

***Executive
Order
75***

32. EO 75, Transferring management of bulk fuel and power development loan programs from DCED to APA

- A. Sponsor:
- B. Cosponsors:
- C. Date referred to committee: 1/9/89
- D. Further referrals:
- E. Requested by sponsor:
- F. Hearing date(s): 3/8/89
- G. Passed out on with following recommendations:
- H. Fiscal Note:
- I. Position Paper:
- J. CS prepared:
- K. Contacts:
 - 1) Bob LeResche, APA
 - 2) Sue White, APA, 3575

L. Issues:

- 1) Changes name to Alaska Energy Authority, reflecting a change in philosophy, direction.
- 2) Gives APA more control over the Power Development Revolving Loan Fund.
- 3) HSCR 1 was introduced to disapprove EO 75.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: APA consolidation
Sponsor: Rules
Requestor: Governor

Agency Affected: Governor
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: *R. Berche* Phone: 465-3575
Division: APA Date: Jan. 5, 1989
Approved by Commissioner: *[Signature]* Date: Jan. 5, 1989
Agency: DCED

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Transferring energy loan programs
to APA
 Sponsor: Rules Committee
 Requestor: Governor

Agency Affected: Commerce & Econ. Dev.
 BRU: Div. of Investments
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
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MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
----------------	------------	------------	------------	------------	------------	------------

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
----------------	------------	------------	------------	------------	------------	------------

FUNDING: (Thousands of Dollars)

GENERAL FUND						
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TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Martin Richard, Director
 Division: Division of Investments

Phone: 465-2500
 Date: 1/4/1989

Approved by Commissioner: Larry Mercurieff, Commissioner
 Agency: Dept. of Commerce & Economic Development

Date: 1/4/1989

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

32. EO 75, Transferring management of bulk fuel and power development loan programs from DCED to APA

THE TWO MAJOR EFFECTS OF THE ORDER ARE:

1) CHANGES THE NAME TO THE ALASKA ENERGY AUTHORITY.

THIS REFLECTS A SHIFT IN DIRECTION FROM PROJECT SPECIFIC FEASIBILITY STUDIES TO A MORE COMPREHENSIVE PLANNING PROCESS, WITH MORE EMPHASIS ON ON MANAGING ENERGY DEMAND.

2) TRANSFERS RESPONSIBILITY FOR MANAGING TWO LOAN PROGRAMS:

A) BULK FUEL

B) POWER DEVELOPMENT REVOLVING LOAN FUND.

THIS ONE HAS CAUSED THE MOST CONCERN.

ASK BOB TO EXPLAIN HOW PROCEEDS FROM THE FUND ARE USED. WOULDN'T IT BE BETTER IF THEY WENT DIRECTLY TO THE GENERAL FUND? WOULD THE GOVERNOR VETO SUCH A BILL, IF IT PASSED?

TO TESTIFY:

BOB LERESCHE, Executive Director, Alaska Power Authority

**CONTRIBUTIONS OF POWER DEVELOPMENT REVOLVING LOAN FUND
TO GENERAL FUND**

Inception through 3/3/89

	Power Development Revolving Loan Fund	PDRLF Insurance Reserve	Reappropriated to General Fund
Original Appropriation (for 4-dam-pool loan)	\$210,000,000		
Construction of four dam pool	(\$183,697,931)		
Self insurance reserve	(\$6,500,000)	\$6,500,000	
Surplus Reappr. to General Fund	(\$19,802,069)		\$19,802,069
Power Sales Revenues			\$20,970,619
Interruptable Sales Revenues			\$354,950
Investment Income			\$18,095,945
Revenue Anticipation Encumbrance in FY89 Reappropriation	(\$1,956,545)		\$1,956,545
Tyee Contractor Settlement	\$2,357,400		\$3,642,600
 Balances at 3/3/89	 \$400,855	 \$6,500,000	 \$64,822,728 =====

Suggested Budget Amendments Concerning Power Development Revolving Loan Fund

	PDRLF Discretionary	PDRLF Insurance Reserve	Pwr Proj Loan Fund - Nenana	Change in General Fund
Balance 11/88	\$113,084	\$6,500,000	\$2,377,000	
Tyee Settlement (12/88)	\$2,357,400			\$3,642,600
Interrupt Sales (thru 6/30/90)		\$487,152		
Investment Income (thru 6/30/89)	\$1,024,203			
Four Dam Pool Sales (Aug 1989)	\$7,345,470			
FY89 Reappropriations	(\$4,436,900)			\$4,436,900
*Insurance Draw		(\$1,500,000)		
**DCED "Operating Expense" Charge	\$0			
***Nenana Reappropriation	\$2,377,000		(\$2,377,000)	
Available for FY 90	\$8,700,257	\$5,487,152	\$0	\$8,079,500

Suggested Uses:

***PCE Efficiency Appropriation	(\$2,500,000)			\$750,000
***Technical & Emergency Assistance Appropriation	(\$1,400,000)			\$750,000
Balance For Reappropriation	(\$4,880,257)			\$4,880,257
Balance end of FY90	\$0	\$5,487,152	\$0	\$14,459,757

=====

* Repair of Solomon Gulch Transmission Line Avalanche Damage.

