

**CS FOR HOUSE BILL NO. 170(ENE)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

**BY THE HOUSE SPECIAL COMMITTEE ON ENERGY**

**Offered: 4/21/21**

**Referred: Labor and Commerce, Finance**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to exempt employees; relating to the powers of the Alaska Energy**  
2 **Authority; relating to the membership of the Alaska Industrial Development and Export**  
3 **Authority; relating to the duties of the Alaska Industrial Development and Export**  
4 **Authority; establishing the Alaska energy independence program and the Alaska energy**  
5 **independence fund in the Alaska Industrial Development and Export Authority; and**  
6 **providing for an effective date."**

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

8 **\* Section 1.** AS 39.25.110 is amended by adding a new paragraph to read:

9 (46) an analyst employed in a professional capacity by the Alaska  
10 Energy Authority under AS 44.83.055.

11 **\* Sec. 2.** AS 44.83 is amended by adding a new section to article 1 to read:

12 **Sec. 44.83.055. Analyst position.** The authority may hire one analyst to assist  
13 underserved communities with the technical development of projects and applications

1 for funding from the Alaska energy independence fund and program under  
2 AS 44.88.450 - 44.88.456.

3 \* **Sec. 3.** AS 44.88.030(a) is amended to read:

4 (a) The membership of the authority consists of  
5 (1) the commissioner of revenue and the commissioner of commerce,  
6 community, and economic development; and  
7 (2) five public members [APPOINTED BY THE GOVERNOR], each  
8 of whom has expertise in private sector business or industry, or both, and possesses  
9 demonstrated leadership skills, **appointed as follows:**

10 **(A) one member appointed by the governor;**

11 **(B) two members appointed by the president of the senate;**

12 **(C) two members appointed by the speaker of the house of**  
13 **representatives.**

14 \* **Sec. 4.** AS 44.88.030(c) is amended to read:

15 (c) Public members of the authority described in (a)(2) of this section serve  
16 [AT THE PLEASURE OF THE GOVERNOR] for **four-year** [TWO-YEAR] terms. **A**  
17 **member appointed under (a)(2) of this section may only be removed for cause.**

18 \* **Sec. 5.** AS 44.88.030(d) is amended to read:

19 (d) If a vacancy occurs in the membership of the authority, the **respective**  
20 **appointing official under (a)(2) of this section** [GOVERNOR] shall immediately  
21 appoint a member for the unexpired portion of the term.

22 \* **Sec. 6.** AS 44.88.070 is amended to read:

23 **Sec. 44.88.070. Purpose of the authority.** The purpose of the authority is to  
24 promote, develop, and advance the general prosperity and economic welfare of the  
25 people of the state, to relieve problems of unemployment, and to create additional  
26 employment by

27 (1) providing various means of financing and means of facilitating the  
28 financing, in cooperation with federal, state, and private institutions, of industrial,  
29 manufacturing, energy, **sustainable energy development,** export, small business, and  
30 business enterprises and the other facilities referred to in AS 44.88.010(a) in the state;

31 (2) owning and operating or providing development project financing

1 for the enterprises and other facilities described in AS 44.88.172;

2 (3) fostering the expansion of exports of goods, services, and raw  
3 materials of the state;

4 (4) cooperating and acting in conjunction with other organizations,  
5 public and private, the objects of which are the promotion and advancement of export  
6 trade activities in the state;

7 (5) establishing a source of funding credit guarantees and insurance,  
8 not otherwise available, to support export development;

9 (6) providing and cooperating or participating with federal, state, and  
10 private institutions to provide actual and potential state exporters, particularly small-  
11 and medium-sized exporters, with financial assistance in support of export  
12 transactions.

