

27-LS0290L

Kirsch

4/14/12

**HOUSE CS FOR CS FOR SS FOR SENATE BILL NO. 25(L&C)****IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-SEVENTH LEGISLATURE - SECOND SESSION****BY THE HOUSE LABOR AND COMMERCE COMMITTEE****Offered:****Referred:****Sponsor(s): SENATORS MCGUIRE, Davis, Giessel, Menard, Wagoner, Dyson, Huggins, Ellis, Thomas, Meyer, Stedman, Wielechowski, Egan, Hoffman****REPRESENTATIVES Petersen, Pruitt, Millett****A BILL****FOR AN ACT ENTITLED**

1 **"An Act establishing the sustainable energy transmission and supply development**  
2 **program in the Alaska Industrial Development and Export Authority; and relating to**  
3 **the interest rates of the Alaska Industrial Development and Export Authority."**

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

5 **\* Section 1.** The uncoded law of the State of Alaska is amended by adding a new section  
6 to read:

7 **SHORT TITLE.** This Act may be known as the Alaska Sustainable Strategy for  
8 **Energy Transmission and Supply (ASSETS) Act.**

9 **\* Sec. 2.** AS 44.88.010(a) is amended to read:

10 (a) The legislature finds, determines, and declares that

11 (1) there exist areas of the state in which seasonal and nonseasonal  
12 unemployment exist;

13 (2) this unemployment is a serious menace to the health, safety, and  
14 general welfare, not only to the people in those areas, but also to the people of the

1 entire state;

2 (3) the state lacks the basic manufacturing, industrial, energy, export,  
3 small business, and business enterprises and the other facilities referred to in this  
4 subsection necessary to permit adequate development of its natural resources and the  
5 balanced growth of its economy;

6 (4) the establishment and expansion of industrial, manufacturing,  
7 energy, export, small business, and business enterprises in the state [ALASKA] and  
8 the other facilities referred to in this subsection are essential to the development of the  
9 natural resources and the long-term economic growth of the state, and will directly and  
10 indirectly alleviate unemployment in the state;

11 (5) the expansion of export trade is vital to the health and growth of the  
12 state's economy;

13 (6) many state [ALASKA] businesses could benefit from additional  
14 financial and technical assistance with respect to the exportation of their products and  
15 services;

16 (7) the [UNITED STATES] Export-Import Bank of the United States  
17 has been mandated by the Export-Import Bank Act Amendments of 1983 to provide  
18 technical assistance and export financing support to small businesses in cooperation  
19 with state export finance agencies;

20 (8) Alaska-based exporters can be effectively assisted through the  
21 establishment, as part of the Alaska Industrial Development and Export Authority, of  
22 an export financing program designed to work with the [U.S.] Export-Import Bank of  
23 the United States and other federal, state, and private institutions;

24 (9) the achievement of the goal of full employment, and of  
25 establishment and continuing operation and development of industrial, manufacturing,  
26 energy, export, small business, and business enterprises in the state will be accelerated  
27 and facilitated by the creation of an instrumentality of the state with powers to incur  
28 debt, to own and operate facilities, to make and insure loans to finance and to assist  
29 private lenders to make loans to finance the establishment, operation, and development  
30 of industrial, manufacturing, energy, export, small business, and business enterprises;

31 (10) it is in the public interest to promote the prosperity and general

1 welfare of all citizens of the state by

2 (A) stimulating commercial and industrial growth and  
3 expansion by encouraging an increase of private investment by banks,  
4 investment houses, insurance companies, and other financial institutions,  
5 including pension and retirement funds, to help satisfy the need for economic  
6 expansion;

7 (B) encouraging the production of raw materials and goods for  
8 export, the expansion of exports and raw materials and goods, and the  
9 rendering of services abroad by residents of the state through the establishment  
10 of a program that provides financial assistance in cooperation with federal,  
11 state, and private institutions for these purposes in the form provided in this  
12 chapter;

13 (C) creating the Alaska Industrial Development and Export  
14 Authority with the powers necessary to accomplish the objectives stated in this  
15 paragraph, including the power to issue taxable and tax-exempt bonds and to  
16 acquire ownership interests in projects as provided in this chapter;

17 (11) it is in the state's interest to import private capital to create new  
18 economic activity which would not otherwise take place in the state.

