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Chapter No.
18

AN ACT

Transferring certain projects of and amending and transferring programs of the Alaska Energy Authority to the Department of Community and Regional Affairs; relating to the Alaska Energy Authority; permitting the Alaska Industrial Development and Export Authority to issue revenue bonds for certain plants or facilities for energy resources; permitting utilities to form joint action agencies; authorizing the Alaska Industrial Development and Export Authority to issue revenue bonds for power transmission interties; relating to rates for a public utility that sends or receives power over certain power transmission interties; relating to the power cost equalization and capital improvement fund; amending the purpose of the Railbelt energy fund.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: May 13, 1993
Actual Effective Date: August 11, 1993

AN ACT

1 Transferring certain projects of and amending and transferring programs of the Alaska Energy
2 Authority to the Department of Community and Regional Affairs; relating to the Alaska
3 Energy Authority; permitting the Alaska Industrial Development and Export Authority to issue
4 revenue bonds for certain plants or facilities for energy resources; permitting utilities to form
5 joint action agencies; authorizing the Alaska Industrial Development and Export Authority to
6 issue revenue bonds for power transmission interties; relating to rates for a public utility that
7 sends or receives power over certain power transmission interties; relating to the power cost
8 equalization and capital improvement fund; amending the purpose of the Railbelt energy fund.

9 _____
10
11 * Section 1. FINDINGS AND INTENT. (a) The legislature finds that adequate, reliable,

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1 electric service at affordable rates is a necessary ingredient of a modern society and a
2 prosperous developing economy. The legislature further finds that at the current stage of
3 social and economic development in the state, direct participation by the state is necessary to
4 assist in the development of a regional electric transmission infrastructure and to assist in
5 holding rates in high cost service areas to affordable levels.

6 (b) The legislature recognizes the high cost of electric power in rural Alaska and
7 intends that funding for power cost equalization from the general fund and from the power
8 cost equalization and rural electric capitalization fund remain at a minimum of \$17,000,000
9 annually through the year 2013. The legislature further intends that this long-term
10 commitment to the power cost equalization program will permit and encourage the electric
11 utility industry and its lenders to develop the plans, make the investments, and take other
12 actions that are necessary or prudent to meet the utility needs of residents in rural Alaska.

13 * Sec. 2. AS 37.05.520 is amended to read:

14 Sec. 37.05.520. RAILBELT ENERGY FUND. There is established in the
15 general fund the Railbelt energy fund. The fund consists of money appropriated to it
16 by the legislature. The Department of Revenue shall manage the fund. Interest
17 received on money in the fund shall be accounted for separately and may be
18 appropriated into the fund annually. The legislature may appropriate money from the
19 fund for programs, projects, and other expenditures to assist in meeting Railbelt
20 energy needs, including projects for retrofitting state-owned buildings and facilities
21 for energy conservation.

22 * Sec. 3. AS 42.05.141(b) is amended to read:

23 (b) The commission shall perform the duties assigned to it under
24 AS 42.45.100 - 42.45.190 [AS 44.83.162].

25 * Sec. 4. AS 42.05.431 is amended by adding a new subsection to read:

26 (h) When setting or reviewing rates for a public utility that sends or receives
27 power over the power transmission interties between Fairbanks and Healy or between
28 Anchorage and the Kenai Peninsula, the commission shall consider those costs that
29 have not been directly assigned to other individual generating utilities by the utility
30 responsible for the construction of the intertie to have been incurred for the system
31 existing on the effective date of this subsection.

1 * Sec. 5. AS 42 is amended by adding a new chapter to read:

2 CHAPTER 45. RURAL AND STATEWIDE ENERGY PROGRAMS.

3 ARTICLE 1. POWER ASSISTANCE PROGRAMS.

4 Sec. 42.45.010. POWER PROJECT FUND. (a) The power project fund is
5 established as a separate fund. The fund shall be distinct from any other money or
6 funds of the department and includes only money appropriated by the legislature and
7 money deposited under (g) of this section.

8 (b) Subject to AS 42.45.060, the department may make loans from the power
9 project fund

10 (1) to electric utilities, regional electric authorities, municipalities,
11 regional and village corporations, village councils, independent power producers, and
12 nonprofit marketing cooperatives to pay the costs of

13 (A) reconnaissance studies, feasibility studies, license and
14 permit applications, preconstruction engineering, and design of power projects;

15 (B) constructing, equipping, modifying, improving, and
16 expanding small-scale power production facilities that are designed to produce
17 less than 10 megawatts of power, conservation facilities, bulk fuel storage
18 facilities, and transmission and distribution facilities, including energy
19 production, transmission and distribution, and waste energy conservation
20 facilities that depend on fossil fuel, wind power, tidal, geothermal, biomass,
21 hydroelectric, solar, or other nonnuclear energy sources; and

22 (C) reconnaissance studies, preconstruction engineering, design,
23 construction, equipping, modification, and expansion of potable water supply
24 including surface storage and groundwater sources and transmission of water
25 from surface storage to existing distribution systems;

26 (2) to a borrower for a power project if

27 (A) the loan is entered into under a leveraged lease financing
28 arrangement;

29 (B) the party that will be responsible for the power project is
30 an electric utility, regional electric authority, municipality, regional or village
31 corporation, village council, independent power producer, or nonprofit

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1 marketing cooperative; and

2 (C) the borrower seeking the loan demonstrates to the
3 department that the financing arrangement for the power project will reduce
4 project financing costs below costs of comparable public power projects.

5 (c) Before making a loan from the power project fund, the department shall,
6 by regulation, specify

7 (1) standards for the eligibility of borrowers and the types of projects
8 to be financed with loans;

9 (2) standards regarding the technical and economic viability and
10 revenue self-sufficiency of eligible projects;

11 (3) collateral or other security required for loans;

12 (4) the terms and conditions of loans;

13 (5) criteria to establish financial feasibility and to measure the amount
14 of state assistance necessary for particular projects to meet the financial feasibility
15 criteria; and

16 (6) other relevant criteria, standards, or procedures.

17 (d) A loan made by the department shall be made according to the standards,
18 criteria, and procedures established by regulation under this section.

19 (e) Repayment of the loans shall be secured in any manner that the department
20 determines is feasible to assure prompt repayment under a loan agreement entered into
21 with the borrower. The department may make an unsecured loan from the power
22 project fund to a borrower regulated by the Alaska Public Utilities Commission under
23 AS 42.05 if the borrower has a substantial history of repaying long-term loans and the
24 capacity to repay the loan. Under a loan agreement, repayment may be deferred for 10
25 years or until the project for which the loan is made has achieved earnings from its
26 operations sufficient to pay the loan, whichever is earlier.

27 (f) Power projects are subject to the following limitations on interest and
28 specific restrictions:

29 (1) power projects for which loans are outstanding from the former
30 water resources revolving loan fund (former AS 45.86) on July 13, 1978, may receive
31 additional financing from the power project fund; if granted,

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1 (A) the term of the additional financing may not exceed 50
2 years;

3 (B) the interest of the additional financing must be at a rate of
4 not less than three or more than five percent a year on the unpaid balance;

5 (C) the grant of the additional financing must be conditioned on
6 the repayment of loan principal and interest to begin on the earlier of

7 (i) the date of the start of commercial operation of the
8 project; or

9 (ii) 10 years from the date the loan is granted;

10 (2) a loan for a power project

11 (A) may not be granted for a term that exceeds 50 years; and

12 (B) shall be granted at an interest rate that is not less than zero
13 percent and that is the lesser of

14 (i) a rate equal to the percentage that is the average
15 weekly yield of municipal bonds for the 12 months preceding the date
16 of the loan, as determined by the department from municipal bond yield
17 rates reported in the 30-year revenue index of the Weekly Bond Buyer;
18 or

19 (ii) a rate determined by the department that allows the
20 project to meet criteria of financial feasibility established under (c) of
21 this section.

22 (g) Loan repayments and interest earned by loans from the power project fund
23 shall be deposited in the power project fund unless an appropriation to fund the loan
24 directs otherwise.

25 (h) The legislature may forgive the repayment of a loan made from the power
26 project fund for a reconnaissance study or a feasibility study when the department
27 finds that the power project for which the loan was made is not feasible.

