

**HB**

**446**

**HFIN**

**FILE**

(11)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: April 12, 2000

FURTHER REFERRALS:

Date of Committee Action: 4-14-00

The FINANCE Committee considered:

HB 446

HOUSE BILL NO. 446

PCE FUND/SALE OF 4 DAM POOL

"An Act establishing and relating to the power cost equalization endowment fund; relating to the power cost equalization and rural electric capitalization fund; authorizing and relating to the sale of the four dam pool hydroelectric project; establishing and relating to joint action agencies created to purchase power projects; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 446 (FIN)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) DOR  
 fiscal note(s)

APPROVES PREVIOUS: (Dept/Date) AIDEA 4/12/00  
 fiscal note(s)

zero fiscal note(s)

zero fiscal note(s)

| SIGNING WITH RECOMMENDATIONS |            | DP                                  | DNP | NR                                  | AM |
|------------------------------|------------|-------------------------------------|-----|-------------------------------------|----|
| <i>Tom Herrick</i>           | Therriault |                                     |     | <input checked="" type="checkbox"/> |    |
| <i>Walter B. ...</i>         | BUNDU      |                                     |     | <input checked="" type="checkbox"/> |    |
| <i>John ...</i>              | AUSTMAN    | <input checked="" type="checkbox"/> |     |                                     |    |
| <i>John ...</i>              | J. DAVIS   | <input checked="" type="checkbox"/> |     |                                     |    |
| <i>James ...</i>             | GROSSMANT  | <input checked="" type="checkbox"/> |     |                                     |    |
| <i>John ...</i>              | J. MOSES   | <input checked="" type="checkbox"/> |     |                                     |    |
| <i>W.K. Williams</i>         | Williams   | <input checked="" type="checkbox"/> |     |                                     |    |
| <i>R. Rose</i>               | ROSE       | <input checked="" type="checkbox"/> |     |                                     |    |
| <i>W. ...</i>                | ...        |                                     |     |                                     |    |

CHAIR'S SIGNATURE *Tom Herrick*

# FISCAL NOTE

Bill Version: HB 446

(H) Publish Date: 4/12/00

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected DCED  
 Title Four Dam Pool sale and PCE funding BRU AEA  
 Component \_\_\_\_\_  
 Sponsor Rules Committee  
 Requester At request of Governor Component No. \_\_\_\_\_

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2001    | FY 2002    | FY 2003    | FY 2004    | FY 2005    | FY 2006    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                               |  |                 |  |  |  |  |
|-------------------------------|--|-----------------|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  | <b>68,000.0</b> |  |  |  |  |
|-------------------------------|--|-----------------|--|--|--|--|

**FUND SOURCE (Thousands of Dollars)**

| FUND SOURCE                                | FY 2001    | FY 2002         | FY 2003    | FY 2004    | FY 2005    | FY 2006    |
|--|------------|-----------------|------------|------------|------------|------------|
| 1002 Federal Receipts                      |            |                 |            |            |            |            |
| 1003 GF Match                              |            |                 |            |            |            |            |
| 1004 GF                                    |            |                 |            |            |            |            |
| 1005 GF/Program Receipts                   |            |                 |            |            |            |            |
| 1037 GF/Mental Health                      |            |                 |            |            |            |            |
| Other (Specify Type) <u>Sale of Assets</u> |            | <b>68,000.0</b> |            |            |            |            |
| <b>TOTAL</b>                               | <b>0.0</b> | <b>68,000.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

| POSITIONS | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|-----------|---------|---------|---------|---------|---------|---------|
| Full-time | 0       | 0       | 0       | 0       | 0       | 0       |
| Part-time | 0       | 0       | 0       | 0       | 0       | 0       |
| Temporary | 0       | 0       | 0       | 0       | 0       | 0       |

**ANALYSIS:** (Attach a separate page if necessary)

The Bill authorizes the sale of the Four Dam Pool projects to the purchasing utilities in the amount of \$73 million, less an initial credit of \$5 million, and makes available up to a minimum of \$120 million for the benefit of the Power Cost Equalization (PCE) program. The sale proceeds and other funding sources identified in a companion appropriations bill are deposited into a newly established Power Cost Equalization Endowment Fund, to be managed by the Department of Revenue. Earnings from the Endowment Fund, estimated at approximately \$7.7 million, will be made available for appropriation on an annual basis for the PCE program. Additionally other funds, including a portion of the AIDEA dividend, will be made available to fund the PCE program annually in the amount of \$15.7 million. No General Fund monies are required to fund the Endowment Account or the PCE program. All funds are made available from the sale of assets and from other funds outside of the General Fund.