19 \* **Sec. 3.** AS 44.88.010(b) is amended to read:

20 (b) It is declared to be the policy of the state, in the interests of promoting the  
21 health, security, and general welfare of all the people of the state, and a public  
22 purpose, to increase job opportunities and otherwise to encourage the economic  
23 growth of the state, including the development of its natural resources, through the  
24 establishment and expansion of manufacturing, industrial, energy, export, small  
25 business, and business enterprises and the other facilities referred to in (a) of this  
26 section by creating the Alaska Industrial Development and Export Authority with the  
27 powers, duties, and functions as provided in this chapter.

28 \* **Sec. 4.** AS 44.88.155(d) is amended to read:

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



1 (1) may not exceed \$20,000,000; however, in the case of a loan  
2 participation for qualified energy development [A POWER TRANSMISSION  
3 INTERTIE], the loan participation may exceed \$20,000,000 with legislative approval;

4 (2) may not be purchased unless

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

9 (B) at least 10 percent of the principal amount of the loan is  
10 retained by the loan originator, or the loan is for financing improvements in  
11 energy efficiency;

12 (3) may not be purchased if the loan to be purchased exceeds 75  
13 percent of the appraised value of the collateral offered as security for the loan unless  
14 the amount of the loan in excess of this limit is federally insured or guaranteed or is  
15 insured by a qualified mortgage insurance company, except that the loan to be  
16 purchased under this paragraph may not exceed the total of loan proceeds used to  
17 refinance an existing debt plus the cost of new construction, expansion, or acquisition  
18 unless the proceeds from the additional amounts of the loan to be purchased are  
19 restricted to uses approved by the authority to finance commercial activity in the state  
20 by a business enterprise;

21 (4) may not be purchased if the participation in the loan to be  
22 purchased is for a term longer than the following, except that a loan under (A) or (C)  
23 of this paragraph may not have a term longer than three-quarters of the authority's  
24 estimate of the life of the collateral offered as security for the loan:

25 (A) 40 years from the date the loan is made in the case of a  
26 loan participation for a project described in AS 44.88.900(9)(E);

27 (B) 50 years from the date the loan is made in the case of a loan  
28 participation for qualified energy development [A POWER  
29 TRANSMISSION INTERTIE];

30 (C) 25 years from the date the loan is made in the case of a loan  
31 participation for other projects;

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

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

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

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

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

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

17 (7) may be made only if the participation in the loan to be purchased is  
18 secured as to repayment by a mortgage or other security instrument in the manner the  
19 authority determines is feasible to assure timely repayment under the loan documents  
20 entered into with the borrower.

21 \* Sec. 5. AS 44.88.155(g) is amended to read:

22 (g) Notwithstanding any other provision of this section, the authority may  
23 waive or modify the requirements of this section as it considers appropriate and  
24 prudent in order to finance a project if the authority intends to own the project or in  
25 order to finance qualified energy development [A POWER TRANSMISSION  
26 INTERTIE PROJECT].

27 \* Sec. 6. AS 44.88.159(a) is amended to read:

28 (a) The interest rate on a loan purchased from the proceeds of tax-exempt  
29 bonds secured by the sustainable energy transmission and supply development  
30 fund (AS 44.88.710) under AS 44.88.700 - 44.88.740 or a loan participation  
31 purchased from the proceeds of tax-exempt bonds or expected by the authority to be

1 purchased from the proceeds of tax-exempt bonds under AS 44.88.155 shall be  
2 determined under the regulations adopted by the authority under  
3 AS 44.88.085(g)(2)(C) and shall be not less than the cost of funds to the authority. In  
4 this subsection, "cost of funds" means the true interest cost expressed as a rate on tax-  
5 exempt bonds of the authority plus an additional percentage as determined by the  
6 authority to represent the allocable expenses of operation, costs of issuance, and loan  
7 servicing costs.

8 \* Sec. 7. AS 44.88.159(b) is amended to read:

9 (b) The interest rate on a loan purchased from the proceeds of taxable  
10 bonds secured by the sustainable energy transmission and supply development  
11 fund (AS 44.88.710) under AS 44.88.700 - 44.88.740 or a loan participation  
12 purchased from the proceeds of taxable bonds under AS 44.88.155 or expected by the  
13 authority to be purchased from the proceeds of taxable bonds under AS 44.88.155  
14 shall be determined under the regulations adopted by the authority under  
15 AS 44.88.085(g)(2)(C) and shall be not less than the cost of funds to the authority. In  
16 this subsection, "cost of funds" means the true interest cost expressed as a rate on  
17 taxable bonds, plus an additional percentage as determined by the authority to  
18 represent the allocable expenses of operation, costs of issuance, and loan servicing  
19 costs.