28 (i) Money in the power project fund may be used by the legislature to make
29 appropriations for costs of administering the fund.

30 Sec. 42.45.020. RURAL ELECTRIFICATION REVOLVING LOAN FUND.

31 (a) The rural electrification revolving loan fund is established in the department. The

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1 fund consists of

2 (1) appropriations made to the fund; and

3 (2) repayments of principal and interest on loans made under this
4 section.

5 (b) Subject to AS 42.45.060, the department may make loans from the rural
6 electrification revolving loan fund to electric utilities certified by the Alaska Public
7 Utilities Commission. A loan from the fund may be made only for the purpose of
8 extending new electric service into an area of the state that an electric utility may serve
9 under a certificate of public convenience and necessity issued by the Alaska Public
10 Utilities Commission. A loan may be made from the fund to an electric utility if the
11 utility invests the money necessary to provide one pole, one span of line, one
12 transformer, and one service drop for each consumer for whom immediate service
13 would be provided by the extension of electric service. However, a loan may not be
14 made from the fund unless

15 (1) the loan is recommended by a loan advisory committee appointed
16 under AS 42.45.030; and

17 (2) the extension of electric service would provide immediate service
18 to at least three consumers.

19 (c) A loan from the rural electrification revolving loan fund shall bear an
20 annual rate of interest of two percent of the unpaid balance of the loan.

21 (d) When the department makes a loan under this section, the electric utility
22 receiving the loan shall,

23 (1) in addition to the rates that it is authorized to charge, charge the
24 consumers served by the electric service extended with the loan proceeds an amount
25 sufficient to pay the interest costs of the loan;

26 (2) pay to the department annually an amount equal to

27 (A) interest of two percent on the unpaid balance of the loan;

28 and

29 (B) payments on the unpaid balance of the principal of the loan
30 for each new consumer served by the electric service extended with the loan
31 proceeds; payments on the unpaid balance of the principal of the loan shall be

1 made at a rate equal to the difference between the actual cost of making the
2 service connection to the consumers and the minimum investment per consumer
3 required of the utility before a loan is made under (b) of this section.

4 (e) The department shall

5 (1) adopt regulations necessary to carry out the provisions of this
6 section;

7 (2) administer the rural electrification revolving loan fund; and

8 (3) submit to the legislature within the first 10 days of each regular
9 legislative session a report of actions taken by the department under this section and
10 an accounting of the rural electrification revolving loan fund.

11 (f) Money in the rural electrification revolving loan fund may be used by the
12 legislature to make appropriations for costs of administering the fund.

13 (g) On June 30 of each fiscal year the unexpended and unobligated cash
14 balance of the fund that is attributable to loans owned by the fund lapses into the
15 general fund.

16 (h) In this section,

17 (1) "consumer" means a person or a governmental agency, if the person
18 or governmental agency requests and offers to pay for electrical service to a facility
19 or part of a facility; the department shall consider a person who, or a governmental
20 agency that, offers to pay for electrical service to several facilities to be a separate
21 consumer for each facility, if each facility is physically separate from another facility,
22 other than through electric service lines, and if the person or governmental agency
23 requests and offers to pay for electrical service to each facility;

24 (2) "facility" means a structure capable of receiving and using electrical
25 energy; and

26 (3) "governmental agency" includes, with respect to the state or federal
27 government or a municipal government, a legislative body, board of regents,
28 administrative body, board, commission, committee, subcommittee, authority, council,
29 agency, public corporation, school board, department, division, bureau, or other
30 subordinate unit, whether advisory or otherwise, of the state, federal, or municipal
31 government.

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1 Sec. 42.45.030. LOAN ADVISORY COMMITTEE. When an application for
2 a rural electrification loan is submitted to the department under AS 42.45.020, the
3 department shall appoint a local advisory committee from persons residing in the area
4 that the applicant utility is certified to serve. The loan advisory committee shall
5 consider the loan application and shall recommend whether the loan application is to
6 be approved or disapproved. The loan advisory committee may make a favorable
7 recommendation only if it determines that development in the area of the proposed
8 extension of electric service is likely to provide for full repayment of the loan under
9 AS 42.45.020(d) within 10 years. In making that determination, the committee shall
10 consider

- 11 (1) permanence of the premises to be served by the extension;
- 12 (2) land use patterns in the area;
- 13 (3) access for the line that would be installed with loan proceeds;
- 14 (4) availability of other utility service in the area; and
- 15 (5) the economic feasibility of the extension of electric service with the
16 proceeds of the loan.

17 Sec. 42.45.040. SOUTHEAST ENERGY FUND. The Southeast energy fund
18 is established as a separate fund. The fund consists of money transferred to it under
19 AS 42.45.050. The department may make grants from the Southeast energy fund to
20 utilities participating in the power transmission intertie between the Swan Lake and
21 Tyee Lake hydroelectric projects for power projects, for repayment of loans, and for
22 payments on bonds.

23 Sec. 42.45.050. FOUR DAM POOL TRANSFER FUND. (a) The four dam
24 pool transfer fund is established in the department. The fund consists of repayments
25 of principal and income that would have been deposited in the former power
26 development revolving loan fund under former AS 44.83.500.

27 (b) Subject to appropriation, the department shall transfer the balance of the
28 four dam pool transfer fund each month in accordance with this subsection. Subject
29 to appropriation

- 30 (1) 40 percent of the balance in the four dam pool transfer fund shall
31 be transferred to the power cost equalization and rural electric capitalization fund to

1 be used for power cost equalization and rural electric projects;

2 (2) 40 percent of the balance in the four dam pool transfer fund shall
3 be transferred to the Southeast energy fund to be used for power projects for utilities
4 participating in the power transmission intertie between the Swan Lake and Tye Lake
5 hydroelectric projects; and

6 (3) 20 percent of the balance in the four dam pool transfer fund shall
7 be transferred to the power project fund to be used for statewide utility projects.

8 Sec. 42.45.060. APPROVAL BY LOAN COMMITTEE AND
9 LEGISLATURE. (a) A loan committee consisting of seven members is established.
10 The committee is composed of the commissioner of community and regional affairs,
11 the commissioner of commerce and economic development, the director of
12 management and budget, or the designees of the commissioners or the director, and
13 four public members.

14 (b) The public members of the committee are appointed by and serve at the
15 pleasure of the governor. Public members serve staggered four-year terms. Only one
16 public member may be appointed from each judicial district described in
17 AS 22.10.010. Public members of the committee serve without compensation but are
18 entitled to travel and per diem as provided for members of boards and commissions
19 under AS 39.20.180. A public member of the committee serves until a successor is
20 appointed. An appointment to fill a vacancy among the public members on the
21 committee is for the remainder of the unexpired term.

22 (c) The commissioner of community and regional affairs serves as chair of the
23 committee. The committee may elect other officers as necessary. A majority of the
24 members of the committee constitute a quorum and may exercise the powers of the
25 committee.

26 (d) A meeting by an electronic medium as provided in this subsection has the
27 same legal effect as a meeting in person. The committee may meet and transact
28 business by an electronic medium if

29 (1) public notice of the time and locations where the meeting will be
30 held by an electronic medium has been given in the same manner as if the meeting
31 were held in a single location;

- 1 (1) a project in which the cumulative state monetary involvement,
2 through loans, grants, and bonds, is at least \$5,000,000; or
3 (2) a project for which a loan of more than \$5,000,000 has been
4 requested.

5 ARTICLE 2. POWER COST EQUALIZATION AND
6 RURAL ELECTRIC CAPITALIZATION.

7 Sec. 42.45.100. POWER COST EQUALIZATION AND RURAL ELECTRIC
8 CAPITALIZATION FUND. (a) The power cost equalization and rural electric
9 capitalization fund is established as a separate fund for the purpose of

- 10 (1) equalizing power cost per kilowatt-hour statewide at a cost close
11 to or equal to the mean of the cost per kilowatt-hour in Anchorage, Fairbanks, and
12 Juneau by paying money from the fund to eligible electric utilities in the state; and
13 (2) to make grants to eligible utilities under AS 42.45.180 to improve
14 the performance of the utility.

15 (b) The fund shall be administered by the department as a fund distinct from
16 the other funds of the department. The fund is composed of

- 17 (1) money appropriated to provide power cost equalization to eligible
18 electric utilities and to provide grants for utility improvements; and
19 (2) interest earned on those appropriations.

