (1) inserted "or development project" and "or derived from the exporter or exporting transaction financed, guaranteed, or insured with the proceeds of the bonds," in paragraph (2) inserted "or development projects or other sources" and "insured, or guaranteed," and made minor punctuation changes, rewrote subsection

(c), in subsection (g)(2) substituted the language beginning "AS 44.88.155" and ending "44.88.390" for "this chapter", and in subsection (h) substituted the language beginning "or development" and ending "44.88.390" for "AS 44.88.010 — 44.88.220."

The 1988 amendment, effective June 17, 1988, added subsection (i)

Sec. 44.88.100. 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 (hereinafter in this section referred to as "trust agreement") by means of which the authority may:

(1) make and enter into any and all the covenants and agreements with the trustee or the holders of the bonds which the authority may determine to be 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 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 a lease or contract of sale of a project or development project financed under AS 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, or of a facility that is part of an exporting transaction financed, guaranteed, or insured under AS 44.88.300 — 44.88.390;

(C) the assignment by the authority of its rights in the lease or contract of sale of a project or development project financed under AS 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, or of a facility that is part of an exporting transaction financed, guaranteed, or insured under AS 44.88.300 — 44.88.390 or in a mortgage or other security interest created with respect to a project or development project financed under AS 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, or with respect to a facility that is part of an exporting transaction financed, guaranteed, or insured under AS 44.88.300 — 44.88.390 to a trustee for the benefit of bondholders;

(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 or development project financed under AS 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, or with respect to a facility is a part of an exporting transaction financed, guaranteed, or insured under AS 44.88.300 — 44.88.390 by mandamus or other proceeding or by taking possession of by agent or otherwise and operating a project or facility 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 any other matters of like or different character which in any way affect the security or protection of the bonds. (§ 1 ch 64 SLA 1967; am § 17 ch 42 SLA 1987)

Effect of amendments. — The 1987 amendment in paragraph (1) in subparagraph (B) added the language beginning "or development project," in subparagraph (C) inserted in two places the language beginning "or development project" and ending "44 88 390," and in subparagraph (E) inserted the language beginning "or development project" and ending "44 88 390" and inserted "or facility."

Sec. 44.88.105. Capital reserve funds and capital reserve fund requirement. (a) For the purpose of securing one or more issues of its bonds, the authority may establish one or more special funds, called "capital reserve funds", and shall pay into those capital reserve funds the proceeds of the sale of its bonds and other money which may be made available to the authority from other sources for the purposes of the capital reserve funds. A capital reserve fund may be established only if the authority determines that the establishment of the fund would enhance the marketability of the bonds, and if those costs of a project, as defined in AS 44 88.900, which are to be financed with the proceeds of the bonds, do not exceed \$10,000,000. Money in a capital reserve fund, except as provided in this section, may be used as required only for (1) the payment of the principal of, and interest on, bonds or of the sinking fund payments with respect to those bonds; (2) the purchase or redemption of the bonds; or (3) the payment of a redemption premium required to be paid when the bonds are redeemed before maturity. However, money in a capital reserve fund may not be withdrawn if the withdrawal would reduce the amount in the capital reserve fund to less than the capital reserve requirement, except for the purpose of making payment, when due, of principal, interest, redemption premiums on the bonds, and sinking fund payments when other money of the authority is not available for the

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payments. Income or interest earned by, or increment to, a capital reserve fund, from the investment of all or part of the fund, may be transferred by the authority to other funds or accounts of the authority if the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(b) If the authority decides to issue bonds secured by a capital reserve fund, the bonds may not be issued if the amount in the capital reserve fund is less than the capital reserve fund requirement, unless the authority, at the time of issuance of the bonds, deposits in the capital reserve fund from the proceeds of the bonds to be issued or from other sources, an amount which, together with the amount then in the fund, is not less than the capital reserve fund requirement.

(c) In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the fund is invested shall be valued by a reasonable method established by the authority by resolution. Valuation shall include the amount of interest earned or accrued as of the date of the valuation.

(d) The chairman of the authority shall annually, no later than January 2, certify in writing to the governor and the legislature the amount, if any, required to restore a capital reserve fund to the capital reserve fund requirement. The legislature may appropriate to the authority the amount certified by the chairman of the authority. The authority shall deposit the amounts appropriated under this subsection during a fiscal year in the proper capital reserve fund. Nothing in this section creates a debt or liability of the state.

(e) The authority may not establish a capital reserve fund to secure an issue of bonds in an amount in excess of \$1,000,000 unless at least 20 percent of the principal amount of the loan for the project or development project being financed under AS 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, or of the loan to finance, guarantee, or insure an exporting transaction under AS 44.88.300 — 44.88.390 is retained by a federal or state chartered financial institution or the Alaska Commercial Fishing and Agriculture Bank.

(f) The authority may establish reserve funds, other than capital reserve funds, to secure one or more issues of its bonds. The authority may deposit in a reserve fund established under this subsection the proceeds of sale of its bonds and other money which may be made available from any other source. A reserve fund established under this subsection must comply with (a) — (c) of this section. The authority may allow a reserve fund established under this subsection to be depleted without complying with (d) of this section.

(g) Notwithstanding any other provision of this section, the authority may waive or modify the requirements of (a) of this section establishing maximum costs of \$10,000,000 for a project and the requirements of (e) of this section as it considers appropriate and prudent in order to finance a project if the authority intends to own the project.

However, if the authority intends to lease or otherwise permit the state to use or occupy a majority of the project, the authority may only establish a reserve fund under (f) of this section to secure bonds issued to finance a project.

(h) In this section, "capital reserve fund requirement" means the amount required to be on deposit in the capital reserve fund as of the date of computation as determined by resolution of the authority. (§ 62 ch 106 SLA 1980; am §§ 36, 37 ch 115 SLA 1981; am § 6 ch 162 SLA 1984; am § 18 ch 42 SLA 1987)

Revisor's notes. — Reorganized in 1987 to place the definition at the end of the section.

Effect of amendments. — The 1987

amendment added the language beginning "or development project" and ending "44.88.390" in subsection (e).

Sec. 44.88.130. 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 lends or contributes funds in respect to a project or development project financed under AS 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, or in respect to an exporting transaction financed, guaranteed, or insured under AS 44.88.300 — 44.88.390 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 and that the state will not 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 is authorized to 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. (§ 1 ch 64 SLA 1967; am § 19 ch 42 SLA 1987)

Effect of amendments. — The 1987 amendment in the first sentence substituted "that lends" for "which loans" and inserted the language beginning "or de-

velopment project" and ending "44.88.390" and inserted "and that the state will not" and made other minor word and punctuation changes.

Sec. 44.88.140. 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 any project or development project financed under AS 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, and a leasehold interest created in a project or development project financed under AS 44.88.155 — 44.88.159 or 44.88.172 — 44.88.177, devoted to an essential public and governmental function and purpose, and the property, assets, income, receipts, project, development project, and leasehold

Sec. 44.88.155. Enterprise development account. (a) The enterprise development account is established in the revolving fund. The enterprise development account is a trust fund for the uses and purposes of this chapter. The enterprise development account consists of money or assets appropriated or transferred to the authority and other money or assets deposited in it by the authority.

(b) The authority may establish in the enterprise development account a small enterprise loan account, a loan insurance account, and other accounts it considers appropriate.

(c) Money and other assets of the enterprise development account may be used to secure bonds of the authority issued to finance the purchase of loans for projects and shall be held and invested by the authority in accordance with AS 37.10.071 or shall be used to purchase loans for projects.

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

(1) may not exceed

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

(B) \$500,000 if the loan is purchased under AS 44.88.158;

(2) may not exceed 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 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;

(4) shall contain complete amortization provisions satisfactory to the authority requiring periodic payments by the borrower;

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

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

(7) may not be made unless

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

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

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(A) at least partially guaranteed by the United States or an agency or instrumentality of the United States, subject to the provisions of AS 44.88.158;

(B) financed from the proceeds of bonds; or

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

(e) The authority may adopt regulations for the administration of the enterprise development account including, without limitation, provisions for fees and agreements relating to application, loan commitment, servicing, and origination of loans by other lenders.

(f) The authority may enter into agreements as to the use of the money in the enterprise development account, including without limitation, trust or custody arrangements with banks or trust companies. It may also pledge, assign, or grant the agreement, interests under an agreement, or interests in the enterprise development account as may be necessary or appropriate to provide for payment and security for bonds of the authority issued to finance the purchase by the authority of loans for projects.

(g) Notwithstanding any other provision of this section, the author-ity may waive or modify the requirements of this section as it con-siders appropriate and prudent in order to finance a project if the authority intends to own the project.

(h) The provisions of this section apply only with respect to loans purchased or made by the authority for projects under AS 44.88.155 — 44.88.159. (§ 65 ch 106 SLA 1980; am § 38 ch 115 SLA 1981; am § 7 ch 162 SLA 1984; am §§ 21 — 27 ch 42 SLA 1987; am § 32 ch 141 SLA 1988)

Effect of amendments. — The 1987 amendment substituted "account" for "fund" in the catchline; in subsection (a) substituted "account" for "fund" through-out the subsection, in the first sentence substituted "revolving fund" for "author-ity," and in the second sentence substi-tuted "this chapter" for "AS 44.88.010 — 44.88.220"; in subsection (b) substituted "account" for "fund"; in subsection (c) substituted "account" for "fund," inserted "is-sued to finance the purchase of loans for projects," and deleted "as defined in AS 44.88.220" at the end of the subsection; in subsection (d) inserted "with assets of the enterprise development account or with

proceeds of bonds secured by assets of the enterprise development account" and de-leted "or" at the end of paragraph (8)(A); in subsection (e) substituted "account in-cluding" for "fund which may include"; in subsection (f) substituted "account" for "fund" in two places and added "issued to finance the purchase by the authority of loans for projects" at the end of the subsec-tion; and added subsection (h).

The 1988 amendment, effective June 9, 1988, substituted "in accordance with AS 37.10.071" for "in the types of investments described in AS 37.10.070(a) and AS 39.35.110(a)(9) and (14)" in subsection (c).

Sec. 44.88.156. Multi-family housing loan account. [Repealed, § 44 ch 42 SLA 1987.]

Sec. 44.88.157. Loan insurance and loan insurance account.

(a) The loan insurance account is established in the revolving fund. The purpose of the loan insurance account is to provide insurance of mortgage loans and other loans made or purchased by the authority under AS 44.88.155, or made by others and approved for insurance by the authority, for a project. The authority may enter into agreements as to the use of money in the loan insurance account and may pledge, assign, or grant interests in the loan insurance account as provided in this section. The authority may adopt regulations and enter into agreements with respect to the exercise of any power or approval relating to the loan insurance account under this section, including, without limitation, agreements as to the use of money in the loan insurance account, agreements with respect to the terms and conditions upon which payments from the loan insurance account will be made with respect to a loan insured under this section, agreements as to separate subaccounts in the loan insurance account for different categories of loans or as to loans made by the authority or any other person, and agreements regarding the payment of and security for bonds issued by the authority. An agreement, the rights of the authority under an agreement, or payments received or to be received under an agreement may be pledged or assigned by the authority for the benefit of the holders of bonds issued by the authority.

(b) The authority may, upon application of a borrower or proposed borrower, insure and make advance commitments to insure loan repayments required under the terms of a loan made by it or by another lender with respect to a project, upon the terms and conditions the authority prescribes. To be eligible for insurance under this section, a loan for a project

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

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

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

(4) shall contain complete amortization provisions satisfactory to the authority requiring periodic payments by the borrower; and

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

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(c) In addition to other fees which the authority may charge on loans, the authority may collect or cause to be collected on loans insured under this section, either a loan insurance commitment fee or a loan insurance premium or both. Loan insurance fees and loan insurance premiums are not required to be uniform among the various loans insured. Loan insurance commitment fees and loan insurance premiums shall be deposited in the insurance account by the loan servicer, trustee, or agent designated by the authority to receive them.

(d) If, at any time after receipt by the authority of a payment from the loan insurance account with respect to a loan, the authority recovers an amount on the loan or portion of it from a source other than the loan insurance account, the authority shall apply the amount recovered in the following order: first, to repay the general fund of the state for appropriations made under (g) of this section, and second, to repay the loan insurance account.

(e) Loans may be insured only when the amount either in the loan insurance account insuring the loans or a subaccount in the loan insurance account insuring the loans, as a percentage of the sum of the loans to be insured and all unpaid principal on loans insured by the loan insurance account or the subaccount, equals or exceeds the fund requirement. The fund requirement is calculated as a percentage which the authority determines is actuarially sound for operation of the loan account or a subaccount.