20 \* Sec. 8. AS 44.88.159(d) is amended to read:

21 (d) The provisions of this section apply only to a loan participation purchased  
22 under AS 44.88.155 - 44.88.159 or to a loan made under AS 44.88.700 - 44.88.740.

23 \* Sec. 9. AS 44.88.159(e) is amended to read:

24 (e) The interest rate on a loan made under AS 44.88.700 - 44.88.740 or a  
25 loan participation purchased directly from the assets of the authority shall be  
26 determined under the regulations adopted by the authority under  
27 AS 44.88.085(g)(2)(C) and shall be not less than the total of a percentage as  
28 determined by the authority to represent the allocable expenses of operation and costs  
29 of loan origination and servicing, plus the cost of funds. In this subsection,

30 (1) "comparable financial security" means a type or category of  
31 financial security the authority identifies in the regulations adopted by the authority



under AS 44.88.085(g)(2)(C) that has a term and financial conditions comparable to the term and financial conditions of a loan participation or a loan made under AS 44.88.700 - 44.88.740 and for which a regularly published, nationally recognized market index is available;

(2) "cost of funds" means the earnings, expressed as an annual interest rate, the authority would receive on a comparable financial security, and, for a loan participation or a loan made under AS 44.88.700 - 44.88.740 with a fixed interest rate, the cost of funds must equal or exceed the minimum interest rate;

(3) "minimum interest rate" means the five-year return on investment funds of the authority, expressed as an annual interest rate, achieved by all internal and external investment managers of the authority combined.

\* Sec. 10. AS 44.88.159(f) is amended to read:

(f) In determining an interest rate under the regulations adopted by the authority under AS 44.88.085(g)(2)(C), the authority may determine to disregard the minimum interest rate required under (a), (b), or (e) of this section for a loan participation purchased by the authority or a loan made under AS 44.88.700 - 44.88.740 to resolve lending limits or reserve restrictions imposed on the financial institution and may instead determine to retain the interest rate existing at the time the authority makes the loan or purchases the authority's loan participation [A PORTION OF THE LOAN].

\* Sec. 11. AS 44.88.159(g) is amended to read:

(g) The authority may, in the regulations adopted by the authority under AS 44.88.085(g)(2)(C), establish a program to pay to borrowers of loan participations determined by the authority to meet sufficient job creation, rural development, renewable energy development, or other economic development criteria incentive rate rebates of not more than one percent of the interest rate charged on the authority's portion of a loan participation. The following standards apply to the program:

(1) the payment of an incentive rate rebate may reduce the interest rate to a rate that is less than the minimum interest rate required under (a), (b), or (e) of this section;

(2) the authority may not commit to pay an incentive rate rebate for a

1 proposed loan participation if the total of the amount of the proposed loan  
2 participation plus the combined outstanding balance of all loan participations for  
3 which the authority has committed to pay incentive rate rebates would exceed five  
4 percent of the total of the amount of the proposed loan participation plus the combined  
5 outstanding balance of all loan participations of the authority;

6 (3) an incentive rate rebate may not accrue for more than five years  
7 after the date the loan participation is purchased;

8 (4) the authority may establish a separate account for the incentive rate  
9 rebate program.

10 \* **Sec. 12.** AS 44.88 is amended by adding new sections to read:

11 **Article 7A. Sustainable Energy Transmission and Supply.**

12 **Sec. 44.88.700. Sustainable energy transmission and supply development**  
13 **program.** The sustainable energy transmission and supply development program is  
14 created in the authority to promote and provide financing for qualified energy  
15 development in the state to alleviate unemployment and contribute to the state's  
16 economic welfare, economic diversity, and economic development.