20 (c) The fund is not a dedicated fund.

21 Sec. 42.45.110. ENTITLEMENT TO POWER COST EQUALIZATION. (a)
22 The costs used to calculate the amount of power cost equalization for all electric
23 utilities eligible under AS 42.45.100 - 42.45.150 include all allowable costs, except
24 return on equity, used by the Alaska Public Utilities Commission to determine the
25 revenue requirement for electric utilities subject to rate regulation under AS 42.05.
26 The costs used in determining the power cost equalization per kilowatt-hour shall
27 exclude any other type of assistance that reduces the customer's costs of power on a
28 kilowatt-hour basis and that is provided to the electric utility within 60 days before the
29 commission determines the power cost equalization per kilowatt-hour of the electric
30 utility. In calculating power cost equalization, the commission may not consider
31 validated costs or kilowatt-hour sales associated with a United States Department of

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1 Defense facility.

2 (b) An eligible electric utility is entitled to receive power cost equalization

3 (1) for sales of power to local community facilities, calculated in the
4 aggregate for each community served by the electric utility, for actual consumption of
5 not more than 70 kilowatt-hours per month for each resident of the community; the
6 number of community residents shall be determined under AS 29.60.020; and

7 (2) for actual consumption of not more than 700 kilowatt-hours per
8 month sold to each customer in all classes served by the electric utility except

9 (A) customers of the utility under (1) of this subsection; and

10 (B) customers that are state or federal offices or state or federal
11 facilities other than public schools.

12 (c) The amount of power cost equalization provided per kilowatt-hour under
13 (b) of this section may not exceed 95 percent of the power costs, or the average rate
14 per eligible kilowatt-hour sold, whichever is less, as determined by the department.
15 However,

16 (1) during the state fiscal year that began July 1, 1993, the power costs
17 for which power cost equalization were paid to an electric utility were limited to
18 minimum power costs of more than 9.5 cents per kilowatt-hour and less than 52.5
19 cents per kilowatt-hour;

20 (2) during each following state fiscal year, the department shall adjust
21 the power costs for which power cost equalization may be paid to an electric utility
22 based on the weighted average retail residential rate in Anchorage, Fairbanks, and
23 Juneau; and

24 (3) the power cost equalization per kilowatt-hour may be determined
25 for a utility without historical kilowatt-hour sales data by using kilowatt-hours
26 generated.

27 (d) An electric utility whose customers receive power cost equalization under
28 AS 42.45.100 - 42.45.150 shall set out in its tariff the rates without the power cost
29 equalization and the amount of power cost equalization per kilowatt-hour sold. The
30 rate charged to the customer shall be the difference between the two amounts. Power
31 cost equalization paid under AS 42.45.100 - 42.45.150 shall be used to reduce the cost

1 of all power sold to local community facilities, in the aggregate, to the extent of 70
2 kilowatt-hours per month per resident of the community, and to reduce the cost of the
3 first 700 kilowatt-hours per customer per month for all other classes served by the
4 electric utility except state and federal offices and state and federal facilities other than
5 public schools.

6 (e) The power cost equalization program shall be administered by the
7 department based on a determination by the department under (a) and (c) of this
8 section of power cost equalization per kilowatt-hour for each eligible electric utility.

9 (f) The department may not deny an eligible electric utility power cost
10 equalization because complete cost information is not available. The department shall
11 assist an eligible electric utility that is exempt from rate regulation under AS 42.05 to
12 provide the cost information the department considers necessary to comply with
13 AS 42.45.100 - 42.45.150. Only power costs that are supportable may be considered
14 in calculating power cost equalization. Each electric utility is responsible for keeping
15 records that provide the information necessary to comply with AS 42.45.100 -
16 42.45.150 including records of monthly kilowatt-hour sales or generation, monthly fuel
17 balances, fuel purchases, and monthly utility fuel consumption.

18 (g) The department shall determine the cost of fuel for each eligible electric
19 utility using the procedure for approving fuel cost rate adjustments of electric utilities
20 subject to rate regulation under AS 42.05.

21 (h) Each electric utility receiving power cost equalization approved by the
22 department shall

23 (1) report monthly to the department within the time and in the form
24 the department requires; and

25 (2) use operational equipment designed to meter individual utility
26 customer power consumption and to determine and record the utility's overall fuel
27 consumption.

28 (i) The department shall review the report required under (h) of this section.
29 After review and approval of the report, the department shall, subject to appropriation,
30 pay to each eligible electric utility an amount equal to the power cost equalization per
31 kilowatt-hour determined under (a) and (c) of this section, multiplied by the number

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1 of kilowatt-hours eligible for power cost equalization that were sold during the
2 preceding month to all customers of the utility under (b) of this section. Payment shall
3 be made by the department within 30 days after receipt from the utility of the report
4 required under (h) of this section. If appropriations are insufficient for payment in full,
5 the amount paid to each electric utility is reduced on a pro rata basis.

6 Sec. 42.45.120. NOTICE TO CUSTOMERS. If an electric utility receives
7 power cost equalization under AS 42.45.100 - 42.45.150, the utility shall either give
8 to its electric service customers eligible under this program, for each period for which
9 the payment is received,

10 (1) the following notice:

11 NOTICE TO CUSTOMER

12 For the current billing period the utility will be paid under the
13 State of Alaska's power cost equalization program
14 (AS 42.45.100) to assist the utility and its customers in reducing
15 the high cost of generation of electric energy. Your total
16 electrical service cost \$.

17 Less state equalization \$.

18 Your charge \$.; or

19 (2) a notice approved by the department that provides electric service
20 customers the same information provided by the notice in (1) of this section.

21 Sec. 42.45.130. COST MINIMIZATION. (a) In order to qualify for power
22 cost equalization, each electric utility shall make every reasonable effort to minimize
23 administrative, operating, and overhead costs, including using the best available
24 technology consistent with sound utility management practices. In reviewing
25 applications for power cost equalization, the department may require the elimination
26 of unnecessary operating expenses. Each eligible electric utility shall cooperate with
27 appropriate state agencies to implement cost-effective energy conservation measures
28 and to plan for and implement feasible alternatives to diesel generation.

29 (b) In this section, "energy conservation measures" include weatherization and
30 other insulating methods, utilization of waste heat, appropriate sizing of new generating
31 equipment, and other programs of the state or federal government intended and

1 available for energy conservation.

2 Sec. 42.45.140. CUSTOMER PETITIONS. If the department receives a
3 petition requesting power cost equalization, signed by at least 25 percent of the
4 customers of an electric utility that is subject to rate regulation under AS 42.05 and
5 that has not applied for power cost equalization under AS 42.45.100 - 42.45.150, the
6 department shall require the utility to submit a power cost equalization application.
7 Upon a determination of eligibility for power cost equalization, the utility, as a part
8 of its service, shall receive power cost equalization and pass power cost equalization
9 benefits to its customers under AS 42.45.100 - 42.45.150.

10 Sec. 42.45.150. DEFINITIONS FOR AS 42.45.100 - 42.45.150. In
11 AS 42.45.100 - 42.45.150,

12 (1) "community facility" means a water and sewer facility, public
13 outdoor lighting, charitable educational facility, or community building whose
14 operations are not paid for by the state, the federal government, or private commercial
15 interests;

16 (2) "eligible electric utility" or "electric utility" means a public,
17 cooperative, or other corporation, company, individual, or association of individuals,
18 and includes the lessees, trustees, or receivers appointed by a court, that

19 (A) owns, operates, manages, or controls a plant or system for
20 the furnishing, by generation, transmission or distribution, of electric service
21 to the public for compensation;

22 (B) during calendar year 1983, had a residential consumption
23 level of power eligible for power cost equalization under former AS 44.83 of
24 less than 7,500 megawatt hours or had a residential consumption level of power
25 eligible for power cost equalization under former AS 44.83 of less than 15,000
26 megawatt hours if the utility served two or more municipalities or
27 unincorporated communities; and

28 (C) during calendar year 1984, used diesel fired generators to
29 produce more than 75 percent of the electrical consumption of the utility; an
30 electric utility that is a subsidiary of another electric utility is an "eligible
31 electric utility" if the operations of the subsidiary, considered separately, meet

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1 the eligibility requirements of AS 42.45.100 - 42.45.150; if an electric utility
2 did not receive power cost assistance in 1983 but is otherwise eligible for
3 power cost equalization under AS 42.45.100 - 42.45.150, the utility is an
4 "eligible electric utility";

5 (3) "power costs" means costs used in determining power cost
6 equalization under AS 42.45.110(a) and (c).