(f) When the authority determines what is actuarially sound with respect to the operation of the loan insurance account or a subaccount in the loan insurance account, it shall consider means of providing sufficient revenue for the operation of the account or subaccount, without regard to amounts which may have been or may, after the date of determination of actuarial soundness, be appropriated under (g) of this section. The authority shall also consider factors including, without limitation, estimates of future defaults and losses of loans insured under this section based on actual default and loss experience on those loans or on similar loans in the state or elsewhere, estimates of recoveries on defaulted or foreclosed loans based on actual default and foreclosure experience on those loans or similar loans in the state or elsewhere, the terms and conditions of the loans insured under this section, estimates of earnings and income of amounts on deposit in the loan insurance account, and other appropriate factors.

(g) On December 1 of each year the authority shall determine the amount on deposit in the loan insurance account and in each subaccount in the loan insurance account. If the amount in the loan insurance account or the amount in a subaccount in the loan insurance account is less than the fund requirement for the account or for the subaccount, the authority shall transfer the amount necessary to restore the loan insurance account or the subaccount to the fund requirement. The transfer shall be made from available money which is

not encumbered or restricted for other use under the terms of contracts with bondholders or others. If sufficient money is not available for transfer, the chairman of the authority shall, no later than January 2 of the following year, certify in writing to the governor and to the legislature the amount, if any, required to restore the account or a subaccount to the fund requirement. The legislature may appropriate the amount certified and the authority shall deposit in the account or proper subaccount the amounts appropriated by the legislature for the purposes of this subsection during the then current state fiscal year. Nothing in this subsection creates a debt or liability of the state.

(h) A contract of insurance executed by the authority under this section is conclusive evidence of eligibility for the insurance. The validity of a contract of insurance executed by the authority or of an advance commitment to insure is incontestable from the date of the execution of the contract or commitment, except for fraud or misrepresentation on the part of the insured or, as to commitments to insure, noncompliance with the terms of the advance commitment or authority regulations in force at the time of issuance of the advance commitment.

(i) Notwithstanding (a) — (h) of this section, the authority may establish additional insurance accounts to secure special obligation bonds, and may pay into an insurance account established under this subsection money made available from an appropriation or any other source. An insurance account established under this subsection is not subject to the requirements of (d) and (g) of this section.

(j) A loan may not be insured under this section if the loan is for a project the cost of which exceeds \$10,000,000.

(k) A loan in excess of \$1,000,000 may not be insured under this section unless at least 10 percent of the principal amount of the loan is retained by a federal or state chartered financial institution or the Alaska Commercial Fishing and Agriculture Bank.

(l) In this section:

(1) "loan insurance commitment fee" means a fee which is a percentage of the principal amount of a loan to be insured under this section determined by the authority to be actuarially sound for the operation of the loan insurance account;

(2) "loan insurance premium" means an annual insurance premium which is a percentage of the portion of the unpaid principal amount of a loan insured under this section determined by the authority to be actuarially sound for the operation of the loan insurance account or any subaccount. (§ 65 ch 106 SLA 1980; am § 39 ch 115 SLA 1981; am §§ 28 — 31 ch 42 SLA 1987)

Revisor's notes. — Reorganized in 1987 to place the definitions subsection at the end of the section.

Effect of amendments. — The 1987 amendment in subsection (a) added the first sentence and inserted "under AS 44.88.155" in the second sentence. in the

introductory language of subsection (b) substituted "this section" for "AS 44.88.010 — 44.88.220"; and in subsections (j) and (k) substituted "under this section" for "from a loan insurance account within the enterprise development fund."

Sec. 44.88.158. Small business enterprise loan account. (a) A small business enterprise loan account is established in the revolving fund. The account may be composed of money or assets appropriated or transferred to the authority, interest on investments and loans of the small business enterprise loan account, the unpledged income of the revolving fund, and other money or assets deposited in it by the authority.

(b) The authority may use money in the small business enterprise loan account to purchase or participate in the purchase of loans to small business enterprises and to purchase the guaranteed portion of a loan made by a private financial institution after June 30, 1981, to a small business enterprise to pay the cost of a project or exporting transaction, if the loan is guaranteed by the United States or an agency or instrumentality of the United States, including, but not limited to, the Small Business Administration, the National Marine Fisheries Service, and the Farmers Home Administration.

(c) *[Repealed, § 44 ch 42 SLA 1987.]* (§ 65 ch 106 SLA 1980; am § 40 ch 115 SLA 1981; am §§ 32, 33, 44 ch 42 SLA 1987)

Effect of amendments. — The 1987 amendment inserted "business" in the catchline; in subsection (a) inserted "business" and substituted "revolving" for "enterprise development" in the first and last sentences; and in subsection (b) inserted "business" preceding "enterprise" in two

places and "purchase or participate in the purchase of loans to small business enterprises and to" and substituted "or exporting transaction" for "as defined AS 44.88.220"; and repealed subsection (c), concerning loan purchases.

Sec. 44.88.159. Interest rates. (a) The interest rate on a loan financed from the proceeds of tax-exempt bonds or expected by the authority to be financed from the proceeds of tax-exempt bonds is equal to the cost of funds to the authority. In this subsection "cost of funds" means the true interest cost expressed as a rate on tax-exempt bonds of the authority plus an additional percentage as determined by the authority to represent the allocable expenses of operation, costs of issuance, and loan servicing.

(b) The interest rate on a loan financed from the proceeds of taxable bonds or expected by the authority to be financed from the proceeds of taxable bonds is equal to the cost of funds to the authority. In this subsection "cost of funds" means the true interest cost expressed as a rate on taxable bonds, plus an additional percentage as determined by

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Sec. 44.88.160. Findings of the authority. Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project for which bonds are agreed to be issued by the authority in an amount in excess of \$6,000,000, or before approving insurance or a commitment to insure a loan as provided in AS 44.88.157(b) with a principal amount in excess of \$6,000,000, there must have been filed with the authority a certified copy of a resolution of the governing body of the political subdivision of the state, if any, in which the project is to be located, consenting to the location (which consent need only refer to the general nature of the project ultimately to be acquired as set out in a request of the proposed project applicant). Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project, the authority must find, on the basis of all information reasonably available to it, that

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

(2) the project applicant is financially responsible;

(3) provision to meet increased demand upon public facilities that might result from the project is reasonably assured;

(4) the project will provide or retain employment reasonably related to the amount of the financing by the authority considering the amount of investment per employee for comparable facilities and other relevant factors; and

(5) the scope of the project is sufficient to provide a reasonable expectation of a benefit to the economy of the state. (§ 1 ch 64 SLA 1967; am § 66 ch 106 SLA 1980)

Revisor's notes. — Formerly AS 44.61.160. Renumbered in 1980.

Effect of amendments. — The 1980 amendment divided the former section into two sentences by deleting "and", in the present first sentence, inserted "as provided in AS 44.88.090(e)" near the beginning, substituted the language beginning "for which bonds are agreed to be issued" and ending "principal amount in excess of \$6,000,000" for "as mentioned

in AS 44.88.090(e)" near the middle, and substituted "applicant" for "occupant" at the end, and in the second sentence, added "Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project" to the beginning, substituted "applicant" for "occupant" in paragraph (2), deleted "and" from the end of paragraph (2), and added paragraphs (4) and (5).

Sec. 44.88.165. Delinquent loans. If more than two percent of the total outstanding balance of loans purchased from a financial institution under this chapter becomes delinquent for 90 days or more, the authority shall discontinue purchasing loans from that financial institution for which it has not already made a purchase commitment and may not make new commitments to purchase loans from that financial institution until the delinquency is reduced to less than two percent. (§ 42 ch 115 SLA 1981; am § 55 ch 113 SLA 1982)

the authority to represent the allocable expenses of operation, costs of issuance, and loan servicing costs.

(c) The interest rate on a loan purchased by the authority with money in the small enterprise loan account that is not from the proceeds of the sale of a series of bonds is equal to the most recent index of Aa corporate bond yield averages as published by Moody's Investors Service.

(d) The provisions of this section apply only to loans financed under AS 44.88.155 — 44.88.159. (§ 41 ch 115 SLA 1981; am § 54 ch 113 SLA 1982; am § 34 ch 42 SLA 1987)

Effect of amendments. — The 1987 amendment added subsection (d)

Article 4. General Administrative Provisions.

Section	Section
172 Economic development account	212 Fees charged by authority
190 Operation of certain statutes excepted	

Sec. 44.88.172. Economic development account. (a) The economic development account is established in the revolving fund. The account consists of money or assets appropriated, loaned, or transferred to the authority, and other money or assets deposited in the account by the authority. The account may be used only to finance, acquire, manage, and operate development projects that the authority intends to own and operate. The term "operate" includes operation directly by the authority, or by an agent of the authority.

(b) If a development project is financed or developed through use of the assets of the economic development account, the authority may not pledge or use assets of the enterprise development account established in AS 44.88.155 to assist in the financing, development, or operation of the development project. However, whether or not the authority uses the economic development account, it may issue bonds to finance a development project and may secure the bonds with a mortgage, pledge, or assignment of the development project or of revenues, money, or agreements attributable to the development project or the bonds. Financing assistance provided with respect to a development project under this section shall, to the maximum extent reasonable under the circumstances, be made in the form of a loan to the project.

(c) The authority may not issue bonds to assist in the acquisition, financing, or operation of a development project under this section without prior legislative approval. (§ 8 ch 162 SLA 1984; am §§ 35, 36 ch 42 SLA 1987)

proposed project is to be located. Approval under this subsection must be evidenced by a certified copy of a resolution of the council or of the governing body of the municipality.

(b) Before approving a project financed under AS 44.88.172 for which bonds must be issued, the authority shall

(1) obtain approval under (a) of this section;

(2) find, on the basis of all information reasonably available to it, that

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

(B) the project applicant is financially responsible;

(C) the project is economically and financially feasible and able to produce revenue adequate to repay the bonds or loans with which it is financed;

(D) increased demand on public facilities that might result from the project will be provided for;

(E) the project will provide or retain employment reasonably related to the amount of the financing by the authority, considering the amount of investment per employee for comparable facilities, and other relevant factors;

(F) the scope of the project is sufficient to provide a reasonable expectation of a benefit to the economy of the state;

(G) the project is in compliance with applicable law; and

(H) issuance of the bonds is not expected to adversely affect the ability of the state or any political subdivision of the state to market other bonds. (§ 8 ch 162 SLA 1984)

Sec. 44.88.176. Hearing to consider proposed project. Before considering a resolution regarding the approval or rejection of the development or financing of a proposed project with a cost in excess of \$10,000,000, that is financed under AS 44.88.172, a Regional Resource Advisory Council shall conduct a public hearing within the region. If a proposed project is located within a municipality, the governing body of a municipality shall conduct a hearing on the proposed project. (§ 8 ch 162 SLA 1984)

Sec. 44.88.177. Operation of projects. If a project is financed under AS 44.88.172, the authority shall solicit the review and advice of the Regional Resource Advisory Council or governing body in the area in which a project is located before the execution of contracts, agreements, resolutions, or other matters that directly concern the development, maintenance, and operation of a project. (§ 8 ch 162 SLA 1984)

Sec. 44.88.180. Conflicts of interest. (a) A member of the authority may not vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if the

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Effect of amendments. — The 1987 amendment substituted "account" for "fund" in the catchline and throughout the section; in subsection (a) substituted "revolving fund" for "authority" at the end of the first sentence, and in the third sentence deleted "only" preceding "be used" and inserted "only" following "be used," and inserted "development", in

subsection (b) inserted "development" preceding "project" throughout the subsection, in the first sentence deleted "other" preceding "assets" and substituted "enterprise development account established in AS 44.88.155" for "authority," deleted "as provided in Sec. 10 of this Act" at the end of the second sentence and added the last sentence, and added subsection (c).

Sec. 44.88.190. Operation of certain statutes excepted. (a) The authority shall not be considered or constitute (1) a political subdivision of the state as the term is used in AS 37.10.085, (2) a municipal corporation or political subdivision of the state as the terms are used in AS 29, or (3) except as provided in AS 44.88.205, a state agency as the term is used in AS 37, but for all other purposes the authority constitutes a political subdivision and an instrumentality of the state as provided in this chapter.

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

(c) A loan purchased or financed by the authority in whole or in part is exempt from the provisions of AS 45.45.010. A guarantee extended under AS 44.88.300 or insurance provided under AS 44.88.390 does not constitute insurance for the purposes of AS 25.03.010. (§ 1 ch 64 SLA 1967; am § 67 ch 106 SLA 1980; am § 37 ch 42 SLA 1987)

Effect of amendments. — The 1987 amendment added subsection (c).

Sec. 44.88.212. Fees charged by authority. (a) An application fee may not be charged for an application for authority participation in a loan under AS 44.88.158.

(b) The commitment fee for a loan commitment by the authority may not exceed two percent of the principal amount of the loan.

(c) The authority may not limit, or charge a fee or penalty for, prepayment of a loan after five years from the inception of the loan. (§ 34 ch 115 SLA 1981; am § 38 ch 42 SLA 1987)

Effect of amendments. — The 1987 amendment added subsection (c).

