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1 IN THE SENATE

2

SENATE BILL NO. 140

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act establishing the electric cooperative revolving loan fund; and providing for an effective date."

7

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

9

\* Section 1. DECLARATION OF POLICY AND PURPOSE. The legislature finds that

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(1) the availability of adequate electric utility service in the state at reasonable rates is a proper matter of public concern;

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(2) the ability of cooperatively owned electric utilities in the state to provide service to the public and to finance capital improvements necessary to extend and improve those services on terms that will enable electric rates to remain at reasonable levels in the foreseeable future is seriously impaired by the unavailability of low-cost private financing and by the reduced availability of low-cost federal loans;

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(3) as a matter of public policy, to ensure the sound development of the state and its resources and to provide an acceptable level of electric service to its residents at reasonable rates, the state should assist electric cooperatives to obtain the money that is essential to operate, maintain, and expand electric utility facilities and services in the state.

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\* Sec. 2. AS 42 is amended by adding a new chapter to read:

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CHAPTER 28. ELECTRIC COOPERATIVE REVOLVING LOAN FUND.

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Sec. 42.28.010. REVOLVING LOAN FUND ESTABLISHED. The electric

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cooperative revolving loan fund is established in the Department of Commerce and Economic Development.

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1           Sec. 42.28.020. POWERS AND DUTIES OF THE DEPARTMENT. (a)    The  
2 department shall formulate procedures and adopt regulations to imple-  
3 ment this chapter in consultation with the Alaska Public Utilities  
4 Commission and the Alaska Power Authority.

5           (b) The department may

6                 (1) make a loan from the loan fund to an electric utility  
7 to finance a capital improvement, plant or facility, or to improve and  
8 expand services, if another loan is not readily available from a  
9 private lending institution or an agency of the federal government at  
10 the same or a lower interest rate;

11                (2) make a loan from the loan fund to an electric utility  
12 to meet the short-term or interim capital need of the utility while  
13 the utility is processing a long-term loan;

14                (3) consult with federal agencies and lending institutions  
15 that make loans to electric utilities in the state on the policies,  
16 regulations, and procedures that are needed to implement the pro-  
17 visions of this chapter;

18                (4) designate agents and delegate powers to them as is  
19 necessary;

20                (5) require bonds and undertakings that the commissioner  
21 considers necessary for persons employed by the department in connec-  
22 tion with the loan fund, and pay the premiums on the bonds and under-  
23 takings;

24                (6) establish amortization plans as provided in AS 42.28.-  
25 040(b).

26           Sec. 42.28.030. ELIGIBILITY FOR LOANS. An electric utility is  
27 eligible for a loan under this chapter if

28                (1) it is a public utility as defined in AS 42.05.701(2)-  
29 (A);

1 (2) at the time of application for a loan the utility is  
2 serving the public under a certificate of public convenience and  
3 necessity issued by the Alaska Public Utilities Commission;

4 (3) the utility is organized under AS 10.25 or AS 18.57;  
5 and

6 (4) in the judgment of the department

7 (A) the electric utility shows a definite potential  
8 for providing improved or expanded service in the community or  
9 service area it serves, or otherwise needs the loan to maintain  
10 adequate, efficient, and safe service; and

11 (B) the utility will be able to repay the loan.

12 Sec. 42.28.040. CONDITIONS AND LIMITATIONS ON LOANS. (a) A  
13 loan made under this chapter shall be on terms and conditions that the  
14 department determines to be appropriate.

15 (b) An amortization plan for the repayment of a loan made under  
16 this chapter may defer payments on the principal for up to three  
17 years, but the total term of the loan may not exceed thirty-five  
18 years. The rate of interest charged on the loan may not exceed five  
19 percent.