** Requires Legislative Action (Allow Executive Order and reduce DCED Program Receipts budget by \$35,400).

*** Requires Legislative Action (Appropriation).

POWER DEVELOPMENT REVOLVING LOAN FUND
AS 44.33.600

SELF INSURANCE RESERVE

The Self Insurance Reserve (SIR) was established in the Power Development Revolving Loan Fund (PDRLF) in FY 86, to provide reasonable availability of funds for catastrophic losses that may affect the operating electric facilities constructed under the Energy Program for Alaska (AS 44.83.380); it was requested by the Alaska Power Authority and the State Division of Risk Management.

The SIR was also established in compliance with the contractual commitments in the Four Dam Pool Long Term Power Sales Agreement which became effective on October 28, 1985.

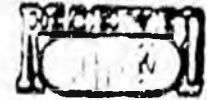
As directed by the State Division of Risk Management, the property, boiler and machinery risks associated with the Four Dam Pool Hydroelectric plants and the Anchorage-Fairbanks Intertie have been covered since 1983 by a commercial insurance program separated from any other insurance programs or reserve of the State and it has since remained unchanged.

The original SIR was set at \$7,000,000; with the reappropriations in SLA 1987, Ch. 95, \$500,000 was lapsed from the SIR to the General Fund, and, in February 1989, \$1,500,000 was borrowed by the Power Authority to repair the avalanche damages to the Solomon Gulch Transmission Line. The current SIR balance is \$5,000,000.

Should the SIR be eliminated, the State would to all effects be bare of necessary monies for the immediate containment of losses and for the repair and replacement of damages resulting from unforeseen catastrophic occurrences.

With reference to the need for and the amount of the SIR, the Division of Risk Management has recently stated that the major hazards of earthquake and flood remain at a 5% deductible of the structure(s) affected which creates a maximum self-insurance exposure of approximately \$7,500,000. Loss of this self-insurance reserve would not only impair reconstruction for State and communities served, but would also seriously jeopardize the State's present insurance program. It further specifically requested that these PDRLF monies be retained for self-insurance within the present PDRLF account structure.

In addition, affordable commercial property insurance is not available for transmission lines. In this assets group, the highest and most probable risk of loss is associated with the submarine transmission cable in the Tye Lake system. Replacement of that submarine cable is estimated to be \$7,000,000.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

October 21, 1988

Mr. Robert LeResche
Executive Director
Alaska Power Authority
P.O. Box AM
Juneau, AK 99811

Dear Mr. LeResche: *Bob*

After review and consideration of the Energy Policy Task Force recommendations, I am requesting that the Board of Directors of the Alaska Power Authority undertake the following actions, and am directing compliance of the appropriate state agencies as named below:

- (1) That the Alaska Power Authority (APA) emphasize local energy technical assistance through, for example, such programs as the proposed circuit rider plan and assistance with technical improvements to existing energy systems, including the more efficient use of energy by consumers. As part of this effort the APA should establish a program effort oriented to development of technical innovations relevant to Alaska's energy problems and the implementation of improved energy technology;
- (2) That APA, assisted by the Department of Community and Regional Affairs (DCRA), develop a five-year plan for increasing its technical assistance activities, including the circuit rider program, waste heat recovery projects, technical development and applications, and capital improvements designed to reduce long-term rural reliance on power cost equalization. This plan should be updated annually;