Sec. 44.88.530. Applicability of provisions [Repealed effective July 1, 1991]. AS 44.88.535 — 44.88.560 apply to

- (1) new loan guarantees under AS 44.88.500(a)(1); and
- (2) debt refinancing guarantees under AS 44.88.500(a)(2). (§ 2 ch 162 SLA 1988; r § 4 ch 162 SLA 1988)

Sec. 44.88.535. Conditions of loan guarantee [Repealed effective July 1, 1991]. (a) The authority may guarantee a loan under AS 44.88.500 — 44.88.599 if the

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

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

(3) loan is originated with and serviced by a state chartered or federally chartered financial institution;

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

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

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

(b) The authority may provide a guarantee from the fund for up to 70 percent of a loan that qualifies under AS 44.88.500 — 44.88.599. The ratio of the guarantee to the outstanding principal of the loan may not increase over the term of the loan.

(c) The authority may not guarantee the payment of interest on the guaranteed portion of a loan. (§ 2 ch 162 SLA 1988; r § 4 ch 162 SLA 1988)

Sec. 44.88.540. Limitations of guarantees from the fund [Repealed effective July 1, 1991]. The authority may not guarantee

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

(2) more than \$25,000,000 of loans in which the amount of the loan guarantee exceeds \$500,000. (§ 2 ch 162 SLA 1988; r § 4 ch 162 SLA 1988)

Sec. 44.88.545. Limitations of guarantees with respect to borrowers [Repealed effective July 1, 1991]. The authority may not guarantee

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

(2) loans to an individual borrower that cumulatively exceed \$1,000,000 of indebtedness. (§ 2 ch 162 SLA 1988; r § 4 ch 162 SLA 1988)

Sec. 44.88.570. Distribution of loans [Repealed effective July 1, 1991]. The authority shall distribute guarantees of new loans and guarantees of loans made to refinance existing loans under AS 44.88.500 — 44.88.599 to all regions of the state in an equitable manner. (§ 2 ch 162 SLA 1988, r § 4 ch 162 SLA 1988)

Sec. 44.88.599. Definitions [Repealed effective July 1, 1991]. In AS 44.88.500 — 44.88.599

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

(2) "prime rate" means the lowest money center prime rate of interest that is published in the Wall Street Journal. (§ 2 ch 162 SLA 1988, r § 4 ch 162 SLA 1988)

Article 7. General Provisions.

Section

900. Definitions

Sec. 44.88.900. Definitions. In this chapter

(1) "authority" means the Alaska Industrial Development and Export Authority created by this chapter;

(2) "business enterprise" means a single proprietorship, cooperative, corporation, firm, partnership, or other association of persons organized in any manner, for any credit worthy business purpose;

(3) "commercial activity" includes work in process or activity involving stock in trade, accounts receivable, or the refinancing of existing indebtedness, subject to the provisions of AS 44.88.158;

(4) "development project" means a plant or facility used or intended for use in connection with making, processing, preparing, or producing goods, products, or substances, or in connection with developing or utilizing a natural resource, or extracting, smelting, transporting, converting, assembling, or producing minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and materials, products, or substances;

(5) "federal agency" means the United States and any officer, department, agency or instrumentality of the United States;

(6) "governing body of a political subdivision" means, when used with respect to the location of a project, the council of a city if the project is to be located in a city in the unorganized borough, or the assembly if the project is to be located in an organized borough or a unified municipality;

(7) "lease" includes, when used as a noun, an interest in, or when used as a verb, the transfer of an interest in, property less than fee simple title, including, without limitation, when used as a noun, agreements to use or occupy property;

Repealed in HB 123

AS 44.88.090(g) - The language in this section is included in Section 7 of the new bill, except that the issuance of bonds in any 12-month period is now limited to "\$400,000,000" instead of "the amount authorized to be issued during the preceding 12-month period, unless a different amount is authorized by the legislature."

AS 44.88.090(i) - This section requires the authority to obtain legislative approval before issuing bonds in any amount.

AS 44.88.105(e) - This section does not allow the Authority to establish capital reserve funds in excess of a \$1,000,000 unless 20% is retained by a federal or state chartered financial institution.

AS 44.88.105(g) - This section allows the Authority to waive the requirements of AS 44.88.105(a) establishing the maximum costs of \$10,000,000 and the requirements of subsection (e), which is being repealed.

AS 44.88.157 - This section establishes a loan insurance account and allows the Authority to provide insurance on mortgage loans and other loans purchased by the Authority.

AS 44.88.158 - This section sets up a small business enterprise loan account and allows the Authority to participate in the purchase loans for small businesses and to purchase the guaranteed portion of a loan made to a small business enterprise.

AS 44.88.159(c) - This subsection relates to the small business enterprise loan account. It sets the interest rate equal to the most recent index of Aa corporate bond yield averages.

AS 88.44.160 - This section is include in Section 7 (c) of the new bill, except that language referencing insurance is deleted. Also, language stating that the "scope of the project is sufficient to provide a reasonable expectation of a benefit to the economy of the state" has been deleted.

AS 88.44.172(b) - If a project is financed through use of the economic development account, the Authority may not use assets of the enterprise development account to assist in the financing of the project.

AS 88.44.172(c) - This section states that the Authority may not issue bonds for the economic development account without prior legislative approval. This is re-enacted in the bill as needing legislative approval on bonds over \$10,000,000.

AS 88.44.175 - This section sets up the requirements that need to be met before a project is approved for Authority participation. The new section in the bill Section 7 (e) does not address "the scope of the project to provide a reasonable expectation of a benefit to the economy of the state."; "the project is in compliance with applicable law"; and the issuance bonds is not expected to adversely affect the ability of the state or any political subdivision of the state to market other bonds."

AS 44.88.176 - This is in the new Section 7 of the bill.

AS 44.88.212(a) - This section does not allow an application fee to be charged applications for Authority participation in a small business enterprise loan.

AS 44.88.900(3) - This section defines commercial activity as it relates to the small business enterprise loan account. The small business enterprise loan account has been repealed in this bill.

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 100 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making appropriations for the operating and
7 loan program expenses of state government; and pro-
8 viding for an effective date."

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

10 * Section 1. Included within the general fund amounts appropriated in
11 this Act, the following amounts are from the unreserved special accounts in
12 the general fund:

13 Highway Fuel Tax Account \$21,000,000

14 Aviation Fuel Tax Account 9,100,000

15 * Sec. 2. Federal or other program receipts that exceed the amounts
16 appropriated in this Act are appropriated conditioned upon compliance with
17 the program review provisions of AS 37.07.080(h).

18 * Sec. 3. If federal or other program receipts exceed the estimates
19 appropriated by this Act, the appropriation from state funds for the af-
20 fected program shall be reduced by the amount of the excess if the re-
21 ductions are consistent with applicable federal statutes.

22 * Sec. 4. Except as provided in sec. 5 of this Act, if federal or other
23 program receipts fall short of the estimates appropriated by this Act, the
24 affected appropriation is reduced by the amount of the shortfall in re-
25 ceipts.

26 * Sec. 5. If the federal receipts under Title XX of the Social Security
27 Act (42 U.S.C. 1397 - 1397f) fall short of the estimate, the amount of the
28 shortfall is appropriated from the general fund.

29 * Sec. 6. Amounts equivalent to the amounts to be received in

1 settlement of insurance claims for property losses, and claims against
2 bonds guaranteeing the reclamation of state land, are appropriated, contin-
3 gent upon compliance with the program review provisions of AS 37.07.080(h),
4 from the general fund to the affected agency for the purpose of replacing
5 the facility or service lost as a result of the incident giving rise to the
6 claim.

7 * Sec. 7. The amount required to pay interest on revenue anticipation
8 notes issued by the commissioner of revenue under AS 43.08.010 is appropri-
9 ated from the general fund to the Department of Revenue.

10 * Sec. 8. The amount required to be paid by the state for the principal
11 of and interest on all issued and outstanding state-guaranteed bonds is
12 appropriated from the general fund to the state bond committee to make all
13 payments by the state required under its guarantee for principal and inter-
14 est.

15 * Sec. 9. The sum of \$8,737,600 is appropriated from the international
16 airports revenue fund to the state bond committee for payment of debt
17 service and trustee fees on outstanding international airports revenue
18 bonds.

19 * Sec. 10. The amount of the Rebate Requirement, as defined by Resolu-
20 tion No. 86-5 of the state bond committee, is appropriated from the inter-
21 national airports revenue fund to the state bond committee for deposit in
22 the Rebate Fund established by Resolution No. 86-5 of the state bond com-
23 mittee.

24 * Sec. 11. The sum of \$12,106,300 is appropriated from the general fund
25 to the state bond committee for lease payments to the Alaska State Housing
26 Authority, City of Seward, Delta Fox, Ltd., and City of Palmer.

27 * Sec. 12. The sum of \$120,386,300 is appropriated from the general
28 fund to the state bond committee for payment of debt service and trustee
29 fees on state general obligation bonds.

1 * Sec. 13. The income of the Alaska permanent fund allocated annually
2 to pay permanent fund dividends as provided in AS 43.23.045(b) is appropri-
3 ated to the dividend fund (AS 43.23.045(a)) for the payment of the 1989
4 permanent fund dividend and administrative and associated costs.

5 * Sec. 14. All unrestricted mortgage loan interest payments and all
6 other receipts, including, without limitation, mortgage loan commitment
7 fees, received by or accrued to the Alaska Housing Finance Corporation
8 during the period of July 1, 1989 through June 30, 1990, and all income
9 earned on assets of the corporation during that period, are appropriated to
10 the Alaska housing finance revolving fund (AS 18.56.082) for the purposes
11 described in AS 18.56.

12 * Sec. 15. The sum of \$11,330,300 is appropriated to the general fund,
13 as an additional revenue source, from the following enterprise funds:

14 Alaska World War II Veterans' Revolving Fund

15 (AS 26.15.090)	\$ 279,600
16 Commercial Fishing Revolving Loan Fund (AS 16.10.340)	5,313,600
17 Child Care Facility Revolving Loan Fund (AS 44.33.240)	8,800
18 Historical District Revolving Loan Fund (AS 45.98.010)	82,400
19 Mining Loan Fund (AS 27.09.010)	3,200
20 Alternative Energy Revolving Loan Fund (AS 45.88.010)	727,600
21 Residential Energy Conservation Fund (AS 45.89.010)	343,400
22 Power Development Revolving Loan Fund (AS 44.33.600)	2,512,300
23 Grain Reserve Loan Fund (AS 03.12.040)	309,400
24 Agricultural Revolving Loan Fund (AS 03.10.040)	1,750,000

25 * Sec. 16. The sum of \$200,000 is appropriated from the general fund to
26 the Department of Community and Regional Affairs for payment as an organi-
27 zational grant to the Lake and Peninsula Borough under AS 29.05.190.

28 * Sec. 17. The balance on July 1, 1989, of the oil and hazardous sub-
29 stance release mitigation account in the general fund (AS 46.08.020(b)) is

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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26 the Department of Community and Regional Affairs for payment as an organi-
27 zational grant to the Lake and Peninsula Borough under AS 29.05.190.

28 * Sec. 17. The balance on July 1, 1989, of the oil and hazardous sub-
29 stance release mitigation account in the general fund (AS 46.08.020(b)) is

1 appropriated to the Department of Environmental Conservation, oil and
2 hazardous substance release response fund (AS 46.08.010).

3 * Sec. 18. The sum of \$10,000,000 is appropriated from the general fund
4 to the Alaska Student Loan Corporation, student loan fund (AS 14.42.210) to
5 capitalize the fund.

6 * Sec. 19. The sum of \$166,300 is appropriated from the general fund
7 for purposes of implementing a state mariculture program for shellfish, sea
8 vegetables, and fresh water finfish, and is allocated as follows:

9 Department of Natural Resources --

10 Land and Water Management 69,200

11 Department of Fish and Game --

12 F.R.E.D. 48,000

13 Habitat 31,100

14 Department of Environmental Conservation 18,000

15 * Sec. 20. The sum of \$33,400 is appropriated from the general fund to
16 the Office of the Governor for the operating costs of the Alaska Finfish
17 Farming Task Force.

18 * Sec. 21. The sum of \$230,400 is appropriated from the general fund to
19 the Department of Health and Social Services for fiscal year 1990 costs of
20 the food stamp program settlement.

21 * Sec. 22. (a) The amounts necessary to refund to local governments
22 their share of taxes and fees collected under the following programs are
23 appropriated to the Department of Revenue from the general fund for payment
24 in fiscal year 1990:

25 Amusement and gaming tax revenues for fiscal year 1990 (AS 43.35);

26 Aviation fuel tax revenues for fiscal year 1990 (AS 43.40.010);

27 Electric and telephone cooperative tax revenues for fiscal year 1990

28 (AS 10.25.570); and

29 Liquor license fee revenues for fiscal year 1990 (AS 04.11).

1 (b) The sum of \$12,200,700 is appropriated from the general fund to
2 the Department of Revenue for refunds to local governments of their propor-
3 tionate share of fisheries taxes collected under AS 43.75 in fiscal year
4 1989.

