

**CS FOR SENATE BILL NO. 106(FIN) am(efd fld)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION**

BY THE SENATE FINANCE COMMITTEE

**Amended: 5/7/93
Offered: 4/16/93**

Sponsor(s): SENATORS SHARP, Taylor, Miller, Pearce, Frank

REPRESENTATIVES Barnes, Navarre, Phillips

A BILL

FOR AN ACT ENTITLED

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

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

12 * Section 1. FINDINGS. The legislature finds that adequate, reliable, electric service at

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

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

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

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

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

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

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

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

26 CHAPTER 45. RURAL AND STATEWIDE ENERGY PROGRAMS.

27 ARTICLE 1. POWER ASSISTANCE PROGRAMS.

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

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

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

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

8 (B) constructing, equipping, modifying, improving, and
9 expanding small-scale power production facilities that are designed to produce
10 less than 10 megawatts of power, conservation facilities, bulk fuel storage
11 facilities, and transmission and distribution facilities, including energy
12 production, transmission and distribution, and waste energy conservation
13 facilities that depend on fossil fuel, wind power, tidal, geothermal, biomass,
14 hydroelectric, solar, or other nonnuclear energy sources; and

15 (C) reconnaissance studies, preconstruction engineering, design,
16 construction, equipping, modification, and expansion of potable water supply
17 including surface storage and groundwater sources and transmission of water
18 from surface storage to existing distribution systems;

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

20 (A) the loan is entered into under a leveraged lease financing
21 arrangement;

22 (B) the party that will be responsible for the power project is
23 an electric utility, regional electric authority, municipality, regional or village
24 corporation, village council, independent power producer, or nonprofit
25 marketing cooperative; and

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

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

31 (1) standards for the eligibility of borrowers and the types of projects

- 1 to be financed with loans;
- 2 (2) standards regarding the technical and economic viability and
3 revenue self-sufficiency of eligible projects;
- 4 (3) collateral or other security required for loans;
- 5 (4) the terms and conditions of loans;
- 6 (5) criteria to establish financial feasibility and to measure the amount
7 of state assistance necessary for particular projects to meet the financial feasibility
8 criteria; and
- 9 (6) other relevant criteria, standards, or procedures.

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

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

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

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

25 (A) the term of the additional financing may not exceed 50
26 years;

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

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

31 (i) the date of the start of commercial operation of the

1 project; or
2 (ii) 10 years from the date the loan is granted;
3 (2) a loan for a power project
4 (A) may not be granted for a term that exceeds 50 years; and
5 (B) shall be granted at an interest rate that is not less than zero
6 percent and that is the lesser of
7 (i) a rate equal to the percentage that is the average
8 weekly yield of municipal bonds for the 12 months preceding the date
9 of the loan, as determined by the department from municipal bond yield
10 rates reported in the 30-year revenue index of the Weekly Bond Buyer;
11 or
12 (ii) a rate determined by the department that allows the
13 project to meet criteria of financial feasibility established under (c) of
14 this section.

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

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

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

23 **Sec. 42.45.020. RURAL ELECTRIFICATION REVOLVING LOAN FUND.**

24 (a) The rural electrification revolving loan fund is established in the department. The
25 fund consists of

26 (1) appropriations made to the fund; and
27 (2) repayments of principal and interest on loans made under this
28 section.

29 (b) Subject to AS 42.45.060, the department may make loans from the rural
30 electrification revolving loan fund to electric utilities certified by the Alaska Public
31 Utilities Commission. A loan from the fund may be made only for the purpose of

1 extending new electric service into an area of the state that an electric utility may serve
2 under a certificate of public convenience and necessity issued by the Alaska Public
3 Utilities Commission. A loan may be made from the fund to an electric utility if the
4 utility invests the money necessary to provide one pole, one span of line, one
5 transformer, and one service drop for each consumer for whom immediate service
6 would be provided by the extension of electric service. However, a loan may not be
7 made from the fund unless

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

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

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

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

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

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

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

21 and

22 (B) payments on the unpaid balance of the principal of the loan
23 for each new consumer served by the electric service extended with the loan
24 proceeds; payments on the unpaid balance of the principal of the loan shall be
25 made at a rate equal to the difference between the actual cost of making the
26 service connection to the consumers and the minimum investment per consumer
27 required of the utility before a loan is made under (b) of this section.

28 (e) The department shall

29 (1) adopt regulations necessary to carry out the provisions of this
30 section;

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

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

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

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

9 (h) In this section,

10 (1) "consumer" means a person or a governmental agency, if the person
11 or governmental agency requests and offers to pay for electrical service to a facility
12 or part of a facility; the department shall consider a person who, or a governmental
13 agency that, offers to pay for electrical service to several facilities to be a separate
14 consumer for each facility, if each facility is physically separate from another facility,
15 other than through electric service lines, and if the person or governmental agency
16 requests and offers to pay for electrical service to each facility;

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

19 (3) "governmental agency" includes, with respect to the state or federal
20 government or a municipal government, a legislative body, board of regents,
21 administrative body, board, commission, committee, subcommittee, authority, council,
22 agency, public corporation, school board, department, division, bureau, or other
23 subordinate unit, whether advisory or otherwise, of the state, federal, or municipal
24 government.