Mr. Robert LaResche
October 21, 1968
Page 2

- (3) That energy loan programs be consolidated in the APA so that local communities, utilities and individuals seeking assistance only have to work with one state organization. Consideration needs to be given to the integration of the various loan programs, perhaps into a single revolving loan fund. I will issue an executive order to implement this consolidation and integration;
- (4) That the APA Board of Directors consider formal adoption of "Integrated resource planning" as the guiding principle for state energy programs and for the evaluation of energy needs throughout the state. This approach calls for the shift from project-specific feasibility studies to a more comprehensive planning process, with increased emphasis on the management of energy demand. It is my understanding that such a planning policy can be implemented by the APA Board within the framework of the current APA statute;
- (5) That in recognition of these changes in emphasis and policy, the Alaska Power Authority be renamed the Alaska Energy Authority. This name change reflects that the APA's role in energy matters is now broader than its original focus on the development of electric power and transmission projects. The previously mentioned executive order will incorporate this name change;
- (6) That APA and the Alaska Public Utilities Commission (APUC), with the assistance of DCRA, complete in a timely manner their current efforts to establish efficiency standards for utilities participating in the Power Cost Equalization program. Again, it is my understanding that this approach can be put in place under current statute;
- (7) That APA, APUC and DCRA provide me with appropriate suggestions for legislation and budget to make the PCE program more efficient. Note that in item one I have requested a capital improvement plan to improve rural energy facilities which would assist in reducing long-term reliance on the PCE program;
- (8) That APA, in consultation with APUC, DCRA, rural communities and private industry, develop written guidelines defining the role of APA in its efforts to aid local communities. The guidelines should set out a working relationship which fosters private industry, but also protects the interests of individual communities and the State;

Mr. Robert LaRasche
October 21, 1988
Page 3

- (9) That DCRA and the Department of Law attempt to conclude the current court action over DCRA's residential thermal standards as soon as possible, and that these regulations, when adopted, be vigorously enforced by the Alaska Housing Finance Corporation (AHFC). I wish to see AHFC's compliance plan within 60 days of the effective date of the regulations.

These changes go a long way toward establishing a new, comprehensive energy policy based on local assistance, efficient use of energy, and updated technology.

Thank you again for your contributions, which made it possible for us to move forward with constructive changes in the state's energy programs.

Sincerely,



Steve Cowper
Governor

SC/MH/dmc 89F-932

cc Grace Schaible, Attorney General
David Hoffman, Commissioner, DCRA
Alaska Power Authority Board of Directors
Robert L. LaRasche, Executive Director, AFA
Alaska Housing Finance Corporation Board of Directors
Ron Lehr, Executive Director, AHFC
Alaska Public Utilities Commission

- D R A F T -

Mike Kelly, Fairbanks

Bob Martin, Juneau

Lloyd Hodson, Anchorage

Joe Usibelli, Healy

Richard Barnes, Anchorage

Dr. Joyce Murphy, Anchorage

Clarissa Quinlan, Anchorage

Phil Kaluza, Nome

Jeff Weitzin, Fairbanks

Nancy Lee-Evans, Anchorage

Rich Seifert, Fairbanks

Rocky Gutierrez, Sitka

Ex Officio members will include the Executive Director of the Alaska Power Authority, the Commissioner of the Department of Community and Regional Affairs, Chairperson of the Alaska Public Utilities Commission and Director of the Division of Policy in the Office of Management and Budget. Two representatives each from the Senate and the House will be named later this month.

The Task Force will hold meetings throughout the state to solicit views from the public on energy issues. The Task Force will submit its findings in a report to the Governor in January, 1988. The first meeting of the Task Force will be held August 24th, 1987 in Anchorage.

POWER DEVELOPMENT REVOLVING LOAN FUND
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RESOLUTION NO. 89-4

A Resolution of the Bradley Lake Project Management Committee in Support of Executive Order No. 75.

WHEREAS the Governor, under authority of Article III, Section 23 of the Constitution of the State of Alaska, has proposed the transfer of certain loan programs from the Department of Commerce and Economic Development, including the Power Development Revolving Loan Fund, by Executive Order No. 75; and

WHEREAS, in 1988 the Governor's Energy Policy Task Force, which included members of the Bradley Lake Project Management Committee, had recommended consolidation of energy loan programs under the Alaska Power Authority; and

WHEREAS, the provisions for transfer of loan programs within Executive Order No. 75 are in the best interests of the State's efficient administration of such loan programs; and

WHEREAS, the Power Development Revolving Loan Fund was established to provide funding for the purposes of financing power projects acquired or constructed under the Energy Program for Alaska, and would be more appropriately administered by the Alaska Power Authority/Alaska Energy Authority as set forth in Executive Order No. 75, and;

WHEREAS, the Power Development Revolving Loan Fund's ability to finance energy and power projects, as currently established under AS 44.83.177 - 44.83.187, should be left intact, including the retainment of all earnings going back to the Power Development Revolving Loan Fund; and

WHEREAS, the earnings of the Power Development Revolving Loan Fund is important to those projects currently constructed and acquired under the Energy Program for Alaska and should be retained for the purposes of prudent future energy and power development throughout the State of Alaska.