5 * Sec. 23. The unobligated and unappropriated balance in the mental
6 health trust income account (AS 37.14.011 and 37.14.021) is transferred to
7 the unreserved portion of the general fund on July 1, 1989.

8 (SECTION 24 BEGINS ON PAGE 7)

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HOUSE BILL

123

"An Act Relating to the Alaska Industrial
Development and Export Authority; and providing
for an effective date."



ALASKA INDUSTRIAL
DEVELOPMENT AND EXPORT
AUTHORITY

PROMOTES EMPLOYMENT

Since 1981 an estimated 13,582 jobs have been created or retained as a result of Authority Financing.

Employment Per Region

TOTAL	Northern	Interior	Southwest	Anchorage	Southcentral	Southeast
13,582	437	1,480	788	7,178	1,804	1,895

THROUGH FINANCING

Authority financing has resulted in 804 projects with a value of \$871,932,230.

Projects and Dollar Value per Region

TOTAL	Northern	Interior	Southwest	Anchorage	Southcentral	Southeast
804	27	91	41	422	135	85
871,932,230	30,535,250	99,875,250	52,095,250	458,710,805	97,815,500	135,100,000

*HOW WILL THIS
LEGISLATION FURTHER
THE AUTHORITY'S EFFORTS
IN PROMOTING RESOURCE
DEVELOPMENT ???*

The Authority will be able to own, operate, or construct facilities

solely,

by partnership,

by jointventure,

or through other agreements with persons for shared ownership.

Example:

To enhance development of the Beluga coal fields, a common transportation system accessible by all lease holders could provide a stimulus for further movement of this project. Financing and or partial ownership with the lease holders in this common system could reduce the costs of moving the coal to tidewater.

The Authority will be able to provide financial support in the form of

loans,

guarantees,

equity investments.

Example:

In reference to the Beluga Coal Fields, the Authority could be just a lender for such a coal transportation project, or have an equity interest in the coal transportation system in conjunction with others and be repaid by charging fees per ton of coal transported. Flexibility and a menu of options are necessary as each project will be different and present unique problems to overcome.

In addition to these *current* bonding limitations:

The Authority cannot issue bonds in a total amount over \$400 million during a 12 month period.

The Authority cannot issue bonds for a particular project within a 12 month period over \$50 million.

Project bonds over \$6 million require location approval from the city or borough where the project will be located.

Project bonds over \$10 million require a public hearing as well as municipal approval.

In all cases, the Authority must find that;

The project is economically advantageous to the State and public welfare.

The project applicant is financially responsible.

Increased demand on public utilities will be satisfied.

The project will provide or retain employment reasonably related to the amount of Authority financing.

The project is feasible enough to repay the bonds or loans.

The bond issuance will not adversely affect the marketability of other state bonds.

The following bonding limitations are *proposed* :

The Authority can issue bonds up to \$25 million to assist in the acquisition of a development project without prior legislative approval.

The State's moral obligation on any future bonds issued by the Authority is eliminated.

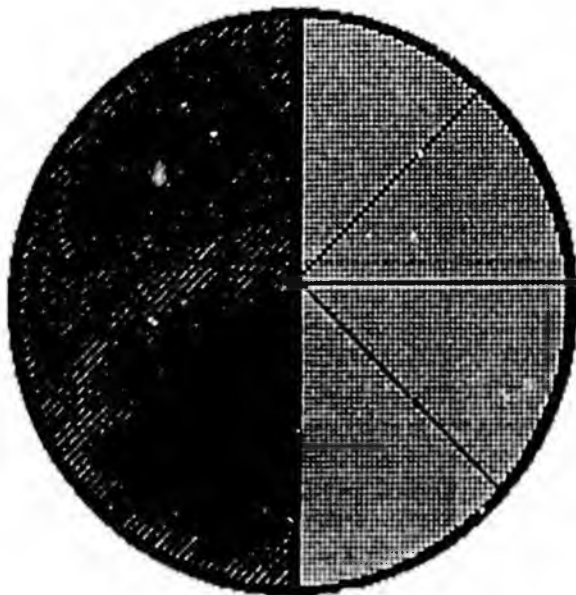
The principle amount of a loan retained by the originator is increased from 10% to 20%.

The Authority can regulate conditions where they will no longer purchase loan participations from a financial institution as a result of excessive delinquencies.

The Authority will be able to utilize assets in pursuing the promotion of resource development projects by revising the scope of the Revolving Fund.

The revolving fund is comprised of two primary accounts: the *Enterprise Development Account* and the *Economic Development Account*. The Enterprise Development accounts are originated and financed through financial institutions, and the Economic Accounts are for major development projects like the Red Dog Mine. *All accounts are independant.

THE REVOLVING FUND



Economic Development Account

Capital Reserve Account
Sustaining Capital Account
Operation & Maintenance Account
Construction Revenue Account
Project Economic Development Account

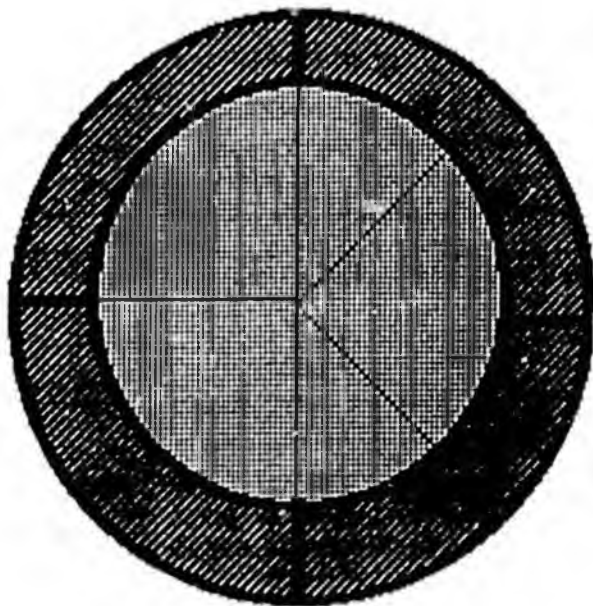


Enterprise Development Account

Capital Reserve Account
Business Assistance Account
Loan Collection Account
Investment Account

Proposed scope of the Revolving Fund

"Pool" all the unrestricted funds of both major accounts together to function as a general fund.



Restricted Accounts

- Enterprise Development Account**
- Capital Resource Account**
- Business Assistance Account**
- Economic Development Account**
- Capital Reserve Requirement Account**
- Sustaining Capital Account**



Unrestricted Accounts

- Loan Collection Account**
- Investment Account**
- Operation & Maintenance Account**
- Construction Revenue Account**
- Project Development Account**

*HOW MUCH WILL THIS
COST ???*

...NOTHING.

Draft of
February 24, 1989

SECTIONAL ANALYSIS

House Bill 123

"An Act Relating to the Alaska Industrial Development
and Export Authority; and providing for an effective date"

DISCUSSION:

The purpose of this legislation is to further the Alaska Industrial Development and Export Authority's efforts in promoting employment through resource development projects. The Authority has historically functioned as a correspondent to Alaskan banks, financing real estate mortgages in the service sector of the economy. This legislation is an attempt to redirect the Authority's efforts to achieve the goal of increased employment through primary sector industrial development. This redirection is an attempt to create new jobs and promote population growth within the State. This in turn will provide assistance to the service sector which currently is suffering from a lack of demand.

The congressional changes to the tax code in 1986 significantly altered the type of projects that can be financed with the proceeds of tax-exempt bonds. The only projects currently eligible are manufacturing plants (through December 31, 1989) and certain facilities referred to as "exempt facilities." Financing for airports, docks, and wharfs is still available if the project is owned by a governmental entity. This change in the tax law has reduced the attractiveness and demand for Authority tax-exempt financing.

The definition of a development project in AS 44.88.900(9)(A) limits Authority ownership. The current definition stresses the primary resource industries, and accentuates transportation and infrastructure associated with those projects.

This legislation does not eliminate the essential framework whereby the Authority acts as a correspondent to Alaskan banks. The current banking situation has curtailed many of the existing banks correspondent relationships. It is critical that the Authority remain as an institute correspondent during these difficult times.

Pursuant to its purpose, all provisions of the bill accomplish at least one of the following four objectives.

1. Increase efforts in promoting resource development projects.
2. Amend existing statutes to allow utilization of the Authority's assets in pursuing the promotion of development projects.
3. Conform existing statutes to the 1986 Tax Act.
4. Reorganize, refine, and consolidate statutes of the Authority.

Section 1. AS 44.88.010(a)(9):

Three changes are made in this section: two deletions of dated language that is no longer applicable, and an addition allowing the Authority to participate in different types of ownership.

The deletions conform state law to the federal law changes made as a result of the 1986 Tax Reform Act.

The addition defines the necessary relationship possibilities between the Authority and other persons or entities. Each project will face unique problems, and flexibility is needed to address and overcome them. Without this flexibility, the Authority's effectiveness in promoting resource development projects will be limited.

Section 2. AS 44.88.010(c):

There are two changes in this section: the addition that sets forth the Authority's scope of providing financial support for or with various persons or entities, and the deletion removes language that is unnecessary and could be viewed as applying only to exports.

Section 3. AS 44.88.060:

The two additions in this section establish the scope of the revolving fund. The revolving fund is currently made up of two separate accounts: the Enterprise Development Account where loans are originated and financed through banks, and the Economic Development Account designated for major development projects. The additions allow the Authority to create additional accounts within the unrestricted accounts of the revolving fund, and transfer monies between accounts subject to bond-holder agreements. The investment powers are moved into the revolving fund, allowing it to function as the general fund and be invested in accordance with Title 37.

Section 4. AS 44.88.070:

The addition in this section sets forth the Authority's scope of owning and operating development projects: solely or by partnership, joint venture, or other agreement with another person. This definition is necessary as the projects contemplated will require the flexibility to deal with different forms of ownership and operation.

Section 5. AS 44.88.080(14):

The two additions in this section broaden and conform the Authority's scope of powers with regard to development projects that are not standardized.

Section 6. AS 44.88:

This addition creates a new section, 44.88.095, BONDING LIMITATIONS. It consolidates all the Authority's statutory limitations regarding the issuance of bonds into one section. The provisions do not change and are merely moved from another section with one exception; the Authority will have the ability to issue bonds up to \$25 million as opposed to \$10 million to assist in the financing or operation of a development project without prior legislative approval. Local approval is still required under this section.

Section 7. AS 44.88.105(a):

The deletion in this section eliminates the ceiling on bonds regarding the establishment of capital reserve funds. It also eliminates the state's moral obligation to supplement a capital reserve fund created after January 1, 1989 should it ever fall below the required amount.

With this elimination of moral obligation, bonds of the Authority issued after January 1, 1989, will stand on their own and do not contingently obligate the State in any form whatsoever. Since 1981 all bonds have had the benefit of the State's moral obligation. It is now appropriate that the Authority stand on its own financially with respect to future bond issues. Of course, the Authority's bonds that are already outstanding and were issued with the moral obligation will continue to have that benefit.

Section 8. AS 44.88.105(d):

This addition is in conjunction with the changes of section 7 and sets forth the date, January 1, 1989, after which no additional moral obligation bonds could be issued.

Section 9. AS 44.88.155(c)

The deletion in this section is in conjunction with the changes in section 3, it simply moves the investment powers into the revolving fund.

Section 10. AS 44.88.155(d):

There are two changes and one deletion in this section.

The first change allows the Authority to participate in the financing of projects that previously have been beyond the Authority's financial scope. Increasing the loan limit on a project from \$10 million to \$25 million will allow the Authority to participate in larger projects strictly as a correspondent. Several tourism-related projects have been beyond the \$10 million limit. This change would allow Authority participation in these projects.

The second change requires that the principle amount of a loan held by the originator be increased from 10% to 20% as long as the loan is outstanding. This would promote caution when banks contemplate selling their loans to the Authority. They will be responsible for holding a more significant portion of the credit and hopefully act accordingly.

The deletion will allow the Authority to become active in purchasing the guaranteed portion of federal SBA loans from banks. The revised investment statute, AS. 37.10.071, will permit the Authority to invest its funds in the guaranteed portion of federal SBA loans once the program restrictions are removed from statute. This flexibility is essential. The SBA modifies its program periodically, and casting the program in statute does not provide enough flexibility to maintain a market presence in these guarantees.

Section 11. AS 44.88.165:

The statute regarding loan delinquencies is repealed and reenacted. It allows the Authority to regulate conditions whereby it may discontinue purchase of loan participations from a financial institution because of excessive loan delinquencies. This revision is necessary to allow more financial institutions to participate in the authority's loan programs.

Section 12. AS 44.88.172(a):

The additions to this section establish the Economic Development Account within the Revolving Fund. They set forth the scope for which the Economic Development Account will be used.

