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**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: 4/14/12  
Referred: Finance

Sponsor(s): SENATORS MCGUIRE, Davis, Giessel, Menard, Wagoner, Dyson, Huggins, Ellis, Thomas, Meyer, Stedman, Wielechowski, Egan, Hoffman

REPRESENTATIVES Petersen, Pruitt, Millett, Costello, Tammie Wilson, Gara, Tuck, Kawasaki, Johnson, Gardner

**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 uncodified 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  
15 entire state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (1) may not exceed \$20,000,000; however, in the case of a loan

1 participation for **qualified energy development** [A POWER TRANSMISSION  
2 INTERTIE], the loan participation may exceed \$20,000,000 with legislative approval;

3 (2) may not be purchased unless

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

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

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

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

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

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

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

31 (5) may be made only if the participation in the loan to be purchased

1 contains amortization provisions; the amortization provisions

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

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

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

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

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

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

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

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

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

27 (a) The interest rate on **a loan purchased from the proceeds of tax-exempt**  
28 **bonds secured by the sustainable energy transmission and supply development**  
29 **fund (AS 44.88.710) under AS 44.88.700 - 44.88.740 or** a loan participation  
30 purchased from the proceeds of tax-exempt bonds or expected by the authority to be  
31 purchased from the proceeds of tax-exempt bonds **under AS 44.88.155** shall be

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

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

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

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

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

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

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

29 (1) "comparable financial security" means a type or category of  
 30 financial security the authority identifies in the regulations adopted by the authority  
 31 under AS 44.88.085(g)(2)(C) that has a term and financial conditions comparable to

1 the term and financial conditions of a loan participation **or a loan made under**  
 2 **AS 44.88.700 - 44.88.740** and for which a regularly published, nationally recognized  
 3 market index is available;

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

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

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

12 (f) In determining an interest rate under the regulations adopted by the  
 13 authority under AS 44.88.085(g)(2)(C), the authority may determine to disregard the  
 14 minimum interest rate required under (a), (b), or (e) of this section for a loan  
 15 participation purchased by the authority **or a loan made under AS 44.88.700 -**  
 16 **44.88.740** to resolve lending limits or reserve restrictions imposed on the financial  
 17 institution and may instead determine to retain the interest rate existing at the time the  
 18 authority **makes the loan or** purchases **the authority's loan participation** [A  
 19 PORTION OF THE LOAN].

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

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

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

30 (2) the authority may not commit to pay an incentive rate rebate for a  
 31 proposed loan participation if the total of the amount of the proposed loan

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

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

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

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

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

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

16 **Sec. 44.88.710. Alaska Industrial Development and Export Authority**  
 17 **sustainable energy transmission and supply development fund.** The Alaska  
 18 Industrial Development and Export Authority sustainable energy transmission and  
 19 supply development fund is established in the authority. The development fund  
 20 consists of appropriations made to the development fund by the legislature, money or  
 21 other assets transferred to the development fund by the authority, and unrestricted loan  
 22 repayments, interest, or other income earned on loans, investments, or assets of the  
 23 development fund. The development fund is not an account in the revolving loan fund  
 24 established in AS 44.88.060, and the authority shall account for the development fund  
 25 separately from the revolving fund. The authority may create additional accounts in  
 26 the development fund. Subject to agreements made with the holders of the authority's  
 27 bonds or with other persons, the authority may transfer amounts in an account in the  
 28 development fund to another account in the development fund. Amounts deposited in  
 29 the development fund may be pledged to the payment of bonds of the authority or  
 30 expended for the purposes of AS 44.88.700 - 44.88.740. The authority has the powers  
 31 and responsibilities established in AS 37.10.071 with respect to the investment of

1 amounts held in the development fund.

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

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

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

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

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

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

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

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

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

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

1 municipality may apply to use the funds for qualified energy development.

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

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

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

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

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

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

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

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

17 (1) 30 years; or

18 (2) 50 years for a transmission line or hydroelectric qualified energy  
19 development.

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

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

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

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

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

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

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

- 1 read:
- 2 REVISOR'S INSTRUCTION. References to "this chapter" in AS 44.88 apply to sec.
- 3 12 of this Act and so should not be changed.