13 \* **Sec. 7.** AS 44.88.159(a) is amended to read:

14 (a) The interest rate on a loan purchased from the proceeds of tax-exempt  
15 bonds secured by the Alaska Industrial Development and Export Authority sustainable  
16 energy transmission and supply development fund (AS 44.88.660) under  
17 AS 44.88.650 - 44.88.690, [OR] by the Arctic infrastructure development fund  
18 (AS 44.88.810) under AS 44.88.800 - 44.88.840, or by the Alaska energy  
19 independence fund (AS 44.88.452) under AS 44.88.450 - 44.88.456, or a loan  
20 participation purchased from the proceeds of tax-exempt bonds or expected by the  
21 authority to be purchased from the proceeds of tax-exempt bonds under AS 44.88.155  
22 shall be determined under the regulations adopted by the authority under  
23 AS 44.88.085(g)(2)(C) and shall be not less than the cost of funds to the authority. In  
24 this subsection, "cost of funds" means the true interest cost expressed as a rate on tax-  
25 exempt bonds of the authority plus an additional percentage as determined by the  
26 authority to represent the allocable expenses of operation, costs of issuance, and loan  
27 servicing costs.

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

29 (b) The interest rate on a loan purchased from the proceeds of taxable bonds  
30 secured by the Alaska Industrial Development and Export Authority sustainable  
31 energy transmission and supply development fund (AS 44.88.660) under

AS 44.88.650 - 44.88.690, [OR] by the Arctic infrastructure development fund (AS 44.88.810) under AS 44.88.800 - 44.88.840, or by the Alaska energy independence fund (AS 44.88.452) under AS 44.88.450 - 44.88.456, 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. 9.** 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, Arctic infrastructure development, renewable energy development, sustainable 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

1 rebate program.

2 \* **Sec. 10.** AS 44.88.178 is amended to read:

3 **Sec. 44.88.178. Creation of subsidiaries.** The authority may create one or  
 4 more subsidiary corporations for the purpose of acquiring, constructing, owning,  
 5 operating, or financing a project financed under AS 44.88.172 or one or more  
 6 subsidiary corporations, limited liability companies, or limited partnerships for  
 7 the purpose of administering, operating, or expanding the Alaska energy  
 8 independence program. A subsidiary corporation created under this section may be  
 9 incorporated under AS 10.20.146 - 10.20.166. Subject to limitations for the use of  
 10 the economic development account under AS 44.88.172 and the Alaska energy  
 11 independence fund under AS 44.88.450 - 44.88.456, the [THE] authority may  
 12 transfer assets of the authority to a subsidiary created under this section. A subsidiary  
 13 created under this section may borrow money and issue bonds as evidence of that  
 14 borrowing, and has all the powers of the authority that the authority grants to it. Unless  
 15 otherwise provided by the authority, the debts, liabilities, and obligations of a  
 16 subsidiary corporation, limited liability company, or limited partnership created  
 17 under this section are not the debts, liabilities, or obligations of the authority.

18 \* **Sec. 11.** AS 44.88 is amended by adding new sections to read:

19 **Sec. 44.88.450. Alaska energy independence program.** (a) The Alaska  
 20 energy independence program is created in the authority to make loans and provide  
 21 other forms of financing for sustainable energy development in the state.

22 (b) The Alaska energy independence program advisory board is established  
 23 and consists of

24 (1) the governor or the governor's designee; and

25 (2) eight members appointed by the governor as follows:

26 (A) one member who represents a

27 (i) tribe;

28 (ii) tribal nonprofit organization or consortium; or

29 (iii) regional housing authority;

30 (B) one member who represents an Alaska Native corporation;

31 (C) one member who represents an Alaska nonprofit

corporation specializing in cold climate housing research;

(D) one member who has experience in

(i) renewable energy;

(ii) electric transportation; or

(iii) similar sustainable energy development;

(E) four members who have experience in

(i) finance;

(ii) marketing of financial products;

(iii) construction science and efficiencies;

(iv) renewable energy;

(v) electric transportation; or

(vi) other sustainable energy development.

(c) The advisory board established under (b) of this section shall make recommendations to the authority regarding

(1) the design of the Alaska energy independence program;

(2) a public education program for the Alaska energy independence program;

(3) best practices of funds designed to address sustainable energy development; and

(4) other matters intended to increase the use and viability of the Alaska energy independence fund.