7 Sec. 42.45.160. ADJUSTMENTS TO POWER COST EQUALIZATION. (a)

8 The commission may adjust the power cost equalization per kilowatt-hour, determined
9 under AS 42.45.100 - 42.45.150, payable to an electric utility that is subject to rate
10 regulation under AS 42.05 if the

11 (1) commission has approved a fuel cost rate adjustment caused by an
12 increase or decrease in the electric utility's cost of fuel;

13 (2) commission has approved a permanent or interim rate increase or
14 decrease that establishes a higher or lower power cost;

15 (3) authority has discovered, in reviewing the monthly data submitted
16 by the electric utility, discrepancies that require adjustment of the power cost
17 equalization; or

18 (4) authority determines that appropriations are insufficient to finance
19 full payments to eligible electric utilities.

20 (b) An electric utility that is eligible to receive power cost equalization under
21 this section and that receives power cost equalization per kilowatt-hour approved by
22 the department shall report monthly to the department within the time and in the form
23 the department requires. An electric utility shall report

24 (1) the power cost equalization per kilowatt-hour approved by the
25 department;

26 (2) the total kilowatt-hours sold to each class of customer during the
27 preceding month;

28 (3) the total kilowatt-hours eligible for power cost equalization under
29 this section sold to each class of customer during the preceding month;

30 (4) the total kilowatt-hours generated during the preceding month, if
31 available;

1 (5) any department approved amendments to the schedule of rates in
2 effect during the preceding month; and

3 (6) an increase or decrease in the current unit price of fuel from the
4 base price used by the department in determining power costs if the change is expected
5 to result in a subsequent power cost equalization adjustment.

6 (c) The provisions of AS 42.45.100 - 42.45.150 relating to the determination
7 of the amount of power cost equalization and payment of the equalization assistance
8 apply to equalization assistance under this section.

9 Sec. 42.45.170. EQUALIZATION ASSISTANCE TO UNREGULATED
10 UTILITIES. (a) An electric utility that is not subject to rate regulation by the Alaska
11 Public Utilities Commission under AS 42.05 may receive power cost equalization if
12 the utility is otherwise eligible for equalization assistance under AS 42.45.100 -
13 42.45.150 and if the utility

14 (1) files with the department financial data necessary to determine the
15 power cost equalization per kilowatt-hour as prescribed by the department and that is
16 in compliance with AS 42.45.100 - 42.45.150;

17 (2) reports monthly to the department, within the time and in the form
18 required, the information required in (b) of this section;

19 (3) sets rates

20 (A) that consider the power cost equalization provided under
21 AS 42.45.100 - 42.45.150 by subtracting from its revenue requirements for
22 electric services the power cost equalization per kilowatt-hour that it is eligible
23 to receive; and

24 (B) under which the power cost equalization provided in
25 AS 42.45.060 - 42.45.110 is applied as a credit only against the cost of
26 kilowatt-hours eligible for equalization assistance under AS 42.45.100 -
27 42.45.150 that are consumed by each customer in any month;

28 (4) allows audits that the department determines are necessary to ensure
29 compliance with this section; and

30 (5) furnishes its electric service customers eligible under this program
31 a notice as specified in AS 42.45.120.

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- 1 (b) An electric utility that is eligible to receive power cost equalization under
2 this section shall report in accordance with (a)(2) of this section
- 3 (1) the power cost equalization per kilowatt-hour approved by the
4 department;
- 5 (2) the total kilowatt-hours sold to each class of customer during the
6 preceding month;
- 7 (3) the total kilowatt-hours eligible for power cost equalization under
8 this section sold to each class of customer during the preceding month;
- 9 (4) the total kilowatt-hours generated during the preceding month, if
10 available;
- 11 (5) any amendments to the schedule of rates in effect during the
12 preceding month; and
- 13 (6) an increase or decrease in the current unit price of fuel from the
14 base price used by the department in determining power costs if the change is expected
15 to result in a subsequent equalization assistance level adjustment.
- 16 (c) An electric utility that is eligible to receive power cost equalization under
17 this section may have its power cost equalization per kilowatt-hour determination
18 changed by the department if the department
- 19 (1) has verified an increase or decrease in the electric utility's cost of
20 fuel;
- 21 (2) has verified an increase in rates based on an increase in costs;
- 22 (3) has discovered, in reviewing the monthly data submitted by the
23 electric utility, discrepancies that require adjustment of the power cost equalization; or
24 (4) determines that appropriations are insufficient to finance full
25 payments to eligible electric utilities.
- 26 (d) The provisions of AS 42.45.100 - 42.45.150 relating to the determination
27 of the amount of power cost equalization and payment of the equalization assistance
28 apply to equalization assistance under this section.
- 29 (e) An application for power cost equalization by an electric utility that is
30 eligible to receive power cost under this section does not extend the jurisdiction of the
31 Alaska Public Utilities Commission beyond that established by AS 42.05.

1 Sec. 42.45.180. GRANTS FOR UTILITY IMPROVEMENTS. (a) The
2 department may make a grant from the fund for an eligible utility for a small power
3 project that will reduce the cost of generating or transmitting power to the customers
4 of the utility. The amount of the grant may not exceed 75 percent of the cost of the
5 project. The department may not make a grant under this section unless the eligible
6 utility has secured financing for 25 percent of the cost of the project from a source
7 other than the power cost equalization and rural electric capitalization fund, as
8 provided under (c) of this section.

9 (b) The department may not allocate more than three percent of the balance
10 in the fund to grants under this section in a fiscal year.

11 (c) In determining whether an eligible utility has secured financing for 25
12 percent of the cost of the project from a source other than the power cost equalization
13 and rural electric capitalization fund, the department shall accept solicited and
14 unsolicited proposals for third party financing or for a joint venture between the utility
15 and an entity from the private sector provided that the private sector participant has

16 (1) a valid state business license;

17 (2) a resolution or letter of agreement executed by the eligible utility
18 agreeing to participation by the private sector participant;

19 (3) a business plan that illustrates how the proposed project will reduce
20 the cost of generating or transmitting power to the customers of the utility.

21 (d) In this section,

22 (1) "eligible utility" has the meaning given in AS 42.45.150;

23 (2) "project" includes

24 (A) power generation systems;

25 (B) transmission systems;

26 (C) distribution systems;

27 (D) metering systems;

28 (E) energy store systems;

29 (F) energy conservation programs; and

30 (G) bulk fuel storage facilities;

31 (3) "small power project" means a new or modified project that will

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1 either generate, store, or conserve no more than 1.5 megawatts of power or provide a
2 metering system, transmission system, distribution system, or bulk fuel storage facility
3 that has an estimated cost of less than \$3,000,000.

4 Sec. 42.45.190. DEFINITION FOR AS 42.45.100 - 42.45.190. In
5 AS 42.45.100 - 42.45.190, "fund" means the power cost equalization and rural electric
6 capitalization fund established under AS 42.45.100.

7 ARTICLE 3. ELECTRICAL SERVICE EXTENSION FUND.

8 Sec. 42.45.200. ELECTRICAL SERVICE EXTENSION FUND
9 ESTABLISHED. (a) The electrical service extension fund is established as a separate
10 fund in the department. The fund consists only of money appropriated to it by the
11 legislature.

12 (b) The department may make grants from the electrical service extension fund
13 to certificated electric utilities and to electric utilities exempt from certification under
14 AS 42.05.711, as a first priority, to pay for costs of site preparation and construction
15 for the extension of electrical service to private residences and small businesses not
16 currently served by an electric utility and, as a second priority, for making
17 improvements to existing utilities. The amount of a grant made under this section may
18 not exceed 60 percent of the total cost of construction of the project. The costs
19 considered in making a grant may not include costs of planning, feasibility studies, or
20 design.

21 (c) An electric utility that has received a grant under this section may charge
22 a connection fee for initial connection to the electrical service made available because
23 of the construction. The connection fee for each residential or commercial structure
24 shall conform to the line extension policy of the utility.