25 Sec. 42.45.030. LOAN ADVISORY COMMITTEE. When an application for
26 a rural electrification loan is submitted to the department under AS 42.45.020, the
27 department shall appoint a local advisory committee from persons residing in the area
28 that the applicant utility is certified to serve. The loan advisory committee shall
29 consider the loan application and shall recommend whether the loan application is to
30 be approved or disapproved. The loan advisory committee may make a favorable
31 recommendation only if it determines that development in the area of the proposed

extension of electric service is likely to provide for full repayment of the loan under AS 42.45.020(d) within 10 years. In making that determination, the committee shall consider

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

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

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

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

(1) 30 percent of the balance in the four dam pool transfer fund shall be transferred to the power cost equalization and rural electric capitalization fund to be used for power cost equalization and rural electric projects;

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

(3) 30 percent of the balance in the four dam pool transfer fund shall be transferred to the power project fund to be used for statewide utility projects.

1 **Sec. 42.45.060. APPROVAL BY LOAN COMMITTEE AND**
2 **LEGISLATURE. (a) A loan committee consisting of seven members is established.**
3 **The committee is composed of the commissioner of community and regional affairs,**
4 **the commissioner of commerce and economic development, the director of**
5 **management and budget, or the designees of the commissioners or the director, and**
6 **four public members.**

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

15 **(c) The commissioner of community and regional affairs serves as chair of the**
16 **committee. The committee may elect other officers as necessary. A majority of the**
17 **members of the committee constitute a quorum and may exercise the powers of the**
18 **committee.**

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

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

25 **(2) participants and members of the public in attendance can hear and**
26 **have the same right to participate in the meeting as if the meeting were conducted in**
27 **person; and**

28 **(3) copies of pertinent reference materials, statutes, regulations, and**
29 **audio-visual materials are reasonably available to participants and to the public.**

30 **(e) A member of the committee may not vote on a resolution of the committee**
31 **relating to a lease or contract to be entered into by the department under this chapter**

1 If the member is a party to the lease or contract or has a direct ownership or equity
2 interest in a firm, partnership, corporation, or association that is a party to the contract
3 or lease. When abstaining from voting, the member must disclose the reason for the
4 abstention. A member who is a member of an electric cooperative that is organized
5 under or subject to AS 10.25 (Electric and Telephone Cooperative Act) may vote on
6 a resolution relating to a contract or lease to which that cooperative is a party. The
7 member shall disclose the cooperative membership at the time of voting. A resolution
8 of the committee that is approved by a majority of the members present who are not
9 barred from voting under this subsection is a valid action of the committee for all
10 purposes.

11 (f) Except for loans from the bulk fuel revolving loan fund (AS 42.45.250),
12 the department shall submit the loans that the department proposes to approve under
13 this chapter to the committee for the committee's review. The department may not
14 enter into a loan for an amount equal to or greater than \$500,000 unless the committee
15 approves the loan or unless the loan has received legislative approval under (g) of this
16 section. The department may not enter into a loan for an amount less than \$500,000
17 for a period of 30 days after submission of the proposal to the committee. If, within
18 the 30 days, the committee notifies the department that it intends to review a loan for
19 less than \$500,000, the department may not enter into the loan unless it is approved
20 by the committee.

21 (g) The department may not enter into a loan for a major project unless it has
22 legislative approval of the project and the amount. An appropriation for the loan that
23 names the project subject to this subsection constitutes approval under this subsection.
24 Projects subject to legislative approval under this subsection include

25 (1) a project in which the cumulative state monetary involvement,
26 through loans, grants, and bonds, is at least \$5,000,000; or

27 (2) a project for which a loan of more than \$5,000,000 has been
28 requested.

29 **ARTICLE 2. POWER COST EQUALIZATION AND**
30 **RURAL ELECTRIC CAPITALIZATION.**

31 **Sec. 42.45.100. POWER COST EQUALIZATION AND RURAL ELECTRIC**

1 CAPITALIZATION FUND. (a) The power cost equalization and rural electric
2 capitalization fund is established as a separate fund for the purpose of

3 (1) equalizing power cost per kilowatt-hour statewide at a cost close
4 to or equal to the mean of the cost per kilowatt-hour in Anchorage, Fairbanks, and
5 Juneau by paying money from the fund to eligible electric utilities in the state; and

6 (2) to make grants to eligible utilities under AS 42.45.180 to improve
7 the performance of the utility.

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

10 (1) money appropriated to provide power cost equalization to eligible
11 electric utilities and to provide grants for utility improvements; and

12 (2) interest earned on those appropriations.

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

14 Sec. 42.45.110. ENTITLEMENT TO POWER COST EQUALIZATION. (a)

15 The costs used to calculate the amount of power cost equalization for all electric
16 utilities eligible under AS 42.45.100 - 42.45.150 include all allowable costs, except
17 return on equity, used by the Alaska Public Utilities Commission to determine the
18 revenue requirement for electric utilities subject to rate regulation under AS 42.05.

19 The costs used in determining the power cost equalization per kilowatt-hour shall
20 exclude any other type of assistance that reduces the customer's costs of power on a
21 kilowatt-hour basis and that is provided to the electric utility within 60 days before the
22 commission determines the power cost equalization per kilowatt-hour of the electric
23 utility. In calculating power cost equalization, the commission may not consider
24 validated costs or kilowatt-hour sales associated with a United States Department of
25 Defense facility.