Section 13. AS 44.88.900(4):

This section clarifies the definition of "development" project by referring to the resource development oriented plants and facilities described in the definition of "project", including transporting plants and facilities as set forth in section 14.

Section 14. AS 44.88.900(9):

There is one addition and deletion in this section. The addition includes certain transportation facilities in the definition of a project, while the deletion eliminates the obsolete language from the tax code prior to the 1986 Tax Reform Act.

Section 15. Repealed statutes:

AS 44.88.090(g), 44.88.160, 44.88.172(c), 44.88.175, and 44.88.176 are reenacted in substantially the same form and placed in Section 6, Bonding Limitations.

AS 44.88.090(i) is repealed to allow the Authority to issue bonds after January 1, 1990.

AS 44.88.105(e) and (g) relate to the moral obligation provisions, that under this legislation, would terminate on January 1, 1989. The provisions of 44.88.105(e) duplicate those added by section 10, AS 44.88.155(d)(7)(A) of this legislation.

AS 44.88.157 creates a loan insurance account and permits the Authority to insure loans purchased under its general financing provisions. This section is unnecessary because it has not been used since its inception.

AS 44.88.159(c), 44.38.212(a), and 44.88.900(3) refer to AS 44.88.158, the small business enterprise loan account that is repealed under this legislation.

AS 44.88.158 provides authority that is already given in the investment powers (AS 37.10.071) in the revolving loan fund.

The deletion in section 10, page 8, line 10 will allow the Authority to become active once again in purchasing the guaranteed portion of federal SBA loans from banks. The revised investment statute, AS 37.10.071, will permit the Authority to invest its funds in the guaranteed portion of federal SBA loans once the program restrictions are removed from statute. This flexibility is essential. The SBA modifies its program periodically, and casting the program in statute does not provide enough flexibility to maintain a market presence in these guarantees.

AS 44.88.172(b) does not allow use of the Authority's assets for resource development projects and is repealed.

Section 16.:

This section provides for an immediate effective date.

SUGGESTED SPONSOR AMENDMENTS

House Bill 123

"An Act Relating to the Alaska Industrial Development
and Export Authority; and providing for and effective date."

1. Section 2, AS 44.88.010(c):

Page 2, line 12; [federal, state] replaced with public.

REASON; Drafting oversight. Existing language would exclude participation with municipalities which could be beneficial to both parties.

2. Section 6, new section 44.88.095:

A. Page 3, line 20 and 26; development inserted before the word "project" in two places.

B. Page 4, line 6; "Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project..."

C. Page 5, line 16; [aquisition] replaced with financing.

REASON; Drafting oversight. To conform to the definition section and effect proper word usage.

3. Section 10, AS 44.88.155(d):

Page 8, line 5; "...originator of the loan as long as the loan is outstanding."

REASON; Drafting oversight.

4. Section 11, AS 44.88.165:

Page 8, line 22; [the] replaced with its.

REASON; Drafting oversight. To clarify that the Authority should base its decision regarding continuing to work with a bank on the Authority's own experience with that bank.

5. Section 13, AS 44.88.900(4):

Page 9, line 11; ...[the same] as a "project" [, as defined] described in paragraph (9)(A) of this section;

REASON; Error in drafting. Definition is to be limited to 44.88.900 (9)(A)..

5. Section 13, AS 44.88.900(4) continued:

As restated, this section would read, "development project" means the same as a "project," described in paragraph (9)(A) of this section.

HB 122

adding power to make certain property disposals to public and nonprofit entities. The introduction of this bill was requested by the board of directors of the authority.

This bill attempts to make amendments to the Alaska Statutes in every place necessary to change the name of the authority back to the Alaska State Housing Authority, the original name in effect from the advent of statehood to 1986. (As a precaution, however, sec. 23. of the bill expressly requires the revisor of statutes to make any additional statutory changes that might be necessary.) The authority believes that the name recognition gained over the years of operation is a valuable asset that should not be lost. The original name of the authority fairly encompassed the powers and duties assigned by law and should not pose a legal problem.

The bill also contains a section that makes amendments to existing law beyond the change of name. Section 4 of the bill makes an amendment that allows the authority to dispose of real or personal property to other public or nonprofit entities for less than fair market value. The authority interprets existing law to provide that it cannot dispose of certain authority property unless it sells the property at fair market value. This interpretation makes it difficult and expensive for other state agencies to use excess property of the authority for other public purposes. A capital appropriation last year for mental health housing (from the mental health trust account) contemplated the assistance of the authority in procuring and then transferring property to certified mental health housing grantees. The amendment set out in this bill generally parallels language governing other disposals of property (see AS 18.55.320) and will permit the authority to assist other state agencies and municipalities in the performance of official functions.

I urge your favorable action on this bill.

Sincerely,

/s/

Steve Cooper
Governor"

HB 123

HOUSE BILL NO. 123 by the Rules Committee by request of the Governor, entitled:

"An Act relating to the Alaska Industrial Development and Export Authority; and providing for an effective date."

was read the first time and referred to the Labor & Commerce, Judiciary and Finance Committees.

Alaska Industrial Development
and Export Authority

Alaska Industrial Development
and Export Authority

HB 123

A zero fiscal note with analysis by the Department of Commerce & Economic Development was published January 27, 1989.

The Governor's transmittal letter, dated January 27, 1989, appears below:

"Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill authorizing the Alaska Industrial Development and Export Authority (AIDEA) to finance development enterprises.

The most significant provisions of this bill relate to AIDEA's ability to finance resource development projects that AIDEA intends to own or operate (such as the Red Dog Mine project). In this regard, the bill would permit AIDEA to issue up to \$25,000,000 of its bonds for such a project without requiring passage of a law approving the project. It would also permit AIDEA to transfer amounts among its various accounts to provide more financing flexibility. (Although the provisions (proposed AS 44.88.095(b) and (f)) requiring legislative approval before certain bonds exceeding specified amounts may be issued raise a constitutional question under the separation-of-powers doctrine, I know of the legislature's concern about bond issuance and I believe that it might be helpful to set out this procedure in the statutes, as a courtesy to the legislature.)

Another significant provision would require originating financial institutions to retain a higher percentage of a loan before it may sell it to AIDEA. Under existing law, a financial institution must retain 10 percent of a loan. AS 44.88.155(d). Under this bill, the originating financial institution must retain 20 percent of the loan. By increasing this requirement along with the amount that AIDEA can invest in or loan on projects, it is hoped that financial institutions will carefully select the projects for which they will extend credit.

This bill will allow AIDEA to gather together all funds and accounts established by law and administer them as a part of the revolving fund of the authority. AIDEA would be given the power to transfer freely between accounts within the development fund so that it has the flexibility to adapt to the appropriate structure of a financing proposal presented to it for financing. AIDEA would be given the power to create separate accounts necessary to guarantee repayment of a bond issue if that action becomes necessary to make the bonds marketable.

The bill also amends a provision in existing law which represents to investors in AIDEA bonds that the state might step in and make bond payments if the authority is unable to do so. This section acknowledges the state's moral obligation to back AIDEA's revenue bonds if the authority becomes

HB 123

insolvent. The bill would change this moral obligation representation to apply only to bonds issued on or before January 1, 1989.

The bill would expressly confer on AIDEA the power to share ownership of projects with private enterprises by either forming a partnership, joint venture, or other form of cooperative ownership agreement.

The bill would also amend the provision in existing law that prohibits AIDEA from purchasing loans from financial institutions that experience a two percent or greater delinquency rate on loans made by the institution. The bill would allow AIDEA to set the target delinquency rate by regulation. By adopting this technique, AIDEA will be given the flexibility to adjust the delinquency rate to reflect existing economic conditions. The inflexible rule in effect under existing law sets the rate too low to allow the majority of banks in the state to qualify for AIDEA financing.

I urge your favorable consideration on this bill.

Sincerely,

/s/

Steve Cooper
Governor

HB 124

HOUSE BILL NO. 124 by the Rules Committee by request of the Governor, entitled:

"An Act relating to sport fishing and hunting licenses and to big game tags; and providing for an effective date."

was read the first time and referred to the Resources and Finance Committee.

A fiscal note by the Department of Fish & Game was published January 27, 1989.

The Governor's transmittal letter, dated January 27, 1989, appears below:

"Dear Mr. Speaker: *

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to sport fishing and hunting licenses. This bill would raise the cost of a resident sport fishing license by \$5. Making a new distinction, the cost of a resident hunting license would be raised \$3 for small game, and \$13 for big game. The combination hunting and trapping license fee would be

SECTIONAL ANALYSIS

CS for House Bill 123

"An Act Relating to the Alaska Industrial Development and Export Authority; and providing for an effective date"

DISCUSSION:

The purpose of this legislation is to further the Alaska Industrial Development and Export Authority's efforts in promoting employment through resource development projects. The Authority has historically functioned as a correspondent to Alaskan banks, financing real estate mortgages in the service sector of the economy. This legislation is an attempt to redirect the Authority's efforts to achieve the goal of increased employment through primary sector industrial development. This redirection is an attempt to create new jobs and promote population growth within the State. This in turn will provide assistance to the service sector which currently is suffering from a lack of demand.

The congressional changes to the tax code in 1986 significantly altered the type of projects that can be financed with the proceeds of tax-exempt bonds. The only projects currently eligible are manufacturing plants (through December 31, 1989) and certain facilities referred to as "exempt facilities." Financing for airports, docks, and wharves is still available if the project is owned by a governmental entity. This change in the tax law has reduced the attractiveness and demand for Authority tax-exempt financing.

The definition of a development project in AS 44.88.900(9)(A) limits Authority ownership. The current definition stresses the primary resource industries, and accentuates transportation and infrastructure associated with those projects.

This legislation does not eliminate the essential framework whereby the Authority acts as a correspondent to Alaskan banks. The current banking situation has curtailed many of the existing banks correspondent relationships. It is critical that the Authority remain as an institute correspondent during these difficult times.

Pursuant to its purpose, all provisions of the bill accomplish at least one of the following four objectives.

1. Increase efforts in promoting resource development projects.
2. Amend existing statutes to allow utilization of the Authority's assets in pursuing the promotion of development projects.
3. Conform existing statutes to the 1986 Tax Act.
4. Reorganize, refine, and consolidate statutes of the Authority.

Section 1. AS 44.88.010(a)(9):

Three changes are made in this section: two deletions of dated language that is no longer applicable, and an addition allowing the Authority to participate in different types of ownership.

The deletions conform state law to the federal law changes made as a result of the 1986 Tax Reform Act.

The addition defines the necessary relationship possibilities between the Authority and other persons or entities. Each project will face unique problems, and flexibility is needed to address and overcome them. Without this flexibility, the Authority's effectiveness in promoting resource development projects will be limited.

Section 2. AS 44.88.010(c):

There are two changes in this section: the addition that sets forth the Authority's scope of providing financial support for or with various persons or entities, and the deletion removes language that is unnecessary and could be viewed as applying only to exports.

Section 3. AS 44.88.060:

The two additions in this section establish the scope of the revolving fund. The revolving fund is currently made up of two separate accounts: the Enterprise Development Account where loans are originated and financed through banks, and the Economic Development Account designated for major development projects. The additions allow the Authority to create additional accounts within the unrestricted accounts of the revolving fund, and transfer monies between accounts subject to bond-holder agreements. The investment powers are moved into the revolving fund, allowing it to function as the general fund and be invested in accordance with Title 37.

Section 4. AS 44.88.070:

The addition in this section sets forth the Authority's scope of owning and operating development projects: solely or by partnership, joint venture, or other agreement with another person. This definition is necessary as the projects contemplated will require the flexibility to deal with different forms of ownership and operation.

Section 5. AS 44.88.080(14):

The two additions in this section broaden and conform the Authority's scope of powers with regard to development projects that are not standardized.

Section 6. AS 44.88.090(a):

The deletion in this section removes language that is unnecessary in this legislation as proposed.

Section 7. AS 44.88:

This addition creates a new section, 44.88.095, BONDING LIMITATIONS. It consolidates all the Authority's statutory limitations regarding the issuance of bonds into one section. The provisions do not change and are merely moved from another section with one exception; the Authority will have the ability to issue bonds up to \$25 million as opposed to \$10 million to assist in the financing or operation of a development project without prior legislative approval. Local approval is still required under this section.

Section 8. AS 44.88.105(a):

The deletion in this section eliminates the ceiling on bonds regarding the establishment of capital reserve funds. It also eliminates the state's moral obligation to supplement a capital reserve fund created after January 1, 1989 should it ever fall below the required amount.

With this elimination of moral obligation, bonds of the Authority issued after January 1, 1989, will stand on their own and do not contingently obligate the State in any form whatsoever. Since 1981 all bonds have had the benefit of the State's moral obligation. It is now appropriate that the Authority stand on its own financially with respect to future bond issues. Of course, the Authority's bonds that are already outstanding and were issued with the moral obligation will continue to have that benefit.

Section 9. AS 44.88.105(d):

This addition is in conjunction with the changes of section 8 and sets forth the date, January 1, 1989, after which no additional moral obligation bonds could be issued.