25 (d) The department shall adopt regulations under AS 44.62 (Administrative
26 Procedure Act) to implement this section.

27 (e) In this section, "certificated" means holding a certificate of public
28 convenience and necessity issued by the Alaska Public Utilities Commission under
29 AS 42.05.

30 ARTICLE 4. BULK FUEL REVOLVING LOAN FUND.

31 Sec. 42.45.250. BULK FUEL REVOLVING LOAN FUND. (a) The bulk fuel

1 revolving loan fund is established in the department to assist communities in
2 purchasing bulk fuel. A community, or a private individual who has written
3 endorsement from the governing body of the community, is eligible for a loan from
4 the bulk fuel revolving loan fund for a bulk fuel purchase.

5 (b) Money in the fund may be used by the legislature to make appropriations
6 for costs of administering this section.

7 (c) The foreclosure expense account is established as a special account within
8 the bulk fuel revolving loan fund. This account is established as a reserve from fund
9 equity.

10 (d) The department may spend money credited to the foreclosure expense
11 account when necessary to protect the state's security interest in collateral on loans
12 made under this section or to defray expenses incurred during foreclosure proceedings
13 after a default by an obligor.

14 (e) Loans made from the bulk fuel revolving loan fund to one borrower in any
15 fiscal year are not subject to AS 42.45.060 and

16 (1) may not exceed \$100,000;

17 (2) shall be repaid in one year or less; and

18 (3) may not exceed 90 percent of the wholesale price of the fuel
19 purchased.

20 (f) Interest may be charged on a loan made from the bulk fuel revolving loan
21 fund. Interest shall be charged on a loan at a rate equal to the percentage of the
22 average weekly yield of municipal bonds for the 12 months preceding the date of the
23 loan, as determined by the department from municipal bond yield rates reported in the
24 30-year revenue index of the Weekly Bond Buyer. However, if the department finds
25 that a community cannot afford to repay a portion of interest on a loan, and makes a
26 determination in writing, the department may reduce or eliminate the interest rate
27 applicable to the loan.

28 (g) Repayments of the principal, the interest, and the money chargeable to
29 principal or interest that is collected through liquidation by foreclosure or other process
30 on a loan made under this section shall be paid into the bulk fuel revolving loan fund.
31 The fund is not a dedicated fund.

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1 (h) The department may contract for the administration of the bulk fuel loan
2 program established in this section.

3 (i) The department shall dispose of property acquired through default or
4 foreclosure of a loan made under this section. Disposal shall be made in a manner that
5 serves the best interests of the state, and may include the amortization of payments
6 over a period of years.

7 (j) The department may adopt regulations necessary to carry out the provisions
8 of this section, including regulations to establish reasonable fees for services provided
9 and charges for collecting the fees.

10 (k) The department may collect the fees and collection charges established
11 under (i) of this section and shall deposit the money in the general fund.

12 (l) In this section,

13 (1) "bulk fuel storage facility" means a storage tank capable of holding
14 at least 10,000 gallons of petroleum fuel; and

15 (2) "community" means an organized municipality or an unincorporated
16 village that is a social unit, with a population of less than 2,000 people.

17 ARTICLE 5. JOINT ACTION AGENCIES.

18 Sec. 42.45.300. JOINT ACTION AGENCIES. Two or more public utilities
19 may form a joint action agency for the purpose of participation in the design,
20 construction, operation, and maintenance of a generating or transmission facility and
21 to secure financing for carrying out the design, construction, operation, and
22 maintenance of the facility. A joint action agency may request the Alaska Industrial
23 Development and Export Authority to issue revenue bonds for projects of the agency.
24 A joint action agency has the powers of a public utility under AS 42.05.

25 ARTICLE 6. MISCELLANEOUS PROVISIONS.

26 Sec. 42.45.400. ASSISTANCE TO RURAL UTILITIES. The department shall
27 provide technical assistance to rural utilities including catastrophe prevention programs
28 and other training programs for utility projects. The department shall provide rural
29 utilities with the technical assistance and training that the utilities need to improve the
30 efficiency, safety, and reliability of their power systems and to prevent emergency
31 situations from developing. At a minimum, the assistance and training must include

1 information on

- 2 (1) reducing distribution line losses;
- 3 (2) installation of generators that are more fuel efficient;
- 4 (3) preventative maintenance programs;
- 5 (4) safety inspections;
- 6 (5) installing and maintaining waste heat systems;
- 7 (6) improved metering systems;
- 8 (7) improved management and administration; and
- 9 (8) coordinating regional activities, including circuit rider maintenance

10 programs.

11 (b) In providing rural utilities with technical assistance and training, the
12 department shall give priority to contracting with the private sector for these services.

13 Sec. 42.45.410. RELATIONSHIP WITH PRIVATE SECTOR. The department
14 shall, to the maximum extent feasible, carry out its powers and duties under this
15 chapter by entering into contracts with appropriate entities in the private sector.

16 ARTICLE 7. GENERAL PROVISIONS.

17 Sec. 42.45.990. DEFINITIONS. In this chapter, unless the context otherwise
18 requires,

19 (1) "department" means the Department of Community and Regional
20 Affairs;

21 (2) "feasibility study"

22 (A) means a study conducted to establish the economic and
23 environmental practicality of completing a proposed power project;

24 (B) includes engineering and design work to meet the
25 requirements for submission of a license application for a proposed new project
26 to the Federal Energy Regulatory Commission;

27 (3) "power" includes electrical energy generated, distributed, bought,
28 or sold for lighting, heating, power, and every other useful purpose;

29 (4) "power project" or "project" means a plant, works, system, or
30 facility, together with related or necessary facilities and appurtenances, including a
31 divided or undivided interest in or a right to the capacity of a power project or project,

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1 that is used or is useful for the purpose of

2 (A) electrical or thermal energy production other than nuclear
3 energy production;

4 (B) waste energy utilization and energy conservation; or

5 (C) transmission, purchase, sale, exchange, and interchange of
6 electrical or thermal energy, including district heating or interties;

7 (5) "reconnaissance study" means a study conducted to assess the
8 present and future electrical and thermal energy needs of an area.

9 * Sec. 6. AS 44.47.050(a) is amended to read:

10 (a) The department may

11 (1) advise and assist local governments;

12 (2) serve as staff for the Local Boundary Commission;

13 (3) conduct studies and carry out experimental and pilot projects for the
14 purpose of developing solutions to community and regional problems;

15 (4) promote cooperative solutions to problems affecting more than one
16 community or region, including joint service agreements, regional compacts, and other
17 forms of cooperation;

18 (5) serve as a clearinghouse for information useful in solution of
19 community and regional problems, and channel to the appropriate authority requests
20 for information and services;

21 (6) advise and assist community and regional governments on matters
22 of finance, including but not limited to bond marketing and procurement of federal
23 funds;

24 (7) prepare suggested guidelines relating to the content of notice of
25 bond sale advertisements, prospectuses, and other bonding matters issued by local
26 governments;

27 (8) administer state funds appropriated for the benefit of unorganized
28 regions within the state, allowing for maximum participation by local advisory councils
29 and similar bodies;

30 (9) carry out those administrative functions in the unorganized borough
31 that the legislature may prescribe;

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1 (10) study existing and proposed laws and state activities that affect
2 community and regional affairs and submit to the governor recommended changes in
3 those laws and activities;

4 (11) coordinate activities of the state that affect community and
5 regional affairs;

6 (12) assist in the development of new communities and serve as the
7 agent of the state for purposes of participation in federal programs relating to new
8 communities;

9 (13) supervise planning, management, and other activities required for
10 local eligibility for financial aid under those federal and state programs that [WHICH]
11 provide assistance to community and regional governments;

12 (14) administer state and, as appropriate, federal programs for revenue
13 sharing, grants, and other forms of financial assistance to community and regional
14 governments;

15 (15) provide staff assistance, as requested, to the Rural Affairs
16 Commission;

17 (16) apply for, receive, and use funds from federal and other sources,
18 public or private, for use in carrying out the powers and duties of the department;

19 (17) request and utilize the resources of other agencies of state
20 government in carrying out the purposes of this chapter to the extent such utilization
21 is more efficient than maintaining departmental staff, reimbursing the other agencies
22 when appropriate;

23 (18) [REPEALED]

24 (19)] advise and assist municipalities on procedures of assessment,
25 valuation, and taxation, and notify municipalities of major errors in those procedures;

26 (19) carry out the powers and duties assigned it under AS 42.45;

27 (20) carry out other functions and duties, consistent with law, necessary
28 or appropriate to accomplish the purpose of this chapter.