NOW, THEREFORE BE IT RESOLVED, that the Bradley Lake Project Management Committee strongly supports Executive Order No. 75 and respectfully requests the Alaska State Legislature to also support the provisions as set forth in this order.

BRADLEY PROJECT MANAGEMENT COMMITTEE

By: _____

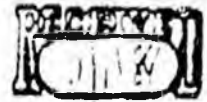
Michael P. Kelly
Michael P. Kelly
Chairman

ATTEST:

By: _____

Robert LeResche
Secretary

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

October 21, 1988

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Executive Director
Alaska Power Authority
P.O. Box AM
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Mr. Robert LeResche

October 21, 1988

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- (3) That energy loan programs be consolidated in the APA so that local communities, utilities and individuals seeking assistance only have to work with one state organization. Consideration needs to be given to the integration of the various loan programs, perhaps into a single revolving loan fund. I will issue an executive order to implement this consolidation and integration;
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Mr. Robert LeRasche
October 21, 1988
Page 3

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Thank you again for your contributions, which made it possible for us to move forward with constructive changes in the state's energy programs.

Sincerely,



Steve Cowper
Governor

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cc: Grace Schalble, Attorney General
David Hoffman, Commissioner, DCRA
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STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
BUREAU ALASKA 99811
707 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 27, 1989

SUBJECT: Constitutionality of Executive Order
 No. 75 (Transferring programs to the
 Alaska Power Authority)

TO: Representative Dave Donley, Chairman
 House Labor and Commerce Committee

FROM: Teresa B. Cramer *IBC*
 Legislative Counsel

You have requested an opinion concerning the constitutionality of Executive Order No. 75, transferring certain programs to the Alaska Power Authority (APA) and changing the name of the authority to the Alaska Energy Authority.

You question whether the transfer of the power development revolving loan fund (PDRLF), which makes loans to the APA, from the Department of Commerce and Economic Development to the APA itself violates the power of the governor under the state constitution to reorganize the executive branch of government. You also have asked whether the APA could encumber the revenue stream coming into the PDRLF and prevent the legislature from reappropriating those receipts.

In my opinion, Executive Order No. 75 is a valid exercise of the governor's powers under sec. 23, art. III, Constitution of the State of Alaska, which reads in pertinent part:

The governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders.

The APA is an independent public corporation located in the Department of Commerce and Economic Development

Representative Dave Donley

Page 2

February 27, 1989

(AS 44.83.020). It is subject to the reorganization power of the governor.

The Executive Order does not make any substantive changes to the programs transferred. It transfers the PDRLF and the bulk fuel revolving loan fund to the APA. The fact that transferring the PDRLF to the APA permits the APA to make a loan from one fund under its control to another program under its control, though anomalous, is not a violation of the governor's powers of reorganization.

Your second question concerns the ability of the APA to encumber the receipts of the PDRLF.

Under Sec. 44.83.510(a) of the Executive Order (currently AS 44.33.610(a)), the PDRLF may be used for financing a power project acquired or constructed under the energy program for Alaska. The definition of "power project" in AS 44.83.230(4) is very broad, including a "plant, works, system, or facility" that is used for electrical or thermal energy production, waste energy utilization and energy conservation, or transmission, purchase, sale, exchange, or interchange of electrical or thermal energy. Therefore, the energy program for Alaska could include a wide variety of undertakings.

The energy program for Alaska is set out in AS 44.83.380 - 44.83.425. Under AS 44.83.380(b), the APA may acquire or construct power projects, but only if the project is submitted and approved under AS 44.83.177 - 44.83.187.

The legislative review process set out in AS 44.83.177 - 44.83.187 prohibits the APA from embarking on the engineering or design phase of a proposed new project for which legislative approval is required until the legislature has approved the project. However, under AS 44.83.187, certain kinds of projects are exempt from legislative approval. (Generally, projects that generate 1.5 megawatts of power or less, and those that generate more than 1.5 but not more than 25 megawatts and are financed by revenue bonds are exempt. Transmission lines that cost less than \$3,000,000 are also exempt.) Under Sec. 44.83.510(b) (currently AS 44.33.610(b)) the requirement for legislative approval under AS 44.83.185(c) applies only to those projects that are not exempted from legislative approval under AS 44.83.187. An exempt project could be undertaken as part of the energy program for Alaska without legislative review and the PDRLF

Representative Dave Donley
Page 3
February 27, 1989

could be used as a funding source.

