

**HOUSE CS FOR CS FOR SENATE BILL NO. 106(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**EIGHTEENTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered: 5/8/93**

**Referred: Rules**

**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 AND INTENT. (a) The legislature finds that adequate, reliable,

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

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,

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

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                    (c) 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.

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

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

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

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

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

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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Defense facility.

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

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

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

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

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

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

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

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

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

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

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

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.

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

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.

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,

- 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 intertie;
- 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;

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

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

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;

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**

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, fees, or charges sufficient to pay, and that a contract  
11 entered into by the authority for the sale, transmission, or distribution of power shall  
12 contain rates, fees, 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, replacements, 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 Tye 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

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

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,

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 Tye 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,

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

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 provisions of former AS 44.83,  
3 notwithstanding the repeal 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.