

HOUSE BILL NO. 370

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE TUCK

Introduced: 2/22/22

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to broadband; relating to the Alaska Energy Authority; and relating to**
2 **the Regulatory Commission of Alaska."**

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

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

6 LEGISLATIVE FINDINGS. The legislature finds that

7 (1) many communities in the state have limited access to the Internet because
8 the communities lack broadband and advanced telecommunications that enable high-speed
9 access to the Internet necessary to support modern civic, governmental, cultural, economic
10 development, health care, public safety, educational, and community resources;

11 (2) although the state is connected to the rest of the world through several
12 fiber-optic cables, many areas in the state lack sufficient access to affordable broadband data
13 services and broadband Internet access services because of insufficient connectivity to fiber-
14 optic cables;

(3) removing barriers to broadband deployment by using a technology and competitively neutral approach will encourage lower prices for broadband service, expand availability, and offer more choices to consumers;

(4) access to broadband and advanced telecommunications services throughout the state is essential for the state to keep pace with global changes in economic diversification, education, health care, energy and environmental technology, and public safety;

(5) affordable and nondiscriminatory access is necessary to support investment in and development of accessible broadband networks in the state and action should be taken to ensure that broadband services are affordable and reasonably comparable in all areas of the state;

(6) insufficient and unaffordable Internet connectivity between unserved or underserved locations and existing fiber-optic cables that provide high-speed Internet service is the greatest and most costly obstacle to wider deployment of broadband and advanced telecommunications services in remote areas of the state;

(7) funding from federal, private, or other sources is essential to offset the high cost of deployment, ownership, and operation of facilities providing Internet connectivity; and

(8) a coordinated approach is necessary to ensure that facilities that provide Internet connectivity are deployed efficiently and have sufficient capacity to reach unserved and underserved areas of the state and that Internet connectivity is made available on a nondiscriminatory basis to all potential users and service providers.

* **Sec. 2.** AS 18.56.090(e) is amended to read:

(e) In furtherance of its corporate purpose, the corporation may, in cooperation with the Alaska Energy **and Broadband** Authority, provide technical assistance to municipalities related to residential and commercial building energy codes and energy efficiency standards.

* **Sec. 3.** AS 24.08.035(g) is amended to read:

(g) In (f) of this section, "agency" includes the Alaska Housing Finance Corporation, the Alaska Industrial Development and Export Authority, the Alaska Energy **and Broadband** Authority, the Alaska Public Offices Commission, and the

1 Alaska Oil and Gas Conservation Commission, but does not include other boards or
2 commissions.

3 * **Sec. 4.** AS 36.90.300(c)(4) is amended to read:

4 (4) "public agency" means a department, institution, board,
5 commission, division, authority, public corporation, committee, school district,
6 political subdivision, or other administrative unit of a municipality, of a political
7 subdivision, or of the executive or legislative branch of state government, including
8 the University of Alaska, the Alaska Aerospace Corporation, the Alaska Housing
9 Finance Corporation, the Alaska Industrial Development and Export Authority, the
10 Alaska Energy **and Broadband** Authority, the Alaska Railroad Corporation, and a
11 regional educational attendance area.

12 * **Sec. 5.** AS 42.05.145 is amended by adding a new subsection to read:

13 (c) Upon application, the commission shall designate the Alaska Energy and
14 Broadband Authority, created in AS 44.83.020, as an eligible telecommunications
15 carrier for the purposes of 47 U.S.C. 214(e).

