

SENATE BILL NO. 123

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 4/9/21

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing the Alaska energy independence program and the Alaska energy**
2 **independence fund in the Alaska Industrial Development and Export Authority; and**
3 **providing for an effective date."**

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

5 * **Section 1.** AS 44.88.070 is amended to read:

6 **Sec. 44.88.070. Purpose of the authority.** The purpose of the authority is to
7 promote, develop, and advance the general prosperity and economic welfare of the
8 people of the state, to relieve problems of unemployment, and to create additional
9 employment by

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

14 (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. 2.** 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. 3.** 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. 4.** 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. 5.** 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, limited liability companies, or limited partnerships
 5 for the purpose of acquiring, constructing, owning, operating, or financing a project
 6 financed under AS 44.88.172 or for the purpose of administering, operating, or
 7 expanding the Alaska energy independence program. A subsidiary corporation
 8 created under this section may be incorporated under AS 10.20.146 - 10.20.166.
 9 Subject to limitations for the use of the economic development account under
 10 AS 44.88.172 and the Alaska energy independence fund under AS 44.88.450 -
 11 44.88.456, the [THE] authority may transfer assets of the authority to a subsidiary
 12 created under this section. A subsidiary created under this section may borrow money
 13 and issue bonds as evidence of that borrowing, and has all the powers of the authority
 14 that the authority grants to it. Unless otherwise provided by the authority, the debts,
 15 liabilities, and obligations of a subsidiary corporation, limited liability company, or
 16 limited partnership created under this section are not the debts, liabilities, or
 17 obligations of the authority.

18 * **Sec. 6.** 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) An advisory board is established and consists of the following five
 23 members:

- 24 (1) the governor or the governor's designee; and
- 25 (2) four public members appointed by the governor with expertise in
- 26 one or more of the following:
 - 27 (A) finance;
 - 28 (B) marketing of financial products;
 - 29 (C) construction science and efficiencies;
 - 30 (D) renewable energy, electric transportation, and other
 - 31 sustainable energy development.

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

- 3 (1) the design of the Alaska energy independence program;
4 (2) a public education program for the Alaska energy independence
5 program;
6 (3) best practices of funds designed to address sustainable energy
7 development; and
8 (4) other matters intended to increase the use and viability of the
9 Alaska energy independence fund.

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

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

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

20 (c) The fund is not an account in the revolving loan fund established in
21 AS 44.88.060. The authority shall account for the fund separately from the revolving
22 fund. The authority may create additional accounts in the Alaska energy independence
23 fund. Subject to agreements made with the holders of the authority's bonds or with
24 other persons, the authority may transfer amounts in an account in the fund to another
25 account in the fund.

26 (d) The authority shall have custody of the fund and shall be responsible for its
27 management. The authority is the fiduciary of the fund under AS 37.10.071 and may
28 invest amounts in the fund in accordance with an investment policy adopted by the
29 authority. In order to promote sustainable energy development in the state, the
30 investment policy adopted by the authority may deviate from the prudent investor rule
31 and traditional institutional financing criteria. Notwithstanding AS 37.10.010 -

37.10.050, the authority may make disbursements from the fund in accordance with AS 37.25.050. Notwithstanding AS 37.05.130 and 37.05.140, the authority shall report disbursements from the fund annually in accordance with AS 44.88.205(b)(2). An appropriation made to the fund by the legislature shall be transferred to the authority for deposit in the fund.

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

Sec. 44.88.454. Sustainable energy development; powers and duties of the authority. (a) Subject to the requirements of AS 44.88.450 - 44.88.456, the authority may

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

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

(3) invest in eligible sustainable energy development alone or 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 utilize loan liquidity; and

(H) any other financial product or service 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 that the authority may establish by

1 regulation for the products and services it provides under AS 44.88.450 - 44.88.456;

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

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

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

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

9 (11) exercise any other power necessary to implement AS 44.88.450 -
10 44.88.456.

11 (b) The authority shall adopt regulations to implement AS 44.88.450 -
12 44.88.456, including

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

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

17 (3) record keeping requirements in order for the authority to
18 accumulate and track measurable data related to the Alaska energy independence fund;
19 and

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

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

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

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

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

1 or political subdivision of the state.

2 * **Sec. 7.** AS 44.88.900 is amended by adding new paragraphs to read:

3 (20) "sustainable energy development" means

4 (A) renewable energy generation from sources that are
5 continually replenished by nature, such as the sun, wind, water, and biological
6 processes;

7 (B) building energy efficiency, including fuel switching to
8 renewable fuels and electrification;

9 (C) industrial decarbonization;

10 (D) electrical infrastructure incorporating

11 (i) energy storage to support clean energy distribution,
12 including remote and non-remote microgrids and smart-grid
13 applications; and

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

16 (E) greenhouse gas emissions reduction through processes
17 including regenerative agriculture, reforestation, afforestation, and forestry
18 management;

19 (F) clean transportation, including battery electric vehicles,
20 hydrogen vehicles, plug-in hybrid electric vehicles, and other zero-emissions
21 vehicles for consumers, businesses, government, and public transit;

22 (G) electric vehicle charging and fueling infrastructure; and

23 (H) any other emissions reduction or energy efficiency
24 technology the authority determines to be consistent with the Alaska energy
25 independence program;

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

29 * **Sec. 8.** This Act takes effect January 1, 2022.