(d) A member of the advisory board appointed under (b) of this section serves without compensation but is entitled to travel and per diem expenses as provided in AS 39.20.180.

**Sec. 44.88.452. Alaska energy independence fund.** (a) The Alaska energy independence fund is established in the authority. The Alaska energy independence fund is for the uses and purposes of AS 44.88.450 - 44.88.456.

(b) The fund consists of appropriations made by the legislature, loans or other assets transferred to the fund by the authority, unrestricted loan repayments, interest, or other income earned on loans, investments, or assets of the fund, and available federal funding.

1 (c) The fund is not an account in the revolving loan fund established in  
2 AS 44.88.060. The authority shall account for the fund separately from the revolving  
3 fund. The authority may create additional accounts in the Alaska energy independence  
4 fund. Subject to agreements made with the holders of the authority's bonds or with  
5 other persons, the authority may transfer amounts in an account in the fund to another  
6 account in the fund.

7 (d) The authority has custody of the fund and shall be responsible for its  
8 management. The authority is the fiduciary of the fund under AS 37.10.071 and may  
9 invest amounts in the fund in accordance with an investment policy adopted by the  
10 authority. To promote sustainable energy development in the state, the investment  
11 policy adopted by the authority may deviate from the prudent investor rule and  
12 traditional institutional financing criteria. Notwithstanding AS 37.10.010 - 37.10.050,  
13 the authority may make disbursements from the fund in accordance with  
14 AS 37.25.050. Notwithstanding AS 37.05.130 and 37.05.140, the authority shall report  
15 disbursements from the fund annually in accordance with AS 44.88.205(b)(2). An  
16 appropriation made to the fund by the legislature shall be transferred to the authority  
17 for deposit in the fund.

18 (e) Nothing in this section creates a dedicated fund.

19 **Sec. 44.88.454. Sustainable energy development; powers and duties of the**  
20 **authority.** (a) The authority shall consider the energy policies of the state described in  
21 AS 44.99.115 in managing the operations of the Alaska energy independence program  
22 and fund under AS 44.88.450 - 44.88.456.

23 (b) Subject to the requirements of AS 44.88.450 - 44.88.456, the authority  
24 may

25 (1) establish a subsidiary entity subject to the requirements of  
26 AS 44.88.178;

27 (2) in consultation with the advisory board established in  
28 AS 44.88.450, establish financing programs and products the authority determines  
29 necessary to encourage and promote sustainable energy development in the state;

30 (3) invest in eligible sustainable energy development independently or  
31 with other investors, including private capital providers;

(4) provide capital and fund management to eligible sustainable energy development in the form of

- (A) senior, mezzanine, and subordinated debt;
- (B) loan guarantees on third-party financing;
- (C) credit enhancements, including loan loss reserves and interest rate buy-downs;
- (D) aggregation and warehousing;
- (E) equity capital;
- (F) securitization of financings;
- (G) financing techniques that make use of loan liquidity; and
- (H) other financial products or services approved by the authority;

(5) make and execute contracts and other instruments to implement AS 44.88.450 - 44.88.456;

(6) charge reasonable fees established by the authority in regulation for the products and services the authority provides under AS 44.88.450 - 44.88.456;

(7) acquire real or personal property by purchase, transfer, or foreclosure when the acquisition is necessary to protect the authority's interest in a loan or other financial product;

(8) subject to AS 36.30.085, enter into lease-purchase agreements;

(9) defer principal payments or capitalize interest on loans;

(10) provide financing and services to municipal energy improvement assessment programs established in accordance with AS 29.55.100; and

(11) exercise other powers necessary to implement AS 44.88.450 - 44.88.456.

(c) The authority shall adopt regulations to implement AS 44.88.450 - 44.88.456, including

(1) an application process for acquiring financing under the Alaska energy independence program;

(2) qualifications for applicants applying for financing under the Alaska energy independence program;



(3) record-keeping requirements for the authority to accumulate and track measurable data related to the Alaska energy independence fund (AS 44.88.452); and

(4) fiscal controls for the Alaska energy independence fund (AS 44.88.452).