16 * **Sec. 6.** AS 42.05.431(c) is amended to read:

17 (c) Notwithstanding (b) of this section,
18 (1) a wholesale agreement for the sale of power from a project licensed
19 by the Federal Energy Regulatory Commission on or before January 1, 1987, and
20 related contracts for the wheeling, storage, regeneration, or wholesale repurchase of
21 power purchased under the agreement, entered into between the Alaska Energy **and**
22 **Broadband** Authority and one or more other public utilities or among the utilities
23 after October 31, 1987, and before January 1, 1988, and amendments to the wholesale
24 agreement or related contract, and the wholesale agreement or related contract
25 assigned by the Alaska Energy **and Broadband** Authority to a joint action agency
26 formed under AS 42.45.310 that purchases the project from the Alaska Energy **and**
27 **Broadband** Authority, are not subject to review or approval by the commission until
28 all long-term debt incurred for the project is retired, or, for a wholesale agreement or
29 related contract assigned to a joint action agency formed under AS 42.45.310, until all
30 long-term debt incurred to pay the purchase price to the Alaska Energy **and**
31 **Broadband** Authority is retired; and

(2) a wholesale agreement or related contract described in (1) of this subsection may contain a covenant for the public utility to establish, charge, and collect rates sufficient to meet its obligations under the contract; the rate covenant is valid and enforceable.

* **Sec. 7.** AS 42.05.431(d) is amended to read:

(d) Meetings between the Alaska Energy **and Broadband** Authority and public utilities concerning a wholesale agreement for the sale of power or other matter exempted from review of the commission under (c) of this section must comply with AS 44.62.310.

* **Sec. 8.** AS 42.05.711(o) is amended to read:

(o) A joint action agency established under AS 42.45.310 is exempt from regulation under this chapter, including the requirement to obtain a certificate of public convenience and necessity under AS 42.05.221, for the operation of, sale of power from, and other activities related to the power project the joint action agency purchases from the Alaska Energy **and Broadband** Authority until the wholesale agreement and any related contract assigned by the authority becomes subject to review or approval by the commission under AS 42.05.431. The exemption provided by this subsection extends to repairs and improvements to the power project the joint action agency purchases from the authority but does not extend to any other power project or other activity of the joint action agency.

* **Sec. 9.** AS 42.05.990(6) is amended to read:

(6) "public utility" or "utility" includes every corporation whether public, cooperative, or otherwise, company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that owns, operates, manages, or controls any plant, pipeline, or system for

(A) furnishing, by generation, transmission, or distribution, electrical service to the public for compensation;

(B) furnishing telecommunications service, **including broadband Internet access,** to the public for compensation;

(C) furnishing water, steam, or sewer service to the public for compensation;

(D) furnishing by transmission or distribution of natural or manufactured gas to the public for compensation;

(E) furnishing for distribution or by distribution petroleum or petroleum products to the public for compensation when the consumer has no alternative in the choice of supplier of a comparable product and service at an equal or lesser price;

(F) furnishing collection and disposal service of garbage, refuse, trash, or other waste material to the public for compensation;

(G) furnishing the service of natural gas storage to the public for compensation;

(H) furnishing the service of liquefied natural gas storage to the public for compensation;

* **Sec. 10.** AS 42.05.990 is amended by adding a new paragraph to read:

(14) "broadband Internet access" means high-speed Internet access that is always on and that is faster than traditional dial-up access.

* **Sec. 11.** AS 42.45.990(1) is amended to read:

(1) "authority" means the Alaska Energy **and Broadband** Authority;

* **Sec. 12.** AS 44.83.020 is amended to read:

Sec. 44.83.020. Creation of authority. ~~The~~ [THERE IS CREATED THE] Alaska Energy **and Broadband** Authority **is created**. The authority is a public corporation **and instrumentality** of the state in the Department of Commerce, Community, and Economic Development but with separate and independent legal existence.

* **Sec. 13.** AS 44.83.030 is amended to read:

Sec. 44.83.030. Membership of the authority. The directors of the Alaska Energy **and Broadband** Authority are the members of the Alaska Industrial Development and Export Authority.

* **Sec. 14.** AS 44.83.040(a) is amended to read:

(a) The chair and vice-chair of the Alaska Industrial Development and Export Authority shall serve as officers of the Alaska Energy **and Broadband** Authority. The powers of the Alaska Energy **and Broadband** Authority are vested in the directors,

and four directors of the authority constitute a quorum. Action may be taken and motions and resolutions adopted by the Alaska Energy **and Broadband** Authority at a meeting by the affirmative vote of a majority of the directors. The directors of the Alaska Energy **and Broadband** Authority serve without compensation, but they shall receive the same travel pay and per diem as provided by law for board members under AS 39.20.180.