Prepared by: D. Randy Simmons, Executive Director Phone 269-3000  
 Division AIDEA Date/Time 4/10/00 4:29 PM  
 Approved by Commissioner [Signature] Date 4/10/00  
 Agency \_\_\_\_\_

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# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. HB 446

|   |                      |                |
|---|----------------------|----------------|
| Revision Date/Time (Note if correction) _____       | Dept. Affected _____ | Revenue _____  |
| Title <u>Establish Power Cost Equalization Fund</u> | BRU _____            | Treasury _____ |
|   | Component _____      | Treasury _____ |
| Sponsor <u>Governor</u>                             |                      |                |
| Requester _____                                     | Component No. _____  | <u>121</u>     |

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2001     | FY 2002     | FY 2003     | FY 2004     | FY 2005     | FY 2006     |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services      | 11.0        | 11.0        | 11.0        | 11.0        | 11.0        | 11.0        |
| Travel                 |             |             |             |             |             |             |
| Contractual            | 12.0        | 46.8        | 46.8        | 46.8        | 46.8        | 46.8        |
| Supplies               |             |             |             |             |             |             |
| Equipment              |             |             |             |             |             |             |
| Land & Structures      |             |             |             |             |             |             |
| Grants & Claims        |             |             |             |             |             |             |
| Miscellaneous          |             |             |             |             |             |             |
| <b>TOTAL OPERATING</b> | <b>23.0</b> | <b>57.8</b> | <b>57.8</b> | <b>57.8</b> | <b>57.8</b> | <b>57.8</b> |

|                      |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|

|                        |  |  |  |  |  |  |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES ( ) |  |  |  |  |  |  |
|------------------------|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

|                          |             |             |             |             |             |             |
|--------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts    |             |             |             |             |             |             |
| 1003 GF Match            |             |             |             |             |             |             |
| 1004 GF                  |             |             |             |             |             |             |
| 1005 GF/Program Receipts |             |             |             |             |             |             |
| 1037 GF/Mental Health    |             |             |             |             |             |             |
| PCE Endowment Fund       | 23.0        | 57.8        | 57.8        | 57.8        | 57.8        | 57.8        |
| <b>TOTAL</b>             | <b>23.0</b> | <b>57.8</b> | <b>57.8</b> | <b>57.8</b> | <b>57.8</b> | <b>57.8</b> |

Estimate of any current year (FY2000) cost: \_\_\_\_\_

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

**ANALYSIS:** (Attach a separate page if necessary)

The above represents the costs to the Treasury Division of managing the Power Cost Equalization Fund. Included are the investment manager fees (under contractual expenses) associated with investing approximately half of the endowment in broad market and international securities.

|  |   |
|--|---|
| Prepared by: <u>Betty Martin, Comptroller</u>  | Phone <u>465-2352</u>                     |
| Division <u>Treasury Division</u>              | Date/Time <u>April 12, 2000 - 10 a.m.</u> |
| Approved by: <u>Commissioner Wilson Condon</u> | Date <u>04/12/2000</u>                    |
| Agency <u>Department of Revenue</u>            |   |

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Cramer  
4/14/00

(5) amended

adopted 4/14/00 am

N/D

**CS FOR HOUSE BILL NO. 446(FIN)**

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

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act establishing and relating to the power cost equalization endowment fund;  
2 relating to the power cost equalization and rural electric capitalization fund;  
3 authorizing and relating to the sale of the four dam pool hydroelectric project;  
4 establishing and relating to joint action agencies created to purchase power  
5 projects; and providing for an effective date."