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

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

31 (2) for actual consumption of not more than 700 kilowatt-hours per

1 month sold to each customer in all classes served by the electric utility except

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

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

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

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

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

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

20 (d) An electric utility whose customers receive power cost equalization under
21 AS 42.45.100 - 42.45.150 shall set out in its tariff the rates without the power cost
22 equalization and the amount of power cost equalization per kilowatt-hour sold. The
23 rate charged to the customer shall be the difference between the two amounts. Power
24 cost equalization paid under AS 42.45.100 - 42.45.150 shall be used to reduce the cost
25 of all power sold to local community facilities, in the aggregate, to the extent of 70
26 kilowatt-hours per month per resident of the community, and to reduce the cost of the
27 first 700 kilowatt-hours per customer per month for all other classes served by the
28 electric utility except state and federal offices and state and federal facilities other than
29 public schools.

30 (e) The power cost equalization program shall be administered by the
31 department based on a determination by the department under (a) and (c) of this

1 section of power cost equalization per kilowatt-hour for each eligible electric utility.

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

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

14 (h) Each electric utility receiving power cost equalization approved by the
15 department shall

16 (1) report monthly to the department within the time and in the form
17 the department requires; and

18 (2) use operational equipment designed to meter individual utility
19 customer power consumption and to determine and record the utility's overall fuel
20 consumption.

21 (i) The department shall review the report required under (h) of this section.
22 After review and approval of the report, the department shall, subject to appropriation,
23 pay to each eligible electric utility an amount equal to the power cost equalization per
24 kilowatt-hour determined under (a) and (c) of this section, multiplied by the number
25 of kilowatt-hours eligible for power cost equalization that were sold during the
26 preceding month to all customers of the utility under (b) of this section. Payment shall
27 be made by the department within 30 days after receipt from the utility of the report
28 required under (h) of this section. If appropriations are insufficient for payment in full,
29 the amount paid to each electric utility is reduced on a pro rata basis.

30 Sec. 42.45.120. NOTICE TO CUSTOMERS. If an electric utility receives
31 power cost equalization under AS 42.45.100 - 42.45.150, the utility shall either give

1 to its electric service customers eligible under this program, for each period for which
2 the payment is received.

3 (1) the following notice:

4 **NOTICE TO CUSTOMER**

5 For the current billing period the utility will be paid under the
6 State of Alaska's power cost equalization program
7 (AS 42.45.100) to assist the utility and its customers in reducing
8 the high cost of generation of electric energy. Your total

9 electrical service cost \$

10 Less state equalization \$

11 Your charge \$; or

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

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

22 (b) In this section, "energy conservation measures" include weatherization and
23 other insulating methods, utilization of waste heat, appropriate sizing of new generating
24 equipment, and other programs of the state or federal government intended and
25 available for energy conservation.

26 Sec. 42.45.140. **CUSTOMER PETITIONS.** If the department receives a
27 petition requesting power cost equalization, signed by at least 25 percent of the
28 customers of an electric utility that is subject to rate regulation under AS 42.05 and
29 that has not applied for power cost equalization under ~~AS 42.45.100 - 42.45.150~~, the
30 department shall require the utility to submit a power cost equalization application.
31 Upon a determination of eligibility for power cost equalization, the utility, as a part

1 of its service, shall receive power cost equalization and pass power cost equalization
2 benefits to its customers under AS 42.45.100 - 42.45.150.

3 Sec. 42.45.150. DEFINITIONS FOR AS 42.45.100 - 42.45.150. In
4 AS 42.45.100 - 42.45.150,

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

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

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

15 (B) during calendar year 1983, had a residential consumption
16 level of power eligible for power cost equalization under former AS 44.83 of
17 less than 7,500 megawatt hours or had a residential consumption level of power
18 eligible for power cost equalization under former AS 44.83 of less than 15,000
19 megawatt hours if the utility served two or more municipalities or
20 unincorporated communities; and

21 (C) during calendar year 1984, used diesel fired generators to
22 produce more than 75 percent of the electrical consumption of the utility; an
23 electric utility that is a subsidiary of another electric utility is an "eligible
24 electric utility" if the operations of the subsidiary, considered separately, meet
25 the eligibility requirements of AS 42.45.100 - 42.45.150; if an electric utility
26 did not receive power cost assistance in 1983 but is otherwise eligible for
27 power cost equalization under AS 42.45.100 - 42.45.150, the utility is an
28 "eligible electric utility";

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

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

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

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

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

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

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

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

17 (1) the power cost equalization per kilowatt-hour approved by the
18 department;

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

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

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

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

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

30 (c) The provisions of AS 42.45.100 - 42.45.150 relating to the determination
31 of the amount of power cost equalization and payment of the equalization assistance

1 apply to equalization assistance under this section.