Section 10. AS 44.88.155(b):

The change in this section allows the Authority to establish accounts within the enterprise development account considered appropriate by the Authority.

Section 11. AS 44.88.155(c)

The deletion in this section is in conjunction with the changes in section 3, it simply moves the investment powers into the revolving fund.

Section 12. AS 44.88.155(d):

There are two changes and one deletion in this section.

The first change allows the Authority to participate in the financing of projects that previously have been beyond the Authority's financial scope. Increasing the loan limit on a project from \$10 million to \$25 million will allow the Authority to participate in larger projects strictly as a correspondent. Several tourism-related projects have been beyond the \$10 million limit. This change would allow Authority participation in these projects.

The second change requires that the principle amount of a loan held by the originator be increased from 10% to 20% as long as the loan is outstanding. This would promote caution when banks contemplate selling their loans to the Authority. They will be responsible for holding a more significant portion of the credit and hopefully act accordingly.

The deletion will allow the Authority to become active in purchasing the guaranteed portion of federal SBA loans from banks. The revised investment statute, AS. 37.10.071, will permit the Authority to invest its funds in the guaranteed portion of federal SBA loans once the program restrictions are removed from statute. This flexibility is essential. The SBA modifies its program periodically, and casting the program in statute does not provide enough flexibility to maintain a market presence in these guarantees.

Section 13. AS 44.88.165:

The statute regarding loan delinquencies is repealed and reenacted. It allows the Authority to regulate conditions whereby it may discontinue purchase of loan participations from a financial institution because of excessive loan delinquencies. This revision is necessary to allow more financial institutions to participate in the authority's loan programs.

Section 14. AS 44.88.172(a):

The additions to this section establish the Economic Development Account within the Revolving Fund. They set forth the scope for which the Economic Development Account will be used.

The changes to the following three sections affect the Authority's commercial business loan guarantee program. These changes are necessary to make this program more marketable to banking institutions.

Section 15. AS 44.88.535(b):

The guaranteed portion of the loan is increased from 70% to 80%.

Section 16. AS 44.88.545:

The guaranty will cover \$1 million or less, as opposed to guaranteeing a loan of \$1 million or less.

Section 17. AS 44.88.560:

The Authority is given the power to pay liquidation costs of collateral securing loans that are guaranteed by this program when the Authority considers it to be in its best interest to do so.

Section 18. AS 44.88.900(4):

This section clarifies the definition of "development" project by referring to the resource development oriented plants and facilities described in the definition of "project", including transportation related facilities as set forth in section 19.

Section 19. AS 44.88.900(9):

There is one addition and deletion in this section. The addition includes certain transportation facilities in the definition of a project, while the deletion eliminates the obsolete language from the tax code prior to the 1986 Tax Reform Act.

Section 20. Repealed statutes:

AS 44.88.090(g), 44.88.160, 44.88.172(c), 44.88.175, and 44.88.176 are reenacted in substantially the same form and placed in Section 6, Bonding Limitations.

AS 44.88.090(i) is repealed to allow the Authority to issue bonds after January 1, 1990.

AS 44.88.105(e) and (g) relate to the moral obligation provisions, that under this legislation, would terminate on January 1, 1989. The provisions of 44.88.105(e) duplicate those added by section 10, AS 44.88.155(d)(7)(A) of this legislation.

AS 44.88.157 creates a loan insurance account and permits the Authority to insure loans purchased under its general financing provisions. This section is unnecessary because it has not been used since its inception.

AS 44.88.159(c), 44.88.212(a), and 44.88.900(3) refer to AS 44.88.158, the small business enterprise loan account that is repealed under this legislation.

AS 44.88.158 provides authority that is already given in the investment powers (AS 37.10.071) in the revolving loan fund.

The deletion in section 10, page 8, line 10 will allow the Authority to become active once again in purchasing the guaranteed portion of federal SBA loans from banks. The revised investment statute, AS 37.10.071, will permit the Authority to invest its funds in the guaranteed portion of federal SBA loans once the program restrictions are removed from statute. This flexibility is essential. The SBA modifies its program periodically, and casting the program in statute does not provide enough flexibility to maintain a market presence of these guarantees.

AS 44.88.172(b) does not allow use of the Authority's assets for resource development projects and is repealed.

Section 21:

This section provides for an immediate effective date.

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 15, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 5/1/89

The JUDICIARY Committee considered:

HB 123

HOUSE BILL NO. 123 [AK INDUSTRIAL DEVELOP. & EXPORT AUTHORITY]
"An Act relating to the Alaska Industrial Development and Export Authority; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with CSHB 123(JUD) the same title
- a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:
(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) 1/26/89 Commerce & Econ. Development
- zero fn/analysis _____

SIGNING DO PASS:

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Chairman's signature

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 1800

WAC/psol

May 8
9:45 AM

MEMORANDUM

May 7, 1989

SUBJECT: Additional changes to SCS CSHB 123(L&C)
TO: Senator Dick Eliason
Chair, Labor and Commerce Committee
FROM: Theresa L. Bannister *TB*
Legislative Counsel

This memo accompanies the draft of the above-referenced bill that you requested. Your addition of a section would normally require renumbering the subsequent bill sections. However, your draft did not need the usual renumbering, since CSHB 123(Jud) am needed some technical adjustments due to the amendments made by the house. Your draft does not contain the section (former sec. 4) that was deleted on the floor of the house, although it appears in the CSHB 123 (Jud) am version. The effective date sections (secs. 23 and 24) have been adjusted to reflect the amendments and your new section.

If I may be of further assistance, please advise.

TB:kb
wkk5/017

Enclosure

70%
↓
80%

change from house

- ① T.F.B
- ② Please determine on how floor
- ③ Report completion Section 4

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 123 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Industrial Development
7 and Export Authority; and providing for an effective
8 date."

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

10 * Section 1. AS 44.88.010(a)(9) is amended to read:

11 (9) the achievement of the goal of full employment, and of
12 establishment and continuing operation and development of industrial,
13 manufacturing, export, small business, and business enterprises in the
14 state [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR TRANSPORTATION,
15 FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL, FACILITIES FOR
16 THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER, FACILITIES FOR
17 INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES FOR LOCAL DIS-
18 TRICT HEATING OR COOLING, PARKING FACILITIES, OR A STORAGE OR TRAINING
19 FACILITY RELATING TO A PLANT OR FACILITY,] will be accelerated and
20 facilitated by the creation of an instrumentality of the state with
21 powers to incur debt, to own and operate facilities, to make and
22 insure loans to finance [,] and to assist private lenders to make
23 loans to finance [,] the establishment, operation, and development of
24 industrial, manufacturing, export, small business, and business enter-
25 prises [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR TRANSPORTA-
26 TION, FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL, FACILITIES
27 FOR THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER, FACILITIES FOR
28 INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES FOR LOCAL DIS-
29 TRICT HEATING OR COOLING, PARKING FACILITIES, OR A STORAGE OR TRAINING

1 FACILITY RELATING TO A PLANT OR FACILITY);

2 * Sec. 2. AS 44.88.010(c) is amended to read:

3 (c) It is further declared to be the policy of the state, in the
4 interests of promoting the health, security, and general welfare of
5 all the people of the state, and a public purpose of the state, to
6 accomplish the objectives set out in (b) of this section through the
7 provision of financial support to a [IN COOPERATION WITH] federal,
8 state, municipal, or [AND] private entity [INSTITUTIONS FOR THE PUR-
9 POSE OF INCREASING THE EXPORT OF ALASKA GOODS, TALENT, RAW MATERIALS,
10 AND SERVICES].

11 * Sec. 3. AS 44.88.060 is amended to read:

12 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AU-
13 THORITY REVOLVING FUND. The Alaska Industrial Development and Export
14 Authority revolving fund is established in the authority. The revolv-
15 ing fund consists of appropriations made to the revolving fund by the
16 legislature, money or other assets transferred to the revolving fund
17 by the authority, and unrestricted payments on loans made or purchased
18 by the authority. Unless otherwise expressly stated, the accounts
19 created in this chapter are accounts in the revolving fund. The
20 authority may create additional accounts either in the revolving fund
21 or outside the revolving fund. Subject to agreements made with the
22 holders of the authority's bonds or with other persons, the authority
23 may transfer amounts in an account in the revolving fund to another
24 account in the revolving fund. Amounts deposited in the revolving
25 fund may be pledged to the payment of bonds of the authority or ex-
26 pended for the purposes of the authority under this chapter. The
27 authority has the powers and responsibilities established in AS 37.-
28 10.071 with respect to the investment of amounts held in the revolving
29 fund.

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Handwritten notes and a star symbol in the left margin.

* Sec. 4. AS 44.88.080 is amended by adding a new paragraph to read:
(25) to make cooperative agreements with the Department of Transportation and Public Facilities, acting on behalf of the international airports revenue fund established under AS 37.15.430, to acquire, equip, operate, maintain, construct or install facilities that will enhance the competitiveness of the international airports, including a cooperative agreement to lend amounts from the international airport revenue fund to finance the development or improvement of utilities serving the airports.

* Sec. 5. AS 44.88 is amended by adding a new section to read:
Sec. 44.88.082. JOINT OWNERSHIP PROHIBITED. The authority may not enter into an agreement for joint ownership of a project.

* Sec. 6. AS 44.88.090(a) is amended to read:
(a) The [SUBJECT TO (g) OF THIS SECTION, THE] authority may borrow money and may issue bonds, including but not limited to bonds on which the principal and interest are payable

(1) exclusively from the income and receipts or other money derived from the project or development project financed with the proceeds of the bonds or derived from the exporter or exporting transaction financed, guaranteed, or insured with the proceeds of the bonds;

(2) exclusively from the income and receipts or other money derived from designated projects or development projects or other sources whether or not they are financed, insured, or guaranteed in whole or in part with the proceeds of the bonds; or

(3) from its income and receipts or other assets generally, or a designated part or parts of them.

* Sec. 7. AS 44.88 is amended by adding a new section to read:
Sec. 44.88.095. BONDING LIMITATIONS. (a) The authority may not

1 issue bonds in a 12-month period in an amount that exceeds
2 \$400,000,000.

3 (b) The authority may not issue revenue bonds, other than re-
4 funding bonds, to purchase a loan for a project under AS 44.88.155 -
5 44.88.159, to acquire a development project under AS 44.88.172 -
6 44.88.177 or to provide money to finance, guarantee, or insure an
7 exporting transaction under AS 44.88.300 - 44.88.390 in an amount
8 greater than \$50,000,000 during any 12-month period unless the issu-
9 ance is included separately in the estimates required in the report of
10 the authority under AS 44.38.210(b) and unless the legislature, by
11 law, approves the issuance.

12 (c) Before entering into a lease or other agreement under
13 AS 44.88.090(e) regarding a project for which the authority agrees to
14 issue bonds in an amount in excess of \$6,000,000, there must be filed
15 with the authority a certified copy of a resolution of the governing
16 body of the political subdivision of the state, if any, in which the
17 project is to be located, consenting to the location of the project.
18 The consent need only refer to the general nature of the project
19 ultimately to be acquired, as set out in a request of the proposed
20 project applicant. Before entering into a lease or other agreement
21 under AS 44.88.090(e) regarding a project, the authority shall find,
22 on the basis of all information reasonably available to it, that

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

26 (2) the project applicant is financially responsible;

27 (3) provision to meet increased demand upon public facili-
28 ties that might result from the project is reasonably assured; and

29 (4) the project will provide, or retain, employment reason-

1 ably related to the amount of the financing by the authority, con-
2 sidering the amount of investment per employee for comparable facil-
3 ities and other relevant factors.

4 (d) Before adopting a resolution approving a project to be
5 financed under AS 44.88.172 for which bonds must be issued, the au-
6 thority shall, on the basis of all information reasonably available to
7 it, make findings, with respect to the project, as described in
8 (c)(1) - (4) of this section, and also find that

9 (1) the project is economically and financially feasible
10 and able to produce revenue adequate to repay the bonds or loans with
11 which it is financed;

12 (2) the project complies with applicable law; and

13 (3) issuance of the bonds is not expected to adversely
14 affect the ability of the state or any political subdivision of the
15 state to market other bonds.

16 ✖ → (e) Before entering into an agreement to finance or to develop a
17 proposed project financed under AS 44.88.172 for which bonds must be
18 issued, the authority shall obtain the approval of each Regional
19 Resource Advisory Council appointed under AS 44.88.174 or municipality
20 in the area in which the proposed project is to be located. Approval
21 under this subsection must be evidenced by a certified copy of a
22 resolution of the council or of the governing body of the municipal-
23 ity. Before considering a resolution regarding the approval or re-
24 jection of the development or financing of a proposed project under
25 this subsection, a Regional Resource Advisory Council shall conduct a
26 public hearing in the region. If a proposed project is located in a
27 municipality, the governing body of the municipality shall conduct a
28 hearing on the proposed project.