**Sec. 44.88.456. Limitations on financing; use as security.** (a) Unless the authority has obtained legislative approval, the authority may not use the Alaska energy independence fund established in AS 44.88.452 to make a loan guarantee if the amount of the guarantee exceeds \$20,000,000.

(b) Financing under AS 44.88.454 is limited to the life of eligible sustainable energy development, and, financing is limited by the estimated useful life of the project.

(c) Notwithstanding (a) of this section, the authority may use the Alaska energy independence fund established in AS 44.88.452 as security for a bond guarantee.

(d) A guarantee or other security provided by the authority under AS 44.88.450 - 44.88.456 does not constitute a debt, liability, or obligation of the state or a political subdivision of the state.

(e) At least 35 percent of active loans and other forms of financing for sustainable energy development made under AS 44.88.450 - 44.88.456 must be made in communities that receive, or that have residents who receive, power cost equalization under AS 42.45.100 - 42.45.150.

\* **Sec. 12.** AS 44.88.900 is amended by adding new paragraphs to read:

(20) "eligible sustainable energy development" means activity approved by the authority to be consistent with the Alaska energy independence program and for which the authority will issue a loan or other financial product;

(21) "sustainable energy development" means

(A) renewable energy generation from sources that are continually replenished by nature, including the sun, wind, water, and biological processes;

(B) building energy efficiency, including switching from fuel

1 to renewable fuels and electrification;

2 (C) industrial decarbonization;

3 (D) electrical infrastructure incorporating

4 (i) energy storage to support clean or more efficient  
5 energy distribution, including remote and non-remote microgrids and  
6 smart-grid applications; and

7 (ii) other sustainable technologies including distributed  
8 generation, advanced battery, and combined heat and power;

9 (E) greenhouse gas emissions reduction through processes that  
10 include regenerative agriculture, reforestation, afforestation, and forestry  
11 management;

12 (F) clean transportation, including battery-operated electric  
13 vehicles, hydrogen vehicles, plug-in hybrid electric vehicles, and other zero-  
14 emissions vehicles for consumers, businesses, government, and public transit;

15 (G) electric vehicle charging and fueling infrastructure for  
16 emissions reductions; and

17 (H) other emissions reductions or energy-efficient technologies  
18 the authority determines to be consistent with the Alaska energy independence  
19 program established under AS 44.88.450.

20 \* **Sec. 13.** The uncoded law of the State of Alaska is amended by adding a new section to  
21 read:

22 ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY AND  
23 ALASKA ENERGY AUTHORITY; TRANSITION. (a) The terms of members of the Alaska  
24 Industrial Development and Export Authority under AS 44.88.030(a)(2), as that statute read  
25 before the effective date of this Act, and the Alaska Energy Authority under AS 44.83.030  
26 expire on the effective date of this Act.

27 (b) Notwithstanding AS 44.88.030(a), as amended by sec. 3 of this Act, and  
28 AS 39.05.055, members of the Alaska Industrial Development and Export Authority under  
29 AS 44.88.030(a), as amended by sec. 3 of this Act, and the Alaska Energy Authority under  
30 AS 44.83.030, are appointed to initial terms as follows:

31 (1) the member appointed by the governor serves a term that expires

1 February 28, 2023;

2 (2) one of the members appointed by the president of the senate and one of the  
3 members appointed by the speaker of the house of representatives serve terms that expire  
4 February 28, 2023;

5 (3) one of the members appointed by the president of the senate and one of the  
6 members appointed by the speaker of the house of representatives serve terms that expire  
7 February 28, 2025.

8 (c) Nothing in this section prevents the appointment of a person whose term expires  
9 under (a) of this section to the Alaska Industrial Development and Export Authority if the  
10 person meets the qualifications in AS 44.88.030(a), as amended by sec. 3 of this Act.

11 \* **Sec. 14.** This Act takes effect January 1, 2022.