2 **Sec. 42.45.170. EQUALIZATION ASSISTANCE TO UNREGULATED**
3 **UTILITIES. (a) An electric utility that is not subject to rate regulation by the Alaska**
4 **Public Utilities Commission under AS 42.05 may receive power cost equalization if**
5 **the utility is otherwise eligible for equalization assistance under AS 42.45.100 -**
6 **42.45.150 and if the utility**

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

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

12 (3) sets rates

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

17 (B) under which the power cost equalization provided in
18 AS 42.45.060 - 42.45.110 is applied as a credit only against the cost of
19 kilowatt-hours eligible for equalization assistance under AS 42.45.100 -
20 42.45.150 that are consumed by each customer in any month;

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

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

25 (b) An electric utility that is eligible to receive power cost equalization under
26 this section shall report in accordance with (a)(2) of this section

27 (1) the power cost equalization per kilowatt-hour approved by the
28 department;

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

31 (3) the total kilowatt-hours eligible for power cost equalization under

1 this section sold to each class of customer during the preceding month;
2 (4) the total kilowatt-hours generated during the preceding month, if
3 available;
4 (5) any amendments to the schedule of rates in effect during the
5 preceding month; and
6 (6) an increase or decrease in the current unit price of fuel from the
7 base price used by the department in determining power costs if the change is expected
8 to result in a subsequent equalization assistance level adjustment.

9 (c) An electric utility that is eligible to receive power cost equalization under
10 this section may have its power cost equalization per kilowatt-hour determination
11 changed by the department if the department

12 (1) has verified an increase or decrease in the electric utility's cost of
13 fuel;

14 (2) has verified an increase in rates based on an increase in costs;

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

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

19 (d) The provisions of AS 42.45.100 - 42.45.150 relating to the determination
20 of the amount of power cost equalization and payment of the equalization assistance
21 apply to equalization assistance under this section.

22 (e) An application for power cost equalization by an electric utility that is
23 eligible to receive power cost under this section does not extend the jurisdiction of the
24 Alaska Public Utilities Commission beyond that established by AS 42.05.

25 **Sec. 42.45.180. GRANTS FOR UTILITY IMPROVEMENTS.** (a) The
26 department may make a grant from the fund for an eligible utility for a small power
27 project that will reduce the cost of generating or transmitting power to the customers
28 of the utility. The amount of the grant may not exceed 75 percent of the cost of the
29 project. The department may not make a grant under this section unless the eligible
30 utility has secured financing for 25 percent of the cost of the project from a source
31 other than the power cost equalization and rural electric capitalization fund, as

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provided under (c) of this section.

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

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

- (1) a valid state business license;
- (2) a resolution or letter of agreement executed by the eligible utility agreeing to participation by the private sector participant;
- (3) a business plan that illustrates how the proposed project will reduce the cost of generating or transmitting power to the customers of the utility.

(d) In this section,

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

(2) "project" includes

- (A) power generation systems;
- (B) transmission systems;
- (C) distribution systems;
- (D) metering systems;
- (E) energy store systems;
- (F) energy conservation programs; and
- (G) bulk fuel storage facilities;

(3) "small power project" means a new or modified project that will either generate, store, or conserve no more than 1.5 megawatts of power or provide a metering system, transmission system, distribution system, or bulk fuel storage facility that has an estimated cost of less than \$3,000,000.

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

ARTICLE 3. ELECTRICAL SERVICE EXTENSION FUND.

1 **Sec. 42.45.200. ELECTRICAL SERVICE EXTENSION FUND**

2 **ESTABLISHED. (a) The electrical service extension fund is established as a separate**
3 **fund in the department. The fund consists only of money appropriated to it by the**
4 **legislature.**

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

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

18 **(d) The department shall adopt regulations under AS 44.62 (Administrative**
19 **Procedure Act) to implement this section.**

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

23 **ARTICLE 4. BULK FUEL REVOLVING LOAN FUND.**

24 **Sec. 42.45.250. BULK FUEL REVOLVING LOAN FUND. (a) The bulk fuel**
25 **revolving loan fund is established in the department to assist communities in**
26 **purchasing bulk fuel. A community, or a private individual who has written**
27 **endorsement from the governing body of the community, is eligible for a loan from**
28 **the bulk fuel revolving loan fund for a bulk fuel purchase.**

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

31 **(c) The foreclosure expense account is established as a special account within**

1 the bulk fuel revolving loan fund. This account is established as a reserve from fund
2 equity.

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

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

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

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

11 (3) may not exceed 90 percent of the wholesale price of the fuel
12 purchased.

13 (f) Interest may be charged on a loan made from the bulk fuel revolving loan
14 fund. Interest shall be charged on a loan at a rate equal to the percentage of the
15 average weekly yield of municipal bonds for the 12 months preceding the date of the
16 loan, as determined by the department from municipal bond yield rates reported in the
17 30-year revenue index of the Weekly Bond Buyer. However, if the department finds
18 that a community cannot afford to repay a portion of interest on a loan, and makes a
19 determination in writing, the department may reduce or eliminate the interest rate
20 applicable to the loan.

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

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

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

31 (j) The department may adopt regulations necessary to carry out the provisions

1 of this section, including regulations to establish reasonable fees for services provided
2 and charges for collecting the fees.

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

5 (l) In this section,

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

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

10 ARTICLE 5. JOINT ACTION AGENCIES.

11 Sec. 42.45.300. JOINT ACTION AGENCIES. Two or more public utilities
12 may form a joint action agency for the purpose of participation in the design,
13 construction, operation, and maintenance of a generating or transmission facility and
14 to secure financing for carrying out the design, construction, operation, and
15 maintenance of the facility. A joint action agency may request the Alaska Industrial
16 Development and Export Authority to issue revenue bonds for projects of the agency.
17 A joint action agency has the powers of a public utility under AS 42.05.