29 ✖ → (f) Before entering into an agreement to finance or to develop a

1 proposed project financed under AS 44.88.172 for which bonds must be
2 issued, the authority shall compile and make available to the public a
3 document that summarizes the projected economic, social, and environ-
4 mental effects of the project; and, in conjunction with the Department
5 of Fish and Game, the Department of Natural Resources, the Department
6 of Environmental Conservation, and the Department of Labor, the au-
7 thority shall conduct a public hearing on the projected effects of the
8 project.

9 (g) Without prior legislative approval, the authority may not
10 issue bonds in an amount greater than \$10,000,000 to assist in the
11 financing of a development project under AS 44.88.172 - 44.88.177.

12 * Sec. 8. AS 44.88.095(g) is repealed and reenacted to read:

13 → (g) The authority may not issue bonds, other than refunding
14 bonds, without securing the prior approval of the legislature.

15 * Sec. 9. AS 44.88.105(a) is amended to read:

16 (a) For the purpose of securing one or more issues of its bonds,
17 the authority may establish one or more special funds, called "capital
18 reserve funds", and shall pay into those capital reserve funds the
19 proceeds of the sale of its bonds and other money which may be made
20 available to the authority from other sources for the purposes of the
21 capital reserve funds. A capital reserve fund may be established only
22 if the authority determines that the establishment of the fund would
23 enhance the marketability of the bonds [, AND IF THOSE COSTS OF A
24 PROJECT, AS DEFINED IN AS 44.88.900, WHICH ARE TO BE FINANCED WITH THE
25 PROCEEDS OF THE BONDS, DO NOT EXCEED \$10,000,000]. Money in a capital
26 reserve fund, except as provided in this section, may be used as
27 required only for (1) the payment of the principal of, and interest
28 on, bonds or of the sinking fund payments with respect to those bonds;
29 (2) the purchase or redemption of the bonds; or (3) the payment of a

1 redemption premium required to be paid when the bonds are redeemed
2 before maturity. However, money in a capital reserve fund may not be
3 withdrawn if the withdrawal would reduce the amount in the capital
4 reserve fund to less than the capital reserve fund requirement, except
5 for the purpose of making payment, when due, of principal, interest,
6 redemption premiums on the bonds, and sinking fund payments when other
7 money of the authority is not available for the payments. Income or
8 interest earned by, or increment to, a capital reserve fund, from the
9 investment of all or part of the fund, may be transferred by the
10 authority to other funds or accounts of the authority if the transfer
11 does not reduce the amount of the capital reserve fund below the
12 capital reserve fund requirement.

13 * Sec. 10. AS 44.88.105(d) is amended to read:

14 (d) With respect to a capital reserve fund created under this
15 section on or before January 1, 1989, the [THE] chairman of the au-
16 thority shall annually, no later than January 2, certify in writing to
17 the governor and the legislature the amount, if any, required to
18 restore the [A] capital reserve fund to the capital reserve fund
19 requirement. The legislature may appropriate to the authority the
20 amount certified by the chairman of the authority. The authority
21 shall deposit the amounts appropriated under this subsection during a
22 fiscal year in the proper capital reserve fund. Nothing in this
23 section creates a debt or liability of the state.

24 * Sec. 11. AS 44.88.155(b) is amended to read:

25 (b) The authority may establish in the enterprise development
26 account the [A SMALL ENTERPRISE LOAN ACCOUNT, A LOAN INSURANCE AC-
27 COUNT, AND OTHER] accounts it considers appropriate.

28 * Sec. 12. AS 44.88.155(c) is amended to read:

29 (c) Money and other assets of the enterprise development account

1 may be used to secure bonds of the authority issued to finance the
2 purchase of loans for projects [AND SHALL BE HELD AND INVESTED BY THE
3 AUTHORITY IN ACCORDANCE WITH AS 37.10.071] or shall be used to pur-
4 chase loans for projects.

5 * Sec. 13. AS 44.88.155(d) is amended to read:

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

11 (1) may not exceed

12 [(A)] \$10,000,000; [OR

13 (B)] \$500,000 IF THE LOAN IS PURCHASED UNDER AS 44.88.-
14 158;]

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

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

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

24 (5) shall be in the form and contain the terms and provi-
25 sions with respect to insurance, repairs, alterations, payment of
26 taxes and assessments, default reserves, delinquency charges, default
27 remedies, acceleration of maturity, secondary liens, and other matters
28 the authority prescribes;

29 (6) shall be secured as to repayment by a mortgage or other

1 security instrument in the manner the authority determines is feasible
2 to assure timely repayment under a loan agreement entered into with
3 the borrower;

4 (7) may not be made unless

5 (A) at least 20 [10] percent of the principal amount
6 of the loan is retained by the originator of the loan as long as
7 the loan is outstanding; or

8 (B) 100 percent of the principal amount of the loan is
9 guaranteed by the United States or an agency or instrumentality
10 of the United States;

11 (8) must be

12 (A) [AT LEAST PARTIALLY GUARANTEED BY THE UNITED
13 STATES OR AN AGENCY OR INSTRUMENTALITY OF THE UNITED STATES,
14 SUBJECT TO THE PROVISIONS OF AS 44.88.158;

15 (B)] financed from the proceeds of bonds; or

16 (B) [(C)] expected by the authority to be financed
17 from the proceeds of bonds.

18 * Sec. 14. AS 44.88.165 is repealed and reenacted to read:

19 Sec. 44.88.165. DELINQUENT LOANS. The authority shall adopt
20 regulations to describe the circumstances under which it will discon-
21 tinue purchasing loans from a financial institution because of exces-
22 sive delinquencies among the loans previously purchased by the author-
23 ity from the financial institution. In adopting the regulations, the
24 authority must consider the authority's delinquency experience with
25 loans it purchased from all financial institutions. The authority may
26 include in the regulations other remedies it considers appropriate as
27 alternatives to the discontinuance of purchasing loans from the finan-
28 cial institution.

29 * Sec. 15. AS 44.88.172(a) is amended to read:

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(a) The economic development account is established in the revolving fund. The economic development account consists of money or assets appropriated, loaned, or transferred to the authority for deposit in the account [,] and other money or assets deposited in the account by the authority. While money is on deposit in the economic development account, the money [THE ACCOUNT] may be used only to finance, acquire, manage, and operate development projects that the authority intends to own and operate. The term "operate" includes operation directly by the authority [,] or by an agent of the authority.

* Sec. 16. AS 44.88.585(b) is amended to read:

* (b) The authority may provide a guarantee from the fund for up to 80 [70] percent of a loan that qualifies under AS 44.88.500 - 44.88.599. The ratio of the guarantee to the outstanding principal of the loan may not increase over the term of the loan.

* Sec. 17. AS 44.88.545 is amended to read:

* Sec. 44.88.545. LIMITATIONS OF GUARANTEES WITH RESPECT TO BORROWERS. The authority may not provide a guarantee
(1) [A LOAN:] of more than \$1,000,000;
(2) [LOANS] to an individual borrower that cumulatively exceeds [EXCEED] \$1,000,000 of guaranteed indebtedness.

* Sec. 18 AS 44.88.560 is amended to read:

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

- (1) adopt regulations to implement AS 44.88.500 - 44.88.599;
- (2) establish terms and conditions for loan guarantees and refinancing agreements subject to the requirements of AS 44.88.500 - 44.88.599;
- (3) make and execute contracts and other instruments to

1 implement AS 44.88.500 - 44.88.599;

2 (4) charge

3 (A) [(i)] one percent of the amount guaranteed for the
4 service it provides under AS 44.88.500 - 44.88.599; and

5 (B) [(ii)] any other reasonable fee that the authority
6 may establish by regulation;

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

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

12 * → (7) to the extent the authority considers it to be in its
13 best interest to do so, use money in the business assistance fund to
14 pay expenses relating to the liquidation of collateral securing loans
15 guaranteed by the business assistance fund.

16 * Sec. 19. AS 44.88.900(4) is repealed and reenacted to read:

17 (4) "development project" has the meaning given to "proj-
18 ect" in (9)(A) of this section;

19 * Sec. 20. AS 44.88.900(9) is amended to read:

20 (9) "project" means

21 (A) a plant or facility used or intended for use

22 [(i)] in connection with making, processing, pre-
23 paring, transporting, or producing in any manner, goods,
24 products, or substances of any kind or nature or in connec-
25 tion with developing or utilizing a natural resource, or
26 extracting, smelting, transporting, converting, assembling,
27 or producing in any manner, minerals, raw materials, chemi-
28 cals, compounds, alloys, fiber, commodities and materials,
29 products, or substances of any kind or nature;

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[(ii) AS AN INDUSTRIAL PARK; IN CONNECTION WITH TRANSPORTATION; FOR THE PREVENTION, LIMITATION OR CONTROL OF POLLUTION; FOR THE DISPOSAL OF SEWAGE OR SOLID WASTE; FOR THE LOCAL FURNISHING OF GAS; FOR THE FURNISHING OF WATER; AS OR IN CONNECTION WITH MASS COMMUTING VEHICLES; FOR LOCAL DISTRICT HEATING OR COOLING; AS A PARKING FACILITY; OR AS A STORAGE OR TRAINING FACILITY DIRECTLY RELATED TO A PLANT OR FACILITY DESCRIBED IN THIS PARAGRAPH;]

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

(C) commercial activity by a small enterprise;

* Sec. 21. AS 44.88.090(g), 44.88.090(i), 44.88.105(e), 44.88.105(g), 44.88.157, 44.88.158, 44.88.159(c), 44.88.160, 44.88.172(b), 44.88.172(c), 44.88.175, 44.88.176, 44.88.212(a), and 44.88.900(3) are repealed.

* Sec. 22. AS 44.88.095(b) is repealed.

* Sec. 23. Sections 8 and 22 of this Act take effect January 1, 1991.

* Sec. 24. Sections 1 - 7 and 9 - 21 of this Act take effect immediately under AS 01.10.070(c).

400 gum
From 7V/T-80/1 (House Floor)

C.S. FOR HOUSE BILL NO. 123 (JUDICIARY)

Section 1. 44.88.010(a)(9):

This section removes dated language that no longer conforms to the Federal Tax Code. The deleted language was litany from the Tax Code which was removed by the 1986 Tax Reform Act.

Section 2. 44.88.010(c):

This section inserts "municipal" to correct an oversight. Previous language stated federal and state but made no mention of local governments. Local governments have a significant role to play in economic development and this change recognizes that.

Section 3. 44.88.060:

The two additions in this section establish the scope of the revolving fund. The revolving fund is currently made up of two separate accounts: the Enterprise Development Account where loans are originated and financed through banks, and the Economic Development Account designated for major development projects. The additions allow the Authority to create additional accounts within the unrestricted accounts of the revolving fund, and transfer monies between accounts subject to bond-holder agreements. The investment powers are moved into the revolving fund, allowing it to function as the general fund and be invested in accordance with Title 37.

Section 4. 44.88.080

²⁵
~~(14)~~: Provides for cooperation between the authority and DOT/PIA on planning development of the international airports. The addition is technical drafting style.

Section 5. 44.88.082:

This section prohibits joint-ownership of a project. The Authority may still finance or may own certain types of facilities but may not joint-venture such facilities.

Section 6. 44.88.090(a):

Technical clean up language. Conforming.

Section 7. 44.88.095:

This is a new section which incorporates all the limitations into one section. With the exception of (f) and (g), all of these provisions are moved from other sections of 44.88 to this "limitation section".

44.88.095(e) was amended slightly by deleting the \$10 million cap for municipal approval. It was felt in committee that any project the Authority owned should be subject to municipal approval.

44.88.095(f) is new language requiring a public hearing in conjunction with the State agencies involved in permitting a project.

Section 8. 44.88.095(g):

Provides that the Authority may continue to issue bonds until January 1, 1991 by the delayed effective date section at the end of the bill.

Section 9. 44.88.105(a):

Section 10. 44.88.105(d):

The deletion in this section eliminates the ceiling on bonds regarding the establishment of capital reserve funds. It also eliminates the State's moral obligation to supplement a capital reserve fund created after January 1, 1989 should it ever fall below the required amount.

With this elimination of moral obligation, bonds of the Authority issued after January 1, 1989, will stand on their own and do not contingently obligate the State in any form whatsoever. Since 1981 all bonds have had the benefit of the State's moral obligation. It is now appropriate that the Authority stand on its own financially with respect to future bond issues. Of course, the Authority's bonds that are already outstanding and were issued with the moral obligation will continue to have that benefit.

Section 11. 44.88.155(b):

Drafting style

Section 12. 44.88.155(c):

Conforming change. The deletion in this section is in conjunction with the changes in Section 3 and simply moves the investment powers limitation into the revolving fund.