20 (c) Except as provided in (d) and (e) of this section a loan may  
21 not be made until an investigation and an economic feasibility study  
22 is conducted and, as the result of the investigation and study, the  
23 department determines that the loan is economically sound, that the  
24 utility is financially self-sustaining, and that the loan will be  
25 fully amortized under the terms and conditions of the loan. The  
26 economic feasibility study shall be conducted by the department or by  
27 consultants, engineers, or other technical experts acceptable to the  
28 department. An applicant for a loan under this chapter shall furnish  
29 the department with systems studies, long-range economic forecasts,

1 financial data, and other technical information that the department  
2 requests.

3 (d) If a loan made under this chapter has the participation of  
4 an agency of the federal government or of a bank or other financial  
5 institution in an amount that is 20 percent or more of the total  
6 amount borrowed, or if a loan under this chapter is guaranteed by an  
7 agency of the federal government or by a bank or other financial  
8 institution, the department may accept an investigation and economic  
9 feasibility study made for or accepted by the federal agency, bank or  
10 other financial institution as a basis for that participation or  
11 guarantee in lieu of the investigation and study required under (c) of  
12 this section.

13 (e) If a utility is applying for a short-term or interim loan,  
14 the department may accept notification by the Rural Electrification  
15 Administration that the utility has submitted an application for a  
16 long-term loan to the Rural Electrification Administration that meets  
17 Rural Electrification Administration requirements, as evidence of  
18 economic feasibility and as a basis for making a short-term or interim  
19 loan, in lieu of the investigation and study required by (c) of this  
20 section.

21 (f) If a federal agency or a bank or other financial institution  
22 participates in or guarantees a loan made under this chapter, it may  
23 choose to administer and service the loan for a reasonable fee of  
24 one-half of one percent or less of the unpaid balance that shall be  
25 paid from the interest on the loan.

26 (g) In the case of a loan made under this chapter with federal  
27 agency or bank or other financial institution participation the state  
28 and federal agency or bank or other financial institution that partic-  
29 ipates in the loan shall each have a lien on the loan collateral or

1 share the loan collateral to the extent of their respective interests  
2 in the total loan to a utility. The department may agree to subordi-  
3 nate its lien on collateral securing a short-term loan to a lien of  
4 the Rural Electrification Administration if, before the date the  
5 short-term loan is awarded under this chapter, the utility enters into  
6 a federal loan agreement with the Rural Electrification Administra-  
7 tion.

8 Sec. 42.28.050. ADMINISTRATION. Money loaned under this chapter  
9 shall be delivered to the borrower in the form of a warrant drawn on  
10 the treasury and charged against the loan fund. Upon repayment of  
11 loans in accordance with the prescribed terms, or upon liquidation by  
12 foreclosure or other process, or upon receipt of interest or other  
13 revenue, the money received shall be deposited in the loan fund.

14 Sec. 42.28.060. SALE OR TRANSFER OF NOTES, MORTGAGES AND OTHER  
15 COLLATERAL. (a) The commissioner may sell or transfer at par value  
16 or at a premium or discount to a bank or private purchaser for cash or  
17 other consideration the notes, mortgages and collateral held by the  
18 department as security for loans made under this chapter.

19 (b) The commissioner may sell or transfer at par value to the  
20 Department of Revenue the notes, mortgages and other collateral held  
21 by the Department of Commerce and Economic Development as security for  
22 loans made under this chapter. The Department of Revenue may purchase  
23 the notes, mortgages and other collateral so offered, allowing the  
24 Department of Commerce and Economic Development a service fee equal to  
25 one-half of one percent.

26 Sec. 42.28.070. PROCEEDINGS AND REGULATIONS. The Administrative  
27 Procedure Act (AS 44.62) governs all proceedings and adoption of  
28 regulations under this chapter.

29 Sec. 42.28.080. DEFINITIONS. In this chapter

1                   (1) "commissioner" means the commissioner of commerce and  
2 economic development;

3                   (2) "department" means the Department of Commerce and  
4 Economic Development;

5                   (3) "loan fund" means the electric cooperative revolving  
6 loan fund.

7 \* Sec. 3. This Act takes effect July 1, 1983.