18 ARTICLE 6. MISCELLANEOUS PROVISIONS.

19 Sec. 42.45.400. ASSISTANCE TO RURAL UTILITIES. The department shall
20 provide technical assistance to rural utilities including catastrophe prevention programs
21 and other training programs for utility projects. The department shall provide rural
22 utilities with the technical assistance and training that the utilities need to improve the
23 efficiency, safety, and reliability of their power systems and to prevent emergency
24 situations from developing. At a minimum, the assistance and training must include
25 information on

- 26 (1) reducing distribution line losses;
- 27 (2) installation of generators that are more fuel efficient;
- 28 (3) preventative maintenance programs;
- 29 (4) safety inspections;
- 30 (5) installing and maintaining waste heat systems;
- 31 (6) improved metering systems;

1 (7) Improved management and administration; and
2 (8) coordinating regional activities, including circuit rider maintenance
3 programs.

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

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

9 **ARTICLE 7. GENERAL PROVISIONS.**

10 **Sec. 42.45.990. DEFINITIONS.** In this chapter, unless the context otherwise
11 requires,

12 (1) "department" means the Department of Community and Regional
13 Affairs;

14 (2) "feasibility study"

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

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

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

22 (4) "power project" or "project" means a plant, works, system, or
23 facility, together with related or necessary facilities and appurtenances, including a
24 divided or undivided interest in or a right to the capacity of a power project or project,
25 that is used or is useful for the purpose of

26 (A) electrical or thermal energy production other than nuclear
27 energy production;

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

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

31 (5) "reconnaissance study" means a study conducted to assess the

1 present and future electrical and thermal energy needs of an area.

2 • Sec. 6. AS 44.47.050 is amended to read:

3 (a) The department may

4 (1) advise and assist local governments;

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

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

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

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

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

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

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

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

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

28 (11) coordinate activities of the state that affect community and
29 regional affairs;

30 (12) assist in the development of new communities and serve as the
31 agent of the state for purposes of participation in federal programs relating to new

- 1 communities;
- 2 (13) supervise planning, management, and other activities required for
3 local eligibility for financial aid under those federal and state programs that [WHICH]
4 provide assistance to community and regional governments;
- 5 (14) administer state and, as appropriate, federal programs for revenue
6 sharing, grants, and other forms of financial assistance to community and regional
7 governments;
- 8 (15) provide staff assistance, as requested, to the Rural Affairs
9 Commission;
- 10 (16) apply for, receive, and use funds from federal and other sources,
11 public or private, for use in carrying out the powers and duties of the department;
- 12 (17) request and utilize the resources of other agencies of state
13 government in carrying out the purposes of this chapter to the extent such utilization
14 is more efficient than maintaining departmental staff, reimbursing the other agencies
15 when appropriate;
- 16 (18) [REPEALED
- 17 (19)] advise and assist municipalities on procedures of assessment,
18 valuation, and taxation, and notify municipalities of major errors in those procedures;
- 19 (19) carry out the powers and duties assigned it under AS 42.45;
- 20 (20) carry out other functions and duties, consistent with law, necessary
21 or appropriate to accomplish the purpose of this chapter.

- 22 * Sec. 7. AS 44.83.030 is repealed and reenacted to read:
- 23 Sec. 44.83.030. MEMBERSHIP OF THE AUTHORITY. The directors of the
24 Alaska Energy Authority are the members of the Alaska Industrial Development and
25 Export Authority.
- 26 * Sec. 8. AS 44.83.040(a) is amended to read:
- 27 (a) The chair and vice-chair of the Alaska Industrial Development and
28 Export Authority shall serve as officers of the Alaska Energy Authority
29 [DIRECTORS SHALL ELECT ONE OF THEIR NUMBER AS CHAIRMAN AND
30 MAY ELECT OTHER OFFICERS THEY DETERMINE DESIRABLE]. The powers
31 of the Alaska Energy Authority [AUTHORITY] are vested in the directors, and three

1 [FOUR] directors of the authority constitute a quorum. Action may be taken and
2 motions and resolutions adopted by the Alaska Energy Authority [AUTHORITY] at
3 a meeting by the affirmative vote of a majority of the directors. The directors of the
4 Alaska Energy Authority [AUTHORITY] serve without compensation, but they shall
5 receive the same travel pay and per diem as provided by law for board members
6 under AS 39.20.180.

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

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

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

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

- 17 (1) to sue and be sued;
- 18 (2) to have a seal and alter it at pleasure;
- 19 (3) to make and alter bylaws for its organization and internal
20 management;
- 21 (4) to adopt regulations governing the exercise of its corporate powers;
- 22 (5) to [ACQUIRE, WHETHER BY CONSTRUCTION, PURCHASE,
23 GIFT OR LEASE, AND TO] improve, equip, operate, and maintain power projects;
- 24 (6) to issue bonds to carry out any of its corporate purposes and
25 powers, including [THE ACQUISITION OR CONSTRUCTION OF A PROJECT TO
26 BE OWNED OR LEASED, AS LESSOR OR LESSEE, BY THE AUTHORITY, OR
27 BY ANOTHER PERSON, OR THE ACQUISITION OF ANY INTEREST IN A
28 PROJECT OR ANY RIGHT TO CAPACITY OF A PROJECT,] the establishment or
29 increase of reserves to secure or to pay the bonds or interest on them, and the payment
30 of all other costs or expenses of the authority incident to and necessary or convenient
31 to carry out its corporate purposes and powers;