Section 13. 44.88.155(d):

The deletion will allow the Authority to become active in purchasing the guaranteed portion of federal SBA loans from banks. The revised investment statute, AS. 37.10.071, will permit the Authority to invest its funds in the guaranteed portion of federal SBA loans once the program restrictions are removed from statute. This flexibility is essential. The SBA modifies its program periodically, and casting the program in statute does not provide enough flexibility to maintain a market presence in these guarantees.

The second change deletes 10% and inserts 20%. This will require banks to hold a larger portion of the loans they sell the Authority and hopefully foster prudent underwriting on the banks part.

The third deletion is conforming and deals with removing the SBA language which will allow the Authority to participate in purchasing the guaranteed portion of SBA loans through its investment powers.

Section 14. 44.88.165:

The statute regarding loan delinquencies is repealed and reenacted. It allows the Authority to regulate conditions whereby it may discontinue purchase of loan participations from a financial institution because of excessive loan delinquencies. This revision is necessary to allow more financial institutions to participate in the Authority's loan programs.

Section 15. 44.88.172(a):

Technical and style change.

Section 16. 44.88.545:

585(b): changes loan guaranty from 70% to 80%.

Section 17. 44.88.545:

Provides a change to the Loan Guaranty Program whereby the guaranty will cover \$1 million or less, as opposed to guaranteeing a loan of \$1 million or less.

Section ¹⁶~~17~~. 44.88.560:

The Authority is given the power to pay liquidation costs of collateral securing loans that are guaranteed by this program when the Authority considers it to be in its best interest to do so.

Section ¹⁹~~18~~. 44.88.900(4):

This section clarifies the definition of "development" project by referring to the resource development oriented plants and facilities described in the definition of "project," including transportation related facilities as set forth in Section 19.

Section 19. 44.88.900(9):

There is one addition and deletion in this section. The addition includes certain transportation facilities in the definition of a project, while the deletion eliminates the obsolete language from the tax code prior to the 1936 Tax Reform Act.

PROPOSED AMENDMENTS

Before entering into a lease or other agreement regarding a project, the authority shall find that

(1) the project is in the best interest of the state based on analysis of the social, economic, and environmental impacts of the proposed project. The analysis shall include

- a. the economic feasibility of the proposed project, including potential short-term and long-term costs to the state;
- b. consideration of alternatives;
- c. measures that may reduce or eliminate adverse impacts;
- d. statement of irreversible and irretrievable commitments of natural resources;

The authority shall issue a draft best interest finding in writing and publish notice of the finding. Copies of the draft finding, including the analysis under () and the comments and views of the state agencies, shall be made available to the public. The public shall have 90 days from publication of the notice of the finding under this section to comment on the draft best interest finding.

After reviewing and considering the public comments received under this section, the authority shall issue a final best interest finding and give public notice of the decision.

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one @ \$10 mil for an
project investment log
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Effect of Repealer's in HB 123

AS 44.88.090(g) - The language in this section is included in Section 7 of the new bill, except that the issuance of bonds in any 12-month period is now limited to "\$400,000,000" instead of "the amount authorized to be issued during the preceding 12-month period, unless a different amount is authorized by the legislature."

AS 44.88.090(i) - NO WAY - this deletes Rick's amendment to the law last year, that would require the authority to obtain legislative approval before issuing bonds in any amount.

AS 44.88.105(e) - This section does not allow the Authority to establish capital reserve funds in excess of a \$1,000,000 unless 20% is retained by a federal or state chartered financial institution.

AS 44.88.105(g) - This section allows the Authority to waive the requirement that bonds do not exceed \$10,000,000

AS 44.88.157 - This section establishes a loan insurance account and allows the Authority to provide insurance on mortgage loans and other loans purchased by the Authority.

AS 44.88.158 - This section sets up a small business enterprise loan account and allows the Authority to participate in the purchase loans for small businesses and to purchase the guaranteed portion of a loan made to a small business enterprise.

AS 44.88.159(c) - This subsection relates to the small business enterprise loan account. It sets the interest rate equal to the most recent index of Aa corporate bond yield averages.

AS 88.44.160 - This section is include in Section 7 (c) of the new bill, except that language referencing insurance is deleted. Also, language stating that the "scope of the project is sufficient to provide a reasonable expectation of a benefit to the economy of the state" has been deleted.

AS 88.44.172(b) - If a project is financed through use of the economic development account, the Authority may not use assets of the enterprise development account to assist in the financing of the project.

AS 88.44.172(c) - This section states that the Authority may not issue bonds for the economic development account without prior legislative approval. This is re-enacted in the bill as needing legislative approval on bonds over \$10,000,000.

AS 88.44.175 - This section sets up the requirements that need to be met before a project is approved for Authority participation. The new section in the bill Section 7 (e) does not address "the scope of the project to provide a reasonable expectation of a benefit to the economy of the state."; "the project is in compliance with applicable law"; and the issuance bonds is not expected to adversely affect the ability of the state or any political subdivision of the state to market other bonds."

AS 44.88.176 - This is in the new Section 7 of the bill

AS 44.88.

HOUSE COMMITTEE REPORT

715

(7)

Date Referred: January 27, 1989

FURTHER REFERRALS: JUDICIARY
FINANCE

Date of Committee Action: _____

The LABOR & COMMERCE Committee recommends that:

HB 123

HOUSE BILL NO. 123 [AK INDUSTRIAL DEVELOP. & EXPORT AUTHORITY]
"An Act relating to the Alaska Industrial Development and Export Authority;
and providing for an effective date."

[] be replaced with CS HB 123 (LAC) [] the same title
[] have attached amendment(s) [] a new title

[] have attached amendment(s)

- [] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [] fiscal impact
- [] zero fiscal note
- [] zero with analysis

APPROVES PREVIOUS:

- [] fiscal note(s) published:
- [] zero fiscal notes(s) ^{analysis} published:
CEO 1/27/89

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Mark Boyer BOYER
great industrial & resource development tool!

David Duley NORFOLK DOWLEY
Mark Boyer No Rec GRUENKE
John S. ... No Rec SPORN HOLTZ
Brew ... No Rec LEMAN

David Duley
Chairman's signature

February 17, 1989

Rep. Dave Donley
Alaska State Legislature
3111 C Street
Anchorage, AK 99503

Re: HB 123

Dear Rep. Donley:

The Alaska Legislature passed the Business Assistance Program Statute last year for implementation through the Alaska Industrial Development and Export Authority. Even though the legislation gave a good framework of a program to deal with, we feel that the regulatory process through which the program has been implemented created a program which is not being used by the banking system for business development. In particular, of the indicated items below, the first represents the major regulatory curtailment of the program while the remaining represent legislative problems. I have attempted to place these in order of importance.

1. Under the regulations the payment of the guaranty is made based on the principal balance at the time of liquidation and does not cover liquidation costs and protective advances in handling the defaulted loan. Our recommendation would be to change the regulations to cover liquidation, carrying costs, and protective advances in the handling of collateral. This is universally the case in participation loans, other government guaranteed programs, and AIDEA's other loan programs. Since AIDEA has the ability to approve a liquidation of collateral plan and is not required to pay the guaranty until such time as liquidation takes place, they could in fact stall the liquidation and the sale of the assets for many years, which would substantially increase or create prohibitive liquidation and protective advance expenses to the banks. We believe that this regulation in itself has destroyed the validity of the program.
2. We believe the guaranty amount should be increased from 70% to 90% to be consistent with the AIDEA umbrella loan program. For instance, under AIDEA's umbrella loan program, AIDEA effectively buys a 90% participation in loans rather than a 70% participation in the guaranteed loan program. The bond holders are providing the capital in the umbrella program as the Alaska banking system would under the guarantee program. It seems logical that they be consistent in their credit exposure from program to program. It should be noted that we understand that AIDEA

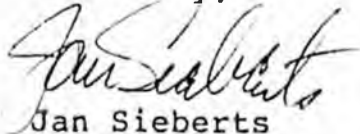
Rep. Dave Donley
February 17, 1989
Page Two

is requesting legislation to reduce their participation amount to 80% in the umbrella loan program. If that is the case, we would think it reasonable to increase the guaranteed amount to 80% to be consistent. As a matter of fact, the federal SBA program will guarantee 90% of some loans with the most common guaranty at 85%.

3. The million dollar cap on the loan should be removed. As an example, a fish processing plant may require a loan of \$2,000,000 and we would like to have the opportunity to request a 35% guaranty from AIDEA. It has been our experience in larger complex projects requiring long-term capital that a variety of participants are brought together with different regulations to make a transaction work. We really think the limitation on a loan of \$1,000,000 was a drafting mistake in the legislation.
4. The loan guaranteed amount should be increased to \$1,000,000 as we believe was the intent of the original lawmakers. The law in its final form limited the amount of the loan to \$1,000,000 with a 70% guaranty or a \$700,000 maximum guaranty. As a matter of fact, since the implementation of the law the federal Small Business Administration's loan guaranty program has increased their guaranty to the amount of \$750,000 from \$500,000. The federal program is excellent, but does not work for all borrowers.

In my opinion, these are the major impediments to the AIDEA Business Assistance Program. Feel free to call upon me for any questions you may have.

Sincerely,



Jan Sieberts
Senior Vice President

lkr

cc: Bob Gray
Dick Hall

A M E N D M E N T

OFFERED IN THE HOUSE

BY LEMAN

TO: HB 123

Page 1, line 21 through line 24:

Delete "to enter into partnership, joint venture, and other agreements with other persons with respect to the ownership, operation, or construction of facilities, and"

Page 2, line 11 through line 12:

Delete ", or through joint venture, partnership, or other agreements with,"

Page 3, line 4 through line 7:

Delete all material.

Renumber the following bill sections accordingly.

Page 3, line 9 through line 11:

Delete ", and to enter into agreements with other persons for shared ownership, operation, or construction of projects,"

Page 3, line 20:

Delete "or an interest in a project"

Page 9, line ²⁹ ~~6~~ through line ¹⁰ ~~11~~:

Delete "either solely or by partnership, joint venture, or other agreement with another person"

Rep M. Davis

A M E N D M E N T

REFERRED IN THE HOUSE

TO: CSHB 123(L&C)

10, following line 2:

Insert a new bill section to read:

"* Sec. 15. AS 44.88 is amended by adding a new section to read:

Sec. 44.88.215. REQUIREMENTS BEFORE APPROVAL OF PROJECT. Before entering into a lease or other agreement regarding a project under this chapter, the authority shall

(1) make a written draft best interest finding that the project is in the best interest of the state based on an analysis of the social, economic, and environmental effects of the proposed project; as part of the analysis the authority shall request comments from the appropriate state agencies; the analysis must include

(A) the economic feasibility of the project, including potential short-term and long-term costs to the state;

(B) a consideration of alternatives to the project;

(C) a statement of the measures that may reduce or eliminate adverse effects;

(D) a statement of the irreversible and irretrievable commitments of natural resources required for the project;

(2) publish notice of the draft best interest finding made under (1) of this section; copies of the draft finding, including the analysis under (1) of this section and the comments and views provided

by the state agencies, shall be made available to the public; the public shall have 90 days from the publication of the notice of the draft finding under this section to comment;

(3) after reviewing and considering the public comments received under (2) of this section, issue a final best interest finding and give public notice of the decision."

renumber the following bill sections accordingly.

PROPOSED AMENDMENTS
TO CSHB 123 (JUD)

1. Page 1, line 10, following "projects,":
Delete "and"
2. Page 1, line 12, following "approval":
Insert "and extending the authority to issue bonds without prior legislative approval until January 1, 1991."
3. Page 3, line 10 (Sec. 5)
 - a. After word "persons," delete "including" insert "except for"
 - b. After word "ownership" insert "shared"
 - c. After word "or" insert "shared"
4. Page 6, following line 6:
Insert a new subsection to read:
"(g) After January 1, 1991, the authority may not issue bonds, other than refunding bonds, without securing the prior approval of the Legislature."

go0799hH
Bannister
4/24/89

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 123 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Industrial Development
7 and Export Authority, including prohibiting the au-
8 thority from entering into agreements with other
9 persons for shared ownership, operation, or construc-
10 tion of projects, and restricting the authority's
11 power to issue bonds under certain conditions without
12 legislative approval; and providing for an effective
13 date."

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

15 * Section 1. AS 44.88.010(a)(9) is amended to read:

16 (9) the achievement of the goal of full employment, and of
17 establishment and continuing operation and development of industrial,
18 manufacturing, export, small business, and business enterprises in the
19 state [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR TRANSPORTATION,
20 FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL, FACILITIES FOR
21 THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER, FACILITIES FOR
22 INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES FOR LOCAL DIS-
23 TRICT HEATING OR COOLING, PARKING FACILITIES, OR A STORAGE OR TRAINING
24 FACILITY RELATING TO A PLANT OR FACILITY,] will be accelerated and
25 facilitated by the creation of an instrumentality of the state with
26 powers to incur debt, to own and operate facilities, to make and
27 insure loans to finance, and to assist private lenders to make loans
28 to finance. the establishment, operation, and development of indus-
29 trial, manufacturing, export, small business, and business enterprises