29 * Sec. 7. AS 44.83.030 is repealed and reenacted to read:

30 Sec. 44.83.030. MEMBERSHIP OF THE AUTHORITY. The directors of the
31 Alaska Energy Authority are the members of the Alaska Industrial Development and

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1 Export Authority.

2 * Sec. 8. AS 44.83.040(a) is amended to read:

3 (a) The chair and vice-chair of the Alaska Industrial Development and
4 Export Authority shall serve as officers of the Alaska Energy Authority
5 [DIRECTORS SHALL ELECT ONE OF THEIR NUMBER AS CHAIRMAN AND
6 MAY ELECT OTHER OFFICERS THEY DETERMINE DESIRABLE]. The powers
7 of the Alaska Energy Authority [AUTHORITY] are vested in the directors, and three
8 [FOUR] directors of the authority constitute a quorum. Action may be taken and
9 motions and resolutions adopted by the Alaska Energy Authority [AUTHORITY] at
10 a meeting by the affirmative vote of a majority of the directors. The directors of the
11 Alaska Energy Authority [AUTHORITY] serve without compensation, but they shall
12 receive the same travel pay and per diem as provided by law for board members
13 under AS 39.20.180.

14 * Sec. 9. AS 44.83.070 is amended to read:

15 Sec. 44.83.070. PURPOSE OF THE AUTHORITY. The purpose of the
16 authority is to promote, develop, and advance the general prosperity and economic
17 welfare of the people of the state by providing a means of [CONSTRUCTING,
18 ACQUIRING,] financing and operating power projects and facilities that recover and
19 use waste energy.

20 * Sec. 10. AS 44.83.080 is amended to read:

21 Sec. 44.83.080. POWERS OF THE AUTHORITY. In furtherance of its
22 corporate purposes, the authority has the following powers in addition to its other
23 powers:

- 24 (1) to sue and be sued;
- 25 (2) to have a seal and alter it at pleasure;
- 26 (3) to make and alter bylaws for its organization and internal
27 management;
- 28 (4) to adopt regulations governing the exercise of its corporate powers;
- 29 (5) to [ACQUIRE, WHETHER BY CONSTRUCTION, PURCHASE,
30 GIFT OR LEASE, AND TO] improve, equip, operate, and maintain power projects;
- 31 (6) to issue bonds to carry out any of its corporate purposes and

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1 powers, including [THE ACQUISITION OR CONSTRUCTION OF A PROJECT TO
2 BE OWNED OR LEASED, AS LESSOR OR LESSEE, BY THE AUTHORITY, OR
3 BY ANOTHER PERSON, OR THE ACQUISITION OF ANY INTEREST IN A
4 PROJECT OR ANY RIGHT TO CAPACITY OF A PROJECT,] the establishment or
5 increase of reserves to secure or to pay the bonds or interest on them, and the payment
6 of all other costs or expenses of the authority incident to and necessary or convenient
7 to carry out its corporate purposes and powers;

8 (7) to sell, lease as lessor or lessee, exchange, donate, convey, or
9 encumber in any manner by mortgage or by creation of any other security interest, real
10 or personal property owned by it, or in which it has an interest, when, in the judgment
11 of the authority, the action is in furtherance of its corporate purposes;

12 (8) to accept gifts, grants, or loans from, and enter into contracts or
13 other transactions regarding them, with any person;

14 (9) to deposit or invest its funds, subject to agreements with
15 bondholders;

16 (10) to enter into contracts with the United States or any person and,
17 subject to the laws of the United States and subject to concurrence of the legislature,
18 with a foreign country or its agencies, for the financing, [CONSTRUCTION,
19 ACQUISITION,] operation, and maintenance of all or any part of a power project,
20 either inside or outside the state, and for the sale or transmission of power from a
21 project or any right to the capacity of it or for the security of any bonds of the
22 authority issued or to be issued for the project;

23 (11) to enter into contracts with any person and with the United States,
24 and, subject to the laws of the United States and subject to the concurrence of the
25 legislature, with a foreign country or its agencies for the purchase, sale, exchange,
26 transmission, or use of power from a project, or any right to the capacity of it;

27 (12) to apply to the appropriate agencies of the state, the United States,
28 and to a foreign country and any other proper agency for the permits, licenses, or
29 approvals as may be necessary, and to [CONSTRUCT,] maintain and operate power
30 projects in accordance with the licenses or permits, and to obtain, hold, and use the
31 licenses and permits in the same manner as any other person or operating unit;

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1 (13) [TO PERFORM RECONNAISSANCE STUDIES, FEASIBILITY
2 STUDIES, AND ENGINEERING AND DESIGN WITH RESPECT TO POWER
3 PROJECTS;

4 (14)] to enter into contracts or agreements with respect to the exercise
5 of any of its powers, and do all things necessary or convenient to carry out its
6 corporate purposes and exercise the powers granted in this chapter;

7 (14) [(15) TO EXERCISE THE POWER OF EMINENT DOMAIN IN
8 ACCORDANCE WITH AS 09.55.240 - 09.55.460;

9 (16)] to recommend to the legislature

10 (A) [THE ISSUANCE OF GENERAL OBLIGATION BONDS
11 OF THE STATE TO FINANCE THE CONSTRUCTION OF A POWER
12 PROJECT IF THE AUTHORITY FIRST DETERMINES THAT THE
13 PROJECT CANNOT BE FINANCED BY REVENUE BONDS OF THE
14 AUTHORITY AT REASONABLE RATES OF INTEREST;

15 (B)] the pledge of the credit of the state to guarantee repayment
16 of all or any portion of revenue bonds issued to assist in construction of power
17 projects;

18 (B) [(C)] an appropriation from the general fund

19 (i) for debt service on bonds or other project purposes;

20 or

21 (ii) to reduce the amount of debt financing for the
22 project;

23 [(D) AN APPROPRIATION TO THE POWER PROJECT
24 FUND FOR A POWER PROJECT;

25 (E) REPEALED

26 (F) DEVELOPMENT OF A PROJECT UNDER FINANCING
27 ARRANGEMENTS WITH OTHER ENTITIES USING LEVERAGED
28 LEASES OR OTHER FINANCING METHODS;

29 (G) AN APPROPRIATION FOR A POWER PROJECT
30 ACQUIRED OR CONSTRUCTED UNDER AS 44.83.380 - 44.83.425
31 (ENERGY PROGRAM FOR ALASKA)].

1 * Sec. 11. AS 44.83.090(a) is amended to read:

2 (a) The authority shall, in addition to the other methods that [WHICH] it may
3 find advantageous, provide a method by which municipal electric, rural electric,
4 cooperative electric, or private electric utilities and regional electric authorities, or
5 other persons authorized by law to engage in the distribution of electricity may secure
6 a reasonable share of the power generated by a project, or any interest in a project, or
7 for any right to the power and shall sell the power or cause the power to be sold at the
8 lowest reasonable prices that [WHICH] cover the full cost of the electricity or
9 services, including capital and operating costs, debt coverage as considered appropriate
10 by the authority, and other charges that may be authorized by this chapter. Except for
11 a contract or lease entered into under former AS 44.83.380 - 44.83.425, a contract or
12 lease for the sale, transmission, and distribution of power generated by a project or any
13 right to the capacity of it shall provide:

14 (1) for payment of all operating and maintenance expenses of a project
15 and costs of renewals, replacements, and improvements of it;

16 (2) for interest on and amortization charges sufficient to retire bonds
17 of the authority issued for the project and reserves for them, plus a debt service
18 coverage factor as may be determined by the authority to be necessary for the
19 marketability of its bonds;

20 (3) for monitoring of the project by the authority or its agents;

21 (4) for full and complete disclosure to the authority of all factors of
22 costs in the transmission and distribution of power, so that rates to any persons may
23 be fixed initially in the contract or lease and may be adjusted from time to time on the
24 basis of true cost data;

25 (5) for periodic revisions of the service and rates to persons on the
26 basis of accurate cost data obtained by the accounting methods and systems approved
27 by the directors and in furtherance and effectuation of the policy declared in this
28 chapter;

29 (6) for the cancellation and termination of a contract or lease upon
30 violation of its terms by any person;

31 (7) for security for performance as the authority may consider

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1 practicable and advisable, including provisions assuring the continuance of the
2 distribution and transmission of power generated by a project and the use of its
3 facilities for these purposes; and

4 (8) other terms not inconsistent with the provisions and policy of this
5 chapter as the authority may consider advisable.