- 1 (7) to sell, lease as lessor or lessee, exchange, donate, convey, or
- 2 encumber in any manner by mortgage or by creation of any other security interest, real
- 3 or personal property owned by it, or in which it has an interest, when, in the judgment
- 4 of the authority, the action is in furtherance of its corporate purposes;
- 5 (8) to accept gifts, grants, or loans from, and enter into contracts or
- 6 other transactions regarding them, with any person;
- 7 (9) to deposit or invest its funds, subject to agreements with
- 8 bondholders;
- 9 (10) to enter into contracts with the United States or any person and,
- 10 subject to the laws of the United States and subject to concurrence of the legislature,
- 11 with a foreign country or its agencies, for the financing, [CONSTRUCTION,
- 12 ACQUISITION,] operation, and maintenance of all or any part of a power project,
- 13 either inside or outside the state, and for the sale or transmission of power from a
- 14 project or any right to the capacity of it or for the security of any bonds of the
- 15 authority issued or to be issued for the project;
- 16 (11) to enter into contracts with any person and with the United States,
- 17 and, subject to the laws of the United States and subject to the concurrence of the
- 18 legislature, with a foreign country or its agencies for the purchase, sale, exchange,
- 19 transmission, or use of power from a project, or any right to the capacity of it;
- 20 (12) to apply to the appropriate agencies of the state, the United States,
- 21 and to a foreign country and any other proper agency for the permits, licenses, or
- 22 approvals as may be necessary, and to [CONSTRUCT,] maintain and operate power
- 23 projects in accordance with the licenses or permits, and to obtain, hold, and use the
- 24 licenses and permits in the same manner as any other person or operating unit;
- 25 (13) [TO PERFORM RECONNAISSANCE STUDIES, FEASIBILITY
- 26 STUDIES, AND ENGINEERING AND DESIGN WITH RESPECT TO POWER
- 27 PROJECTS;
- 28 (14)] to enter into contracts or agreements with respect to the exercise
- 29 of any of its powers, and do all things necessary or convenient to carry out its
- 30 corporate purposes and exercise the powers granted in this chapter;
- 31 (14) [(15) TO EXERCISE THE POWER OF EMINENT DOMAIN IN

1 ACCORDANCE WITH AS 09.55.240 - 09.55.460;

2 (16)] to recommend to the legislature

3 (A) [THE ISSUANCE OF GENERAL OBLIGATION BONDS
4 OF THE STATE TO FINANCE THE CONSTRUCTION OF A POWER
5 PROJECT IF THE AUTHORITY FIRST DETERMINES THAT THE
6 PROJECT CANNOT BE FINANCED BY REVENUE BONDS OF THE
7 AUTHORITY AT REASONABLE RATES OF INTEREST;

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

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

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

13 or

14 (ii) to reduce the amount of debt financing for the

15 project;

16 [(D) AN APPROPRIATION TO THE POWER PROJECT
17 FUND FOR A POWER PROJECT;

18 (E) REPEALED

19 (F) DEVELOPMENT OF A PROJECT UNDER FINANCING
20 ARRANGEMENTS WITH OTHER ENTITIES USING LEVERAGED
21 LEASES OR OTHER FINANCING METHODS;

22 (G) AN APPROPRIATION FOR A POWER PROJECT
23 ACQUIRED OR CONSTRUCTED UNDER AS 44.83.380 - 44.83.425
24 (ENERGY PROGRAM FOR ALASKA)].

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

26 (a) The authority shall, in addition to the other methods ~~that~~ [WHICH] it may
27 find advantageous, provide a method by which municipal electric, rural electric,
28 cooperative electric, or private electric utilities and regional electric authorities, or
29 other persons authorized by law to engage in the distribution of electricity may secure
30 a reasonable share of the power generated by a project, or any interest in a project, or
31 for any right to the power and shall sell the power or cause the power to be sold at the

1 lowest reasonable prices that [WHICH] cover the full cost of the electricity or
2 services, including capital and operating costs, debt coverage as considered appropriate
3 by the authority, and other charges that may be authorized by this chapter. Except for
4 a contract or lease entered into under former AS 44.83.380 - 44.83.425, a contract or
5 lease for the sale, transmission, and distribution of power generated by a project or any
6 right to the capacity of it shall provide:

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

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

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

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

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

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

24 (7) for security for performance as the authority may consider
25 practicable and advisable, including provisions assuring the continuance of the
26 distribution and transmission of power generated by a project and the use of its
27 facilities for these purposes; and

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

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

31 (b) Notwithstanding any other provisions of this chapter, the trust indenture,

1 trust agreement, secured loan agreement, or other instrument or the resolution
2 constituting a contract with bondholders shall contain a covenant by the authority that
3 it will at all times maintain rates, fees, or charges sufficient to pay, and that a contract
4 entered into by the authority for the sale, transmission, or distribution of power shall
5 contain rates, fees, or charges sufficient to pay the costs of operation and maintenance
6 of the project, the principal of and interest on bonds issued under the trust agreement
7 as the same severally become due and payable, to provide for debt service coverage
8 as considered necessary by the authority for the marketing of its bonds and to provide
9 for renewals, replacements, and improvements of the project, and to maintain reserves
10 required by the terms of the trust agreement. This subsection does not require a
11 covenant that varies from a covenant entered into in accordance with the provisions
12 of former AS 44.83.380 - 44.83.425.