* **Sec. 15.** AS 44.83.070 is amended to read:

Sec. 44.83.070. Purpose of the authority. The purpose of the authority is to

(1) promote, develop, and advance the general prosperity and economic welfare of the people of the state by providing a means of financing and operating power projects and facilities that recover and use waste energy and by carrying out the powers and duties assigned to it under AS 42.45;

(2) facilitate, upgrade, plan, and finance the installation, operation, and promotion of effective use of a broadband system throughout the state by carrying out the powers and duties assigned to it under AS 44.83.660 and 44.83.670; and

(3) increase and improve the availability, affordability, and performance of broadband data services and broadband Internet access services in unserved and underserved areas of the state by lessening the barriers to entry posed by a lack of sufficient and affordable access to high-speed, low-latency connectivity between unserved and underserved customer areas and fiber-optic cables that connect to the Internet in the state, and to facilitate the development of competitive options for customers in unserved and underserved areas.

* **Sec. 16.** AS 44.83.382(a) is amended to read:

(a) A power development fund is established in the Alaska Energy **and Broadband** Authority to carry out the purposes of former AS 44.83.380 - 44.83.425.

* **Sec. 17.** AS 44.83 is amended by adding new sections to read:

Article 5A. Broadband.

Sec. 44.83.660. Broadband. (a) The authority shall

(1) provide or enable affordable and nondiscriminatory access to high-speed, low-latency telecommunications connectivity between points in the state that

1 are unserved or underserved by high-speed, low-latency telecommunications
2 connectivity to existing fiber-optic cables that connect to the Internet;

3 (2) deploy the necessary broadband networking facilities to provide
4 high-speed, low-latency telecommunications connectivity in a coordinated manner;
5 and

6 (3) ensure the efficient use of state or other funds for the purposes
7 described in this subsection.

8 (b) For the purposes listed in AS 44.83.670, the authority may use

9 (1) federal financial assistance, including federal grant awards, loans,
10 and support from universal service support mechanisms authorized by the Federal
11 Communications Commission; and

12 (2) sources of private or other funding or property.

13 (c) An area is unserved or underserved if the authority determines that

14 (1) the terrestrial network facilities that connect the location to the
15 Internet lack the sufficient high-speed, low-latency capacity to deliver service to all
16 customers in that area at minimum speed and usage allowances that are reasonably
17 comparable to those available in urban areas of the state and at rates and under terms
18 and conditions that are reasonably comparable to those available in urban areas of the
19 state; or

20 (2) most of the facilities in the area are owned or controlled by a single
21 entity or affiliates of the entity.

22 (d) To make the determination under (c) of this section, the authority may

23 (1) determine and consider the current level of broadband Internet
24 access in urban and rural areas of the state;

25 (2) determine an acceptable level of broadband Internet access
26 throughout the state and in so doing may consider the findings of the Federal
27 Communications Commission under 47 U.S.C. 1302(b) (sec. 706(b),
28 Telecommunications Act of 1996); or

29 (3) monitor the ongoing deployment and capacity of high-speed, low-
30 latency telecommunications transport network facilities between points in the state,
31 including projects that are currently being developed and projects that are in the

1 planning and predevelopment stage.

2 (e) In this section,

3 (1) "affiliate" means a person or entity that directly or indirectly owns
4 or controls, is owned or controlled by, or is under common ownership or control with,
5 another person or entity;

6 (2) "entity" means the controlling entity and its affiliates;

7 (3) "own" means to own an equity interest of more than 10 percent.