6 * Sec. 12. AS 44.83.110(b) is amended to read:

7 (b) Notwithstanding any other provisions of this chapter, the trust indenture,
8 trust agreement, secured loan agreement, or other instrument or the resolution
9 constituting a contract with bondholders shall contain a covenant by the authority that
10 it will at all times maintain rates, fees₂, or charges sufficient to pay, and that a contract
11 entered into by the authority for the sale, transmission₁, or distribution of power shall
12 contain rates, fees₂, or charges sufficient to pay the costs of operation and maintenance
13 of the project, the principal of and interest on bonds issued under the trust agreement
14 as the same severally become due and payable, to provide for debt service coverage
15 as considered necessary by the authority for the marketing of its bonds and to provide
16 for renewals, replacements₂, and improvements of the project, and to maintain reserves
17 required by the terms of the trust agreement. This subsection does not require a
18 covenant that varies from a covenant entered into in accordance with the provisions
19 of former AS 44.83.380 - 44.83.425.

20 * Sec. 13. AS 44.83.382(a) is amended to read:

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

23 * Sec. 14. AS 44.83.384(a) is amended to read:

24 (a) The fund may be used by the authority to provide money for

25 (1) [RECONNAISSANCE AND FEASIBILITY STUDIES AND
26 POWER PROJECT FINANCE PLANS PREPARED UNDER AS 44.83.177 -
27 44.83.181;

28 (2) THE COST OF A POWER PROJECT, INCLUDING BUT NOT
29 LIMITED TO COSTS OF ACQUIRING NECESSARY LICENSES, PREPARING
30 ENGINEERING DESIGNS, OBTAINING LAND, AND CONSTRUCTING THE
31 POWER PROJECT;

1 (3)] the defeasance of bonds, or the payment of debt service on loans
2 for or on an issue of bonds sold in connection with a power project constructed or
3 acquired before the effective date of this section;

4 (2) [(4)] the cost of operating and maintaining power projects
5 constructed or acquired before the effective date of this section; and

6 (3) [(5)] debt service on power projects constructed or acquired
7 before the effective date of this section.

8 * Sec. 15. AS 44.83.388(a) is amended to read:

9 (a) The authority shall maintain records of power project allocations from the
10 fund for each power project

11 (1) approved in accordance with former AS 44.83.185; and

12 (2) for which an allocation is made from an appropriation made by the
13 legislature without specifying an appropriation to a project.

14 * Sec. 16. AS 44.83.396(a) is amended to read:

15 (a) A power project that was [IS] acquired or constructed as part of the
16 former energy program for Alaska is owned, and shall be administered, by the
17 authority.

18 * Sec. 17. AS 44.83.398(a) is amended to read:

19 (a) The authority shall sell power produced from power projects acquired or
20 constructed under the former energy program for Alaska. For purposes of this section,
21 Tyee Lake, Swan Lake, Solomon Gulch, and Terror Lake hydroelectric facilities are
22 considered to be one power project. This power project is referred to as the initial
23 project.

24 * Sec. 18. AS 44.83.398(f) is amended to read:

25 (f) The provisions of (b) of this section do not apply to an intertie that is
26 authorized as a separate project under former AS 44.83.380. The authority shall
27 establish and maintain separate power rate schedules applicable to each intertie that it
28 has acquired or constructed as a separate power project under the energy program for
29 Alaska. The power rate schedules shall produce sufficient revenue from utilities
30 connected by the intertie to pay (1) operation, maintenance, and equipment replacement
31 costs of the intertie; (2) debt service of the intertie; and (3) safety inspections and

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1 investigations of the intertie by the authority. If the authority determines that an
2 intertie has ceased to function as a separate project and has become a part of one or
3 more other power projects as a transmission line, the power rate schedules established
4 under this subsection shall be terminated and a wholesale power rate applicable to the
5 former intertie shall be calculated under (b) of this section for the project or projects
6 of which it has become a part.

7 * Sec. 19. AS 44.83.510(a) is amended to read:

8 (a) [THE AUTHORITY MAY BORROW FROM THE FUND FOR THE
9 PURPOSE OF FINANCING A POWER PROJECT ACQUIRED OR CONSTRUCTED
10 BY THE AUTHORITY UNDER THE ENERGY PROGRAM FOR ALASKA
11 (AS 44.83.380 - 44.83.425).] Repayment of a loan from the former power
12 development revolving loan fund must be made with the proceeds from the sale of
13 power from projects in the former energy program for Alaska. Except as provided
14 in AS 44.83.398(i), the payments required to be made by the authority on a loan from
15 the fund constitute debt service for the purpose of calculating the wholesale power rate
16 in AS 44.83.398(b)(1).

17 * Sec. 20. AS 44.83.530 is amended to read:

18 Sec. 44.83.530. DEFINITIONS. In AS 44.83.500 - 44.83.530,

19 (1) "fund" means the former power development revolving loan fund;

20 and

21 (2) "power project" means a project acquired or constructed under the
22 former energy program for Alaska, AS 44.83.380 - 44.83.425.

23 * Sec. 21. AS 44.83.930(a) is amended to read:

24 (a) When a project is operated by the authority, the authority shall enter into
25 one or more contracts for the sale of electrical power, energy, transmission capacity,
26 or service from the project. Unless the contract is entered into under former
27 AS 44.83.380 - 44.83.425, a contract entered into under this section must meet all
28 requirements of AS 44.83.090.

29 * Sec. 22. AS 44.83.990(3) is amended to read:

30 (3) "feasibility study"

31 (A) means a study conducted for the purpose of establishing the

1 economic and environmental practicality of completing a proposed power
2 project under former AS 44.83.181;

3 (B) includes engineering and design work to meet the
4 requirements for submission of a license application for a proposed new project
5 to the Federal Energy Regulatory Commission;

6 * Sec. 23. AS 44.88.105(d) is amended to read:

7 (d) The chairman of the authority shall annually, no later than January 2,
8 certify in writing to the governor and the legislature the amount, if any, required to
9 restore a capital reserve fund to the capital reserve fund requirement. The legislature
10 may appropriate to the authority the amount certified by the chairman of the authority.
11 The authority shall deposit the amounts appropriated under this subsection during a
12 fiscal year in the proper capital reserve fund. Nothing in this section creates a debt or
13 liability of the state. In this subsection, "capital reserve fund" means a capital reserve
14 fund that

15 (1) is created under this section on or before January 1, 1989; [OR]

16 (2) secures refunding bonds if the refunding bonds are issued to refund
17 bonds that are secured by a capital reserve fund created under this section on or before
18 January 1, 1989; or

19 (3) secures bonds issued on or after the effective date of this section
20 for a power transmission intertie.

21 * Sec. 24. AS 44.88.155(d) is amended to read:

22 (d) A loan participation purchased by the authority with assets of the enterprise
23 development account or with proceeds of bonds secured by assets of the enterprise
24 development account

25 (1) may not exceed \$10,000,000; however, in the case of a loan
26 participation for a power transmission intertie, the loan participation may exceed
27 \$10,000,000 with legislative approval;

28 (2) may not be purchased unless

29 (A) the project applicant is not, or, if the applicant is not a
30 single proprietorship, all members of the business enterprise or enterprises
31 constituting the project applicant are not, in default on another loan made by

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1 the state or by a public corporation of the state; and

2 (B) at least 20 percent of the principal amount of the loan is
3 retained by the loan originator;

4 (3) may not be purchased if the loan to be purchased exceeds the cost
5 of the project or 75 percent of the appraised value of the project, whichever is less,
6 unless the amount of the loan in excess of this limit is federally insured or guaranteed
7 or is insured by a qualified mortgage insurance company;

8 (4) may not be purchased if the participation in the loan to be
9 purchased is for a term longer than three-quarters of the authority's estimate of the life
10 of the project or 25 years from the date the loan is made, whichever is earlier;
11 **however, in the case of a loan participation for a power transmission intertie, the**
12 **term may not be longer than 50 years from the date the loan is made;**

13 (5) may be made only if the participation in the loan to be purchased
14 contains amortization provisions; the amortization provisions

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

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

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

22 (ii) the accelerated amortization schedule is required to
23 induce the originator to make the loan;

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

29 (7) may be made only if the participation in the loan to be purchased
30 is secured as to repayment by a mortgage or other security instrument in the manner
31 the authority determines is feasible to assure timely repayment under a loan agreement

1 entered into with the borrower.

