

27-LS0290\U  
Kirsch  
4/10/12

**CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 25(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATORS MCGUIRE, Davis, Giessel, Menard, Wagoner, Dyson, Huggins, Ellis, Thomas

**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; relating to the  
3 interest rates of the Alaska Industrial Development and Export Authority and taxes  
4 paid on interests in property owned by the Alaska Industrial Development and Export  
5 Authority."

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

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

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

11 \* **Sec. 2.** The uncoded law of the State of Alaska is amended by adding a new section to  
12 read:

13 LEGISLATIVE INTENT. The legislature intends to appropriate, during fiscal years

2013 and 2014, amounts that total \$250,000,000 to carry out the purposes of this Act.

\* **Sec. 3.** AS 29.45.030(a) is amended to read:

(a) The following property is exempt from general taxation:

(1) municipal property, including property held by a public corporation of a municipality, state property, property of the University of Alaska, or land that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, except that

(A) a private leasehold, contract, or other interest in the property is taxable to the extent of the interest; however, an interest in property owned by [CREATED BY A NONEXCLUSIVE USE AGREEMENT BETWEEN] the Alaska Industrial Development and Export Authority is not taxable [AND A USER OF AN INTEGRATED TRANSPORTATION AND PORT FACILITY OWNED BY THE AUTHORITY AND INITIALLY PLACED IN SERVICE BEFORE JANUARY 1, 1999, IS TAXABLE ONLY TO THE EXTENT OF, AND FOR THE VALUE ASSOCIATED WITH, THOSE SPECIFIC IMPROVEMENTS USED FOR LODGING PURPOSES];

(B) notwithstanding any other provision of law, property acquired by an agency, corporation, or other entity of the state through foreclosure or deed in lieu of foreclosure and retained as an investment of a state entity is taxable; this subparagraph does not apply to federal land granted to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land granted to the university by the state to replace land that had been granted under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the university under AS 14.40.365;

(C) an ownership interest of a municipality in real property located outside the municipality acquired after December 31, 1990, is taxable by another municipality; however, a borough may not tax an interest in real property located in the borough and owned by a city in that borough;

(2) household furniture and personal effects of members of a household;

(3) property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes;

(4) property of a nonbusiness organization composed entirely of persons with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of an auxiliary of that organization;

(5) money on deposit;

(6) the real property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section;

(7) real property or an interest in real property that is

(A) exempt from taxation under 43 U.S.C. 1620(d), as amended or under 43 U.S.C. 1636(d), as amended; or

(B) acquired from a municipality in exchange for land that is exempt from taxation under (A) of this paragraph, and is not developed or made subject to a lease;

(8) property of a political subdivision, agency, corporation, or other entity of the United States to the extent required by federal law; except that a private leasehold, contract, or other interest in the property is taxable to the extent of that interest unless the property is located on a military base or installation and the property interest is created under 10 U.S.C. 2871 - 2885 (Military Housing Privatization Initiative), provided that the leaseholder enters into an agreement to make a payment in lieu of taxes to the political subdivision that has taxing authority;

(9) natural resources in place including coal, ore bodies, mineral deposits, and other proven and unproven deposits of valuable materials laid down by natural processes, unharvested aquatic plants and animals, and timber;

(10) property not exempt under (3) of this subsection that

(A) is owned by a private, nonprofit college or university that is accredited by a regional or national accrediting agency recognized by the Council for Higher Education Accreditation or the United States Department of Education, or both; and

(B) was subject to a private leasehold, contract, or other private

1 interest on January 1, 2010, except that a holder of a private leasehold,  
2 contract, or other interest in the property shall be taxed to the extent of that  
3 interest.

4 \* **Sec. 4.** AS 44.88.010(a) is amended to read:

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

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

8 (2) this unemployment is a serious menace to the health, safety, and  
9 general welfare, not only to the people in those areas, but also to the people of the  
10 entire state;

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

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

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

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

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

29 (8) Alaska-based exporters can be effectively assisted through the  
30 establishment, as part of the Alaska Industrial Development and Export Authority, of  
31 an export financing program designed to work with the [U.S.] Export-Import Bank of

1 the United States and other federal, state, and private institutions;

2 (9) the achievement of the goal of full employment, and of  
3 establishment and continuing operation and development of industrial, manufacturing,  
4 energy, export, small business, and business enterprises in the state will be accelerated  
5 and facilitated by the creation of an instrumentality of the state with powers to incur  
6 debt, to own and operate facilities, to make and insure loans to finance and to assist  
7 private lenders to make loans to finance the establishment, operation, and development  
8 of industrial, manufacturing, energy, export, small business, and business enterprises;

9 (10) it is in the public interest to promote the prosperity and general  
10 welfare of all citizens of the state by

11 (A) stimulating commercial and industrial growth and  
12 expansion by encouraging an increase of private investment by banks,  
13 investment houses, insurance companies, and other financial institutions,  
14 including pension and retirement funds, to help satisfy the need for economic  
15 expansion;

16 (B) encouraging the production of raw materials and goods for  
17 export, the expansion of exports and raw materials and goods, and the  
18 rendering of services abroad by residents of the state through the establishment  
19 of a program that provides financial assistance in cooperation with federal,  
20 state, and private institutions for these purposes in the form provided in this  
21 chapter;

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

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

28 \* **Sec. 5.** AS 44.88.010(b) is amended to read:

29 (b) It is declared to be the policy of the state, in the interests of promoting the  
30 health, security, and general welfare of all the people of the state, and a public  
31 purpose, to increase job opportunities and otherwise to encourage the economic

1 growth of the state, including the development of its natural resources, through the  
2 establishment and expansion of manufacturing, industrial, energy, export, small  
3 business, and business enterprises and the other facilities referred to in (a) of this  
4 section by creating the Alaska Industrial Development and Export Authority with the  
5 powers, duties, and functions as provided in this chapter.