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

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

16 • Sec. 14. AS 44.83.384(a) is amended to read:

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

18 (1) [RECONNAISSANCE AND FEASIBILITY STUDIES AND
19 POWER PROJECT FINANCE PLANS PREPARED UNDER AS 44.83.177 -
20 44.83.181;

21 (2) THE COST OF A POWER PROJECT, INCLUDING BUT NOT
22 LIMITED TO COSTS OF ACQUIRING NECESSARY LICENSES, PREPARING
23 ENGINEERING DESIGNS, OBTAINING LAND, AND CONSTRUCTING THE
24 POWER PROJECT;

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

28 (2) [(4)] the cost of operating and maintaining power projects
29 constructed or acquired before the effective date of this section; and

30 (3) [(5)] debt service on power projects constructed or acquired
31 before the effective date of this section.

- 1 * **Sec. 15.** AS 44.83.388(a) is amended to read:
- 2 (a) The authority shall maintain records of power project allocations from the
- 3 fund for each power project
- 4 (1) approved in accordance with former AS 44.83.185; and
- 5 (2) for which an allocation is made from an appropriation made by the
- 6 legislature without specifying an appropriation to a project.
- 7 * **Sec. 16.** AS 44.83.396(a) is amended to read:
- 8 (a) A power project that was [IS] acquired or constructed as part of the
- 9 former energy program for Alaska is owned, and shall be administered, by the
- 10 authority.
- 11 * **Sec. 17.** AS 44.83.398(a) is amended to read:
- 12 (a) The authority shall sell power produced from power projects acquired or
- 13 constructed under the former energy program for Alaska. For purposes of this section,
- 14 Tyee Lake, Swan Lake, Solomon Gulch, and Terror Lake hydroelectric facilities are
- 15 considered to be one power project. This power project is referred to as the initial
- 16 project.
- 17 * **Sec. 18.** AS 44.83.398(f) is amended to read:
- 18 (f) The provisions of (b) of this section do not apply to an intertie that is
- 19 authorized as a separate project under former AS 44.83.380. The authority shall
- 20 establish and maintain separate power rate schedules applicable to each intertie that it
- 21 has acquired or constructed as a separate power project under the energy program for
- 22 Alaska. The power rate schedules shall produce sufficient revenue from utilities
- 23 connected by the intertie to pay (1) operation, maintenance, and equipment replacement
- 24 costs of the intertie; (2) debt service of the intertie; and (3) safety inspections and
- 25 investigations of the intertie by the authority. If the authority determines that an
- 26 intertie has ceased to function as a separate project and has become a part of one or
- 27 more other power projects as a transmission line, the power rate schedules established
- 28 under this subsection shall be terminated and a wholesale power rate applicable to the
- 29 former intertie shall be calculated under (b) of this section for the project or projects
- 30 of which it has become a part.
- 31 * **Sec. 19.** AS 44.83.510(a) is amended to read:

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

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

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

12 (1) "fund" means the former power development revolving loan fund;
13 and

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

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

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

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

23 (3) "feasibility study"

24 (A) means a study conducted for the purpose of establishing the
25 economic and environmental practicality of completing a proposed power
26 project under former AS 44.83.181;

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

30 * Sec. 23. AS 44.88.155(d) is amended to read:

31 (d) A loan participation purchased by the authority with assets of the enterprise

1 development account or with proceeds of bonds secured by assets of the enterprise
2 development account

3 (1) may not exceed \$10,000,000; however, in the case of a loan
4 participation for a power transmission intertie, the loan participation may exceed
5 \$10,000,000 with legislative approval;

6 (2) may not be purchased unless

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

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

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

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

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

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

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

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

31 (ii) the accelerated amortization schedule is required to

1 induce the originator to make the loan;
2 (6) may be made only if the participation in the loan to be purchased
3 is in the form and contains the terms and provisions with respect to insurance, repairs,
4 alterations, payment of taxes and assessments, default reserves, delinquency charges,
5 default remedies, acceleration of maturity, secondary liens, and other matters the
6 authority prescribes; and

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

11 * Sec. 24. AS 44.88.155(g) is amended to read:

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

16 * Sec. 25. AS 44.88.900(10) is amended to read:

17 (10) "project" means

18 (A) a plant or facility used or intended for use in connection
19 with making, processing, preparing, transporting, or producing in any manner,
20 goods, products, or substances of any kind or nature or in connection with
21 developing or utilizing a natural resource, or extracting, smelting, transporting,
22 converting, assembling, or producing in any manner, minerals, raw materials,
23 chemicals, compounds, alloys, fibers, commodities and materials, products, or
24 substances of any kind or nature;

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

27 (C) commercial activity by a small enterprise;

28 (D) a plant or facility demonstrating technological advances of
29 new methods and procedures and prototype commercial applications for the
30 exploration, development, production, transportation, conversion, and use of
31 energy resources;

1 (E) infrastructure for a new tourism destination facility or for
2 the expansion of a tourism destination facility;

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

6 * Sec. 26. AS 39.50.200(b)(46) and AS 44.83.045 are repealed.

7 * Sec. 27. AS 39.50.200(b)(46); AS 44.83.010, 44.83.105, 44.83.162, 44.83.163, 44.83.164,
8 44.83.165, 44.83.170, 44.83.177, 44.83.179, 44.83.181, 44.83.183, 44.83.185, 44.83.187,
9 44.83.189, 44.83.300, 44.83.310, 44.83.320, 44.83.325, 44.83.330, 44.83.340, 44.83.350,
10 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,
11 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.
12 44.83.610, 44.83.615, 44.83.620, 44.83.625, 44.83.630, 44.83.650, 44.83.990(8), and
13 44.83.990(9) are repealed.