2 * Sec. 25. AS 44.88.155(g) is amended to read:

3 (g) Notwithstanding any other provision of this section, the authority may
4 waive or modify the requirements of this section as it considers appropriate and
5 prudent in order to finance a project if the authority intends to own the project or in
6 order to finance a power transmission intertie project.

7 * Sec. 26. AS 44.88.900(10) is amended to read:

8 (10) "project" means

9 (A) a plant or facility used or intended for use in connection
10 with making, processing, preparing, transporting, or producing in any manner,
11 goods, products, or substances of any kind or nature or in connection with
12 developing or utilizing a natural resource, or extracting, smelting, transporting,
13 converting, assembling, or producing in any manner, minerals, raw materials,
14 chemicals, compounds, alloys, fibers, commodities and materials, products, or
15 substances of any kind or nature;

16 (B) a plant or facility used or intended for use in connection
17 with a business enterprise;

18 (C) commercial activity by a small enterprise;

19 (D) a plant or facility demonstrating technological advances of
20 new methods and procedures and prototype commercial applications for the
21 exploration, development, production, transportation, conversion, and use of
22 energy resources;

23 (E) infrastructure for a new tourism destination facility or for
24 the expansion of a tourism destination facility;

25 (F) a plant or facility, other than a plant or facility
26 described in (D) of this paragraph, for the generation, transmission,
27 development, transportation, conversion, or use of energy resources;

28 * Sec. 27. AS 39.50.200(b)(46) and AS 44.83.045 are repealed.

29 * Sec. 28. AS 39.50.200(b)(46); AS 44.83.010, 44.83.105, 44.83.162, 44.83.163, 44.83.164,
30 44.83.165, 44.83.170, 44.83.177, 44.83.179, 44.83.181, 44.83.183, 44.83.185, 44.83.187,
31 44.83.189, 44.83.300, 44.83.310, 44.83.320, 44.83.325, 44.83.330, 44.83.340, 44.83.350,

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1 44.83.360, 44.83.361, 44.83.363, 44.83.370, 44.83.380, 44.83.384(b), 44.83.384(c), 44.83.390,
2 44.83.392, 44.83.400, 44.83.410, 44.83.500, 44.83.510(b), 44.83.520, 44.83.600, 44.83.605,
3 44.83.610, 44.83.615, 44.83.620, 44.83.625, 44.83.630, 44.83.650, 44.83.990(8), and
4 44.83.990(9) are repealed.

5 * Sec. 29. The Alaska Industrial Development and Export Authority may issue bonds to
6 finance the acquisition, design, and construction of a power transmission intertie of at least
7 138 kilovolts between Healy and Fairbanks and owned, for the benefit of all of the utilities
8 participating in the intertie, by Golden Valley Electric Association, Inc. The principal amount
9 of the bonds may not exceed \$60,000,000.

10 * Sec. 30. The Alaska Industrial Development and Export Authority may issue bonds to
11 finance the acquisition, design, and construction of a power transmission intertie of at least
12 138 kilovolts between Anchorage and the Kenai Peninsula to be owned, for the benefit of all
13 of the utilities participating in the interties, by Chugach Electric Association, Inc. The
14 principal amount of the bonds may not exceed \$60,000,000.

15 * Sec. 31. The Alaska Industrial Development and Export Authority may issue bonds to
16 finance the acquisition, design, and construction of a power transmission intertie of at least
17 115 kilovolts between the Swan Lake and Tyee Lake hydroelectric projects and owned, for
18 the benefit of all of the utilities participating in the intertie, by Ketchikan Public Utilities. The
19 principal amount of the bonds may not exceed \$40,000,000.

20 * Sec. 32. The Alaska Industrial Development and Export Authority may issue bonds to
21 finance the acquisition, design, and construction of a power transmission intertie of at least
22 138 kilovolts between Sutton and Glennallen and owned, for the benefit of all of the utilities
23 participating in the intertie, by Copper Valley Electric Association. The principal amount of
24 the bonds may not exceed \$25,000,000.

25 * Sec. 33. APPLICABILITY. The repeal of statutes by sec. 28 of this Act does not affect
26 existing bonds or actions that have been taken under the repealed provisions.

27 * Sec. 34. TRANSITION. All litigation, hearings, investigations, and other proceedings
28 pending under a law amended or repealed by this Act, or in connection with functions
29 transferred by this Act, continue in effect and may be continued and completed by the Alaska
30 Energy Authority or the Department of Community and Regional Affairs, as appropriate,
31 notwithstanding a transfer or amendment or repeal provided for in this Act. Certificates,

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1 orders, and regulations issued or adopted under authority of a law amended or repealed by this
2 Act remain in effect for the term issued, or until revoked, vacated, or otherwise modified
3 under the provisions of this Act. All contracts, rights, liabilities, bonds, notes, or other
4 obligations created by or under a law amended or repealed by this Act, and in effect on the
5 effective date of this Act remain in effect notwithstanding this Act's taking effect. The
6 Department of Community and Regional Affairs shall assume, for those programs and projects
7 transferred to it, the licenses, contracts, rights, liabilities, notes, or other obligations of the
8 former Alaska Energy Authority with the same limitations and provisions as under a license,
9 contract, right, liability, note, or other obligation of the former Alaska Energy Authority. Real
10 property, records, equipment, and other property of the Alaska Energy Authority related to the
11 programs and projects transferred to the department shall be transferred to the Department of
12 Community and Regional Affairs.

13 * Sec. 35. TRANSITIONAL PROVISION CONCERNING EMPLOYEES OF THE
14 ALASKA ENERGY AUTHORITY. When the Department of Community and Regional
15 Affairs determines that continued employment of certain employees of the Alaska Energy
16 Authority is necessary to continue uninterrupted service to programs, facilities, and power
17 projects formerly owned by the Alaska Energy Authority that have been transferred to the
18 department under this Act, the department may continue the employment of those employees.

19 * Sec. 36. INITIAL TERMS OF LOAN COMMITTEE. Notwithstanding AS 42.45.060(b),
20 enacted by sec. 5 of this Act, the initial terms of two of the public members of the loan
21 committee established under AS 42.45.060 shall be for two years. The remaining two public
22 members shall serve four-year terms as provided in AS 42.45.060.

23 * Sec. 37. CONTRACTS WITH PRIVATE SECTOR. The Alaska Energy Authority shall,
24 to the maximum extent feasible, enter into contracts with public utilities and other entities to
25 carry out its duties with respect to the maintenance and operation of power projects owned
26 by the Alaska Energy Authority.

27 * Sec. 38. ORDERLY TRANSFER OF FUNCTIONS. (a) Notwithstanding the effective
28 date of this Act, the governor, the Department of Community and Regional Affairs, the Alaska
29 Energy Authority, and the office of management and budget shall implement this Act in an
30 orderly fashion. The transfer of rural programs operated by the Alaska Energy Authority to
31 the Department of Community and Regional Affairs must be completed no later than

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1 December 31, 1993. Until a program is transferred under this section, the Alaska Energy
2 Authority may continue to administer that program under the former provisions of AS 44.83,
3 notwithstanding the repeal of provisions of AS 44.83 in sec. 28 of this Act.

4 (b) The Alaska Energy Authority shall assist the members of the Alaska Industrial
5 Development and Export Authority to prepare for the powers and duties granted to them under
6 this Act.

7 * Sec. 39. In accordance with AS 01.10.030, if a provision of this Act, or the application
8 of a provision of this Act to a person or circumstance, is held invalid, the remainder of this
9 Act and the application to other persons or circumstances shall not be affected thereby.