6 \* **Sec. 6.** AS 44.88.155(d) is amended to read:

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

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

13 (2) may not be purchased unless

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

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

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

30 (4) may not be purchased if the participation in the loan to be  
31 purchased is for a term longer than the following, except that a loan under (A) or (C)

of this paragraph may not have a term longer than three-quarters of the authority's estimate of the life of the collateral offered as security for the loan:

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

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

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

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

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

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

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

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

(6) may be made only if the participation in the loan to be purchased is in the form and contains 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; and

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

\* **Sec. 7.** AS 44.88.155(g) is amended to read:

(g) Notwithstanding any other provision of this section, the authority may

waive or modify the requirements of this section as it considers appropriate and prudent in order to finance a project if the authority intends to own the project or in order to finance qualified energy development [A POWER TRANSMISSION INTERTIE PROJECT].

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

(a) The interest rate on a loan purchased from the proceeds of tax-exempt bonds secured by the sustainable energy transmission and supply development fund (AS 44.88.710) under AS 44.88.700 - 44.88.740 or a loan participation purchased from the proceeds of tax-exempt bonds or expected by the authority to be purchased from the proceeds of tax-exempt bonds under AS 44.88.155 shall be determined under the regulations adopted by the authority under AS 44.88.085(g)(2)(C) and shall be not less than 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 costs.

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

(b) The interest rate on a loan purchased from the proceeds of taxable bonds secured by the sustainable energy transmission and supply development fund (AS 44.88.710) under AS 44.88.700 - 44.88.740 or a loan participation purchased from the proceeds of taxable bonds under AS 44.88.155 or expected by the authority to be purchased from the proceeds of taxable bonds under AS 44.88.155 shall be determined under the regulations adopted by the authority under AS 44.88.085(g)(2)(C) and shall be not less than 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 the authority to represent the allocable expenses of operation, costs of issuance, and loan servicing costs.

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

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

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

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

(1) "comparable financial security" means a type or category of 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. 12.** 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. 13.** 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 proposed loan participation if the total of the amount of the proposed loan participation plus the combined outstanding balance of all loan participations for which the authority has committed to pay incentive rate rebates would exceed five percent of the total of the amount of the proposed loan participation plus the combined outstanding balance of all loan participations of the authority;

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

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

\* **Sec. 14.** AS 44.88 is amended by adding new sections to read:

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

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

**Sec. 44.88.710. Alaska Industrial Development and Export Authority sustainable energy transmission and supply development fund.** The Alaska Industrial Development and Export Authority sustainable energy transmission and supply development fund is established in the authority. The development fund consists of appropriations made to the development fund by the legislature, money or other assets transferred to the development fund by the authority, and unrestricted loan

1 repayments, interest, or other income earned on loans, investments, or assets of the  
2 development fund. The development fund is not an account in the revolving loan fund  
3 established in AS 44.88.060, and the authority shall account for the development fund  
4 separately from the revolving fund. The authority may create additional accounts in  
5 the development fund. Subject to agreements made with the holders of the authority's  
6 bonds or with other persons, the authority may transfer amounts in an account in the  
7 development fund to another account in the development fund. Amounts deposited in  
8 the development fund may be pledged to the payment of bonds of the authority or  
9 expended for the purposes of AS 44.88.700 - 44.88.740. The authority has the powers  
10 and responsibilities established in AS 37.10.071 with respect to the investment of  
11 amounts held in the development fund.

12 **Sec. 44.88.720. Use of fund balance.** Subject to the requirements of  
13 AS 44.88.710 - 44.88.740, the authority may use money in the Alaska Industrial  
14 Development and Export Authority sustainable energy transmission and supply  
15 development fund to assist in the construction, improvement, rehabilitation, and  
16 expansion of qualified energy development.

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

20 (1) use the Alaska Industrial Development and Export Authority  
21 sustainable energy transmission and supply development fund to finance qualified  
22 energy development, insure project obligations, guarantee loans or bonds, and  
23 establish reserves;

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

27 (3) defer principal payments or capitalize interest on qualified energy  
28 development financing;

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

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

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

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

(8) pay off the principal of and interest on bonds issued by a municipality to acquire, construct, improve, or equip a public utility if the municipality continues to pay the authority the bond payments due under the terms of the bonds; the authority shall retain the payments from the municipality in a sinking fund, and the municipality may apply to use the funds for qualified energy development.

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

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

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

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

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

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

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

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

(1) 30 years; or

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

\* **Sec. 15.** AS 44.88.900 is amended by adding new paragraphs to read:

(15) "development fund" means the sustainable energy transmission

1 and supply development fund created in AS 44.88.710;

2 (16) "qualified energy development" means a project in the state that  
3 involves

4 (A) transmission, generation, conservation, storage, or  
5 distribution of heat or electricity;

6 (B) liquefaction, regasification, distribution, storage, or use of  
7 natural gas;

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

9 \* **Sec. 16.** Sections 2 and 8, ch. 10, SLA 2010, are repealed.

10 \* **Sec. 17.** The uncoded law of the State of Alaska is amended by adding a new section to  
11 read:

12 REVISOR'S INSTRUCTION. References to "this chapter" in AS 44.88 apply to sec.  
13 14 of this Act and so should not be changed.