14 * Sec. 28. The Alaska Industrial Development and Export Authority may issue bonds to
15 finance the acquisition, design, and construction of a power transmission intertie of at least
16 138 kilovolts between Healy and Fairbanks and owned, for the benefit of all of the utilities
17 participating in the intertie, by Golden Valley Electric Association, Inc. The principal amount
18 of the bonds may not exceed \$60,000,000.

19 * Sec. 29. The Alaska Industrial Development and Export Authority may issue bonds to
20 finance the acquisition, design, and construction of a power transmission intertie of at least
21 138 kilovolts between Anchorage and the Kenai Peninsula to be owned, for the benefit of all
22 of the utilities participating in the interties, by Chugach Electric Association, Inc. The
23 principal amount of the bonds may not exceed \$60,000,000.

24 * Sec. 30. The Alaska Industrial Development and Export Authority may issue bonds to
25 finance the acquisition, design, and construction of a power transmission intertie of at least
26 115 kilovolts between the Swan Lake and Tye Lake hydroelectric projects and owned, for
27 the benefit of all of the utilities participating in the intertie, by Ketchikan Public Utilities. The
28 principal amount of the bonds may not exceed \$40,000,000.

29 * Sec. 31. The Alaska Industrial Development and Export Authority may issue bonds to
30 finance the acquisition, design, and construction of a power transmission intertie of at least
31 138 kilovolts between Sutton and Glennallen and owned, for the benefit of all of the utilities

1 participating in the intertie, by Copper Valley Electric Association. The principal amount of
2 the bonds may not exceed \$25,000,000.

3 * **Sec. 32. APPLICABILITY.** The repeal of statutes by sec. 27 of this Act does not affect
4 existing bonds or actions that have been taken under the repealed provisions.

5 * **Sec. 33. TRANSITION.** All litigation, hearings, investigations, and other proceedings
6 pending under a law amended or repealed by this Act, or in connection with functions
7 transferred by this Act, continue in effect and may be continued and completed by the Alaska
8 Energy Authority or the Department of Community and Regional Affairs, as appropriate,
9 notwithstanding a transfer or amendment or repeal provided for in this Act. Certificates,
10 orders, and regulations issued or adopted under authority of a law amended or repealed by this
11 Act remain in effect for the term issued, or until revoked, vacated, or otherwise modified
12 under the provisions of this Act. All contracts, rights, liabilities, bonds, notes, or other
13 obligations created by or under a law amended or repealed by this Act, and in effect on the
14 effective date of this Act remain in effect notwithstanding this Act's taking effect. The
15 Department of Community and Regional Affairs shall assume, for those programs and projects
16 transferred to it, the licenses, contracts, rights, liabilities, notes, or other obligations of the
17 former Alaska Energy Authority with the same limitations and provisions as under a license,
18 contract, right, liability, note, or other obligation of the former Alaska Energy Authority. Real
19 property, records, equipment, and other property of the Alaska Energy Authority related to the
20 programs and projects transferred to the department shall be transferred to the Department of
21 Community and Regional Affairs.

22 * **Sec. 34. TRANSITIONAL PROVISION CONCERNING EMPLOYEES OF THE**
23 **ALASKA ENERGY AUTHORITY.** When the Department of Community and Regional
24 Affairs determines that continued employment of certain employees of the Alaska Energy
25 Authority is necessary to continue uninterrupted service to programs, facilities, and power
26 projects formerly owned by the Alaska Energy Authority that have been transferred to the
27 department under this Act, the department may continue the employment of those employees.

28 * **Sec. 35. INITIAL TERMS OF LOAN COMMITTEE.** Notwithstanding AS 42.45.060(b),
29 enacted by sec. 5 of this Act, the initial terms of two of the public members of the loan
30 committee established under AS 42.45.060 shall be for two years. The remaining two public
31 members shall serve four-year terms as provided in AS 42.45.060.

1 • **Sec. 36. CONTRACTS WITH PRIVATE SECTOR.** The Alaska Energy Authority shall,
2 to the maximum extent feasible, enter into contracts with public utilities and other entities to
3 carry out its duties with respect to the maintenance and operation of power projects owned
4 by the Alaska Energy Authority.

5 • **Sec. 37. ORDERLY TRANSFER OF FUNCTIONS.** (a) Notwithstanding the effective
6 date of this Act, the governor, the Department of Community and Regional Affairs, the Alaska
7 Energy Authority, and the office of management and budget shall implement this Act in an
8 orderly fashion. The transfer of rural programs operated by the Alaska Energy Authority to
9 the Department of Community and Regional Affairs must be completed no later than
10 December 31, 1993. Until a program is transferred under this section, the Alaska Energy
11 Authority may continue to administer that program under the provisions of former AS 44.83,
12 notwithstanding the repeal of AS 44.83 in sec. 27 of this Act.

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

16 • **Sec. 38.** In accordance with AS 01.10.030, if a provision of this Act, or the application
17 of a provision of this Act to a person or circumstance, is held invalid, the remainder of this
18 Act and the application to other persons or circumstances shall not be affected thereby.