8 **Sec. 44.83.670. Broadband powers of the authority.** (a) The authority may

9 (1) apply for and accept a gift, grant, or loan from a federal agency, an
10 agency or instrumentality of the state or of a municipality, or a private source for the
11 purpose of planning, constructing, deploying, owning, operating, maintaining,
12 repairing, or replacing broadband networking infrastructure in order to provide
13 sufficient and affordable high-speed, low-latency connectivity between unserved and
14 underserved customer areas and fiber-optic cables that connect to the Internet;

15 (2) use a gift, grant, or loan accepted under (1) of this section to

16 (A) plan efficient routing and deployment of
17 telecommunications facilities between points in the state that are unserved or
18 underserved by high-speed, low-latency telecommunications connectivity to
19 existing fiber-optic cables; or

20 (B) construct, upgrade, install, own, or operate
21 telecommunications facilities described in (A) of this paragraph;

22 (3) subject to the limitations in this paragraph, sell transmission
23 services and lease capacity to retail providers of broadband data services and Internet
24 access services at a wholesale price and on just, reasonable, and nondiscriminatory
25 rates, terms, and conditions for the use of those retail providers to offer the services to
26 retail end-user customers in unserved and underserved areas; the authority may not
27 enter into a sale or lease of capacity if, following the transaction, the purchaser or an
28 affiliate of the purchaser, at the time of the transaction, would own, operate, or
29 otherwise control more than

30 (A) one-third of the total terrestrial network capacity serving
31 the area; or

(B) one-half of the total terrestrial network capacity available for sale to serve the area;

(4) enter into a contract or other transaction with a federal agency, with an agency or instrumentality of the state or of a municipality, or with a private organization or other party;

(5) employ appropriate consultative, technical, legal, clerical, and other personnel for the implementation of AS 44.83.660 and this section, within the limits of available funds;

(6) prepare reports of the authority's activities, including changes in the number of areas that remain unserved or underserved by high-speed, low-latency telecommunications connectivity to existing fiber-optic cables that connect to the Internet; the authority shall submit a report under this paragraph to the governor, chief clerk of the house of representatives, and senate secretary and notify the legislature when the report is available; and

(7) take an action, not inconsistent with AS 44.83.660, as is necessary to execute the function of the authority.

(b) In this section, "affiliate" has the meaning given in AS 44.83.660(e).

* **Sec. 18.** AS 44.83.990(1) is amended to read:

(1) "authority" means the Alaska Energy **and Broadband** Authority established by this chapter;

* **Sec. 19.** AS 44.83.995 is amended to read:

Sec. 44.83.995. Short title. This chapter may be cited as the Alaska Energy **and Broadband** Authority Act.

* **Sec. 20.** AS 44.88.080(30) is amended to read:

(30) with legislative approval and notwithstanding AS 44.88.060, to purchase from the Alaska Energy **and Broadband** Authority as an investment of the revolving fund, loans of the power project fund established under AS 42.45.010;

* **Sec. 21.** AS 44.99.030(a) is amended to read:

(a) Notwithstanding other provisions of law, the following entities may not contract with a person to pay the person money or other thing of value to lobby the state, a municipality of the state, or an agency of the state or municipality:

- (1) Alaska Aerospace Corporation;
- (2) Alaska Commercial Fishing and Agriculture Bank;
- (3) Alaska Energy **and Broadband** Authority;
- (4) Alaska Housing Finance Corporation;
- (5) Alaska Industrial Development and Export Authority;
- (6) Alaska Medical Facility Authority;
- (7) Alaska Mental Health Trust Authority;
- (8) Alaska Municipal Bond Bank Authority;
- (9) Alaska Permanent Fund Corporation;
- (10) Alaska Railroad Corporation;
- (11) [REPEALED
- (12)] Alaska Seafood Marketing Institute;
- (12)** [(13)] Alaska Student Loan Corporation.

* **Sec. 22.** AS 44.99.040(b)(2) is amended to read:

(2) "state or municipal agency" means the University of Alaska, the Alaska Aerospace Corporation, the Alaska Housing Finance Corporation, the Alaska Industrial Development and Export Authority, the Alaska Energy **and Broadband** Authority, the Alaska Railroad Corporation, or a department, institution, board, commission, division, council, committee, authority, public corporation, school district, regional educational attendance area, or other administrative unit of a municipality or of the executive, judicial, or legislative branch of state government, and includes employees of those entities.