If the APA encumbered the revenue stream from the PDRLF before the effective date of an appropriation depleting the fund, the encumbrance would defeat the appropriation to the extent of the amount obligated. If the project were one that fell within the exemption to legislative review, the APA could finance its acquisition or construction without prior legislative approval.

If I may be of further assistance, please advise.

TBC:gc
WkG7/062

TO: Senator Bettye Fahrenkamp

FROM: Bob LeResche

I sure enjoyed the discussion yesterday -- always do enjoy your committees. I dredged up the attached statistics regarding consumption under the PCE program and thought you or some of your committee members might find them interesting. They tell me that simply lowering the "cap" isn't an equitable answer to the problem.

Thanks

A handwritten signature in cursive script, appearing to read "Bob", followed by a horizontal line.

Average Monthly Electricity Consumption (KWH per Customer)

<u>United States</u>	<u>All Alaska*</u>	<u>Alaska PCE Utilities</u>	<u>Alaska "Urban" Utilities</u>
769	670	398	653

* "All Alaska" exceeds both Alaska PCE and Alaska "Urban" because data were not available from some of the larger urban utilities.

Some Interesting Comparisons of Monthly Consumption:

<u>Alaska/U.S.</u>	<u>PCE/Alaska</u>	<u>PCE/U.S.</u>
87%	59%	52%

Message: Although the program has no built-in incentive to conserve, PCE recipients nonetheless use much less power than do urban Alaskans not eligible for the program.

Alaska Power Authority

Who Has Received \$1.1 Billion in APA Energy Appropriations?

<i>House District</i>	<i>Appropriations Per Capita*</i>	<i>PCE Per Capita*</i>	<i>Total Subsidies Per Capita*</i>	<i>Loans Per Capita*</i>	<i>Total Benefits Per Capita*</i>
1	\$8,907	\$0	\$8,907	\$3,839	\$12,746
2	\$829	\$1,176	\$2,005	\$20	\$2,025
3	\$187	\$57	\$244	\$1,825	\$2,069
4	\$61	\$0	\$61	\$556	\$617
6	\$3,768	\$395	\$4,164	\$210	\$4,374
Railbelt**	\$1,210	\$5	\$1,215	\$2	\$1,217
22	\$216	\$1,001	\$1,218	\$0	\$1,218
23	\$202	\$1,631	\$1,834	\$0	\$1,834
24	\$155	\$1,717	\$1,872	\$200	\$2,072
25	\$240	\$1,074	\$1,314	\$104	\$1,418
26	\$1,078	\$1,076	\$2,154	\$593	\$2,747
27	\$7,118	\$282	\$7,399	\$8,845	\$16,244
Statewide	\$1,520	\$182	\$1,702	\$437	\$2,139

*Based on House Research Agency FY85 population figures.

**The Railbelt includes Districts 5, and 7 through 21.

Railbelt Appropriations include the Railbelt Energy Fund.

Totals

<i>Population</i>	<i>Appropriations</i>	<i>PCE Payments</i>	<i>Approp + PCE</i>	<i>Loans</i>	<i>All</i>
522,910	\$794,770,255	\$95,176,440	\$889,946,695	\$228,425,182	\$1,118,371,877

Figures include appropriations and PCE disbursements through fiscal year 1988.

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 HOUSE SPECIAL CONCURRENT RESOLUTION NO. 1
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 Disapproving Executive Order No. 75.

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

7 WHEREAS the governor, under authority of art. III, sec. 23 of the
8 Constitution of the State of Alaska, has proposed the transfer of certain
9 programs from the Department of Commerce and Economic Development and the
10 Department of Revenue by Executive Order No. 75; and

11 WHEREAS the governor has submitted Executive Order No. 75 to the
12 presiding officer of each house of the legislature as required by AS 24.-
13 30.130(b); and

14 WHEREAS art. III, sec. 23 of the Constitution of the State of Alaska
15 provides that unless disapproved within 60 days of a regular session by
16 resolution concurred in by a majority of the members of the legislature in
17 joint session, an executive order becomes effective at a date thereafter
18 designated by the governor; and

19 WHEREAS Executive Order No. 75 significantly increases and diversifies
20 the jurisdiction of the Alaska Power Authority; and

21 WHEREAS the legislature is precluded from amending executive orders
22 during the review process; and

23 WHEREAS there are several measures concerning the scope and future of
24 the Alaska Power Authority now being considered by the legislature; and

25 WHEREAS the legislature has not had time to fully examine the issues
26 raised by Executive Order No. 75;

27 BE IT RESOLVED by the Alaska State Legislature that Executive Order
28 No. 75 is disapproved.