17 **Sec. 44.88.710. Alaska Industrial Development and Export Authority**  
18 **sustainable energy transmission and supply development fund.** The Alaska  
19 Industrial Development and Export Authority sustainable energy transmission and  
20 supply development fund is established in the authority. The development fund  
21 consists of appropriations made to the development fund by the legislature, money or  
22 other assets transferred to the development fund by the authority, and unrestricted loan  
23 repayments, interest, or other income earned on loans, investments, or assets of the  
24 development fund. The development fund is not an account in the revolving loan fund  
25 established in AS 44.88.060, and the authority shall account for the development fund  
26 separately from the revolving fund. The authority may create additional accounts in  
27 the development fund. Subject to agreements made with the holders of the authority's  
28 bonds or with other persons, the authority may transfer amounts in an account in the  
29 development fund to another account in the development fund. Amounts deposited in  
30 the development fund may be pledged to the payment of bonds of the authority or  
31 expended for the purposes of AS 44.88.700 - 44.88.740. The authority has the powers



1 and responsibilities established in AS 37.10.071 with respect to the investment of  
2 amounts held in the development fund.

3 **Sec. 44.88.720. Use of fund balance.** Subject to the requirements of  
4 AS 44.88.710 - 44.88.740, the authority may use money in the Alaska Industrial  
5 Development and Export Authority sustainable energy transmission and supply  
6 development fund to assist in the construction, improvement, rehabilitation, and  
7 expansion of qualified energy development.

8 **Sec. 44.88.730. Qualified energy development; powers and duties of the**  
9 **authority.** (a) Subject to the limitations of AS 44.88.740, for qualified energy  
10 development, the authority may

11 (1) use the Alaska Industrial Development and Export Authority  
12 sustainable energy transmission and supply development fund to finance qualified  
13 energy development, insure project obligations, guarantee loans or bonds, and  
14 establish reserves;

15 (2) acquire real or personal property by purchase, transfer, or  
16 foreclosure when the acquisition is necessary to protect the authority's interest in  
17 financing;

18 (3) defer principal payments or capitalize interest on qualified energy  
19 development financing;

20 (4) subject to AS 36.30.085(e), enter into lease agreements, sales-  
21 lease-back agreements, build-operate-transfer, and operate-transfer agreements, or any  
22 similar project financing agreement for a qualified energy development;

23 (5) enter into agreements with government entities for the transfer and  
24 control of infrastructure, facilities, rights-of-way, and studies;

25 (6) contract for services with a professional advisor, including an  
26 attorney, bond counsel, engineer, or other technical expert necessary to fulfill the  
27 purposes of the program;

28 (7) subject to AS 44.88.090, borrow money and issue bonds; and

29 (8) pay off the principal of and interest on bonds issued by a  
30 municipality to acquire, construct, improve, or equip a public utility if the municipality  
31 continues to pay the authority the bond payments due under the terms of the bonds; the

1 authority shall retain the payments from the municipality in a sinking fund, and the  
2 municipality may apply to use the funds for qualified energy development.

3 (b) The authority shall adopt regulations to implement AS 44.88.700 -  
4 44.88.740, including

5 (1) an application process for acquiring financing under this section;

6 (2) qualifications for qualified energy development projects applying  
7 for financing under this section; and

8 (3) fiscal controls and accounting procedures for the development  
9 fund.

10 **Sec. 44.88.740. Limitations on financing.** (a) Unless the authority has  
11 obtained legislative approval by law, the authority may not finance or participate in  
12 financing of

13 (1) more than one-third of the capital cost of qualified energy  
14 development; or

15 (2) a loan guarantee that exceeds \$20,000,000.

16 (b) Financing under AS 44.88.730 is limited to the life of qualified energy  
17 development, which may not be more than

18 (1) 30 years; or

19 (2) 50 years for a transmission line or hydroelectric qualified energy  
20 development.

21 \* **Sec. 13.** AS 44.88.900 is amended by adding new paragraphs to read:

22 (15) "development fund" means the sustainable energy transmission  
23 and supply development fund created in AS 44.88.710;

24 (16) "qualified energy development" means a project in the state that  
25 involves

26 (A) transmission, generation, conservation, storage, or  
27 distribution of heat or electricity;

28 (B) liquefaction, regasification, distribution, storage, or use of  
29 natural gas except a natural gas pipeline project for transporting natural gas  
30 from the North Slope to market;

31 (C) distribution or storage of refined petroleum products.

1     \* **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3             **REVISOR'S INSTRUCTION.** References to "this chapter" in AS 44.88 apply to sec.  
4 12 of this Act and so should not be changed.