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

7 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new  
8 section to read:

9 **FINDINGS.** The legislature finds that

10 (1) adequate and reliable electric service at affordable rates is a necessary  
11 ingredient of a modern society and a prosperous developing economy;

12 (2) at the current stage of social and economic development in the state, direct  
13 participation by the state is necessary to assist in keeping rates in high-cost service areas to

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1 affordable levels;

2 (3) providing a long-term, stable financing source for power cost equalization  
3 will permit and encourage the electric utility industry and its lenders to develop plans, make  
4 investments, and take other actions that are necessary or prudent to provide adequate and  
5 reliable electric service at affordable rates and to meet the health and safety needs of residents  
6 of the state;

7 (4) revenue that was anticipated to be generated from the state-owned four dam  
8 pool hydroelectric project under the existing power sales agreement and that the legislature  
9 intended to provide a long-term source of financing for power cost equalization will no longer  
10 be available upon the sale of the four dam pool project;

11 (5) the proposed sale under the memorandum of understanding dated April 11,  
12 2000, provides the state with fair value for the four dam pool hydroelectric project, relieves  
13 the state of the significant financial risks and obligations with respect to the project, and  
14 provides a long-term, stable financing source for power cost equalization; and

15 (6) establishment of joint action agencies under this Act and the sale of the  
16 four dam pool hydroelectric project to the joint action agency to be formed by the four dam  
17 pool local public utilities ensure local control of power generation resources necessary for a  
18 healthy economy and benefit the communities and their ratepayers by providing for stable  
19 energy rates.

20 \* Sec. 2. AS 42.05.431(c) is amended to read:

21 (c) Notwithstanding (b) of this section,

22 (1) a wholesale agreement for the sale of power from a project licensed  
23 by the Federal Energy Regulatory Commission on or before January 1, 1987, and  
24 related contracts for the wheeling, storage, regeneration, or wholesale repurchase of  
25 power purchased under the agreement, entered into between the Alaska Energy  
26 Authority and one or more other public utilities or among the utilities after October 31,  
27 1987, and before January 1, 1988, and amendments to the wholesale agreement or  
28 related contract, and the wholesale agreement or related contract assigned by the  
29 Alaska Energy Authority to a joint action agency formed under AS 42.45.310 that  
30 purchases the project from the Alaska Energy Authority, are not subject to review  
31 or approval by the commission until all long-term debt incurred for the project is

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1 retired, or, for a wholesale agreement or related contract assigned to a joint action  
 2 agency formed under AS 42.45.310, until all long-term debt incurred to pay the  
 3 purchase price to the Alaska Energy Authority is retired; and

4 (2) a wholesale agreement or related contract described in (1) of this  
 5 subsection may contain a covenant for the public utility to establish, charge, and  
 6 collect rates sufficient to meet its obligations under the contract; the rate covenant is  
 7 valid and enforceable.

8 \* Sec. 3. AS 42.45.040 is amended to read:

9 **Sec. 42.45.040. Southeast energy fund.** The Southeast energy fund is  
 10 established as a separate fund. The fund consists of money transferred to it under  
 11 former AS 42.45.050. The authority may make grants from the Southeast energy fund  
 12 to utilities participating in the power transmission intertie between the Swan Lake and  
 13 Tyee Lake hydroelectric projects for power projects, for repayment of loans, and for  
 14 payments on bonds.

15 \* Sec. 4. AS 42.45 is amended by adding new sections to read:

16 **Article 1A. Power Cost Equalization Endowment Fund.**

17 **Sec. 42.45.070. Power cost equalization endowment fund established.** (a)  
 18 The power cost equalization endowment fund is established as a separate fund of the  
 19 authority. The fund consists of

20 (1) legislative appropriations to the fund that are not designated for  
 21 annual expenditure for the purpose of power cost equalization;

22 (2) accumulated earnings of the fund;

23 (3) gifts, bequests, contributions of money and other assets, and federal  
 24 money given to the fund that are not designated for annual expenditure for power cost  
 25 equalization; and

26 (4) payments received after June 30, 2001, for the sale of power made  
 27 to the state by the purchasing utilities under the memorandum of understanding dated  
 28 April 11, 2000, between the Alaska Energy Authority and the purchasing utilities.

29 (b) Nothing in this section creates a dedicated fund.

30 (c) In this section, "memorandum of understanding" means the memorandum  
 31 of understanding dated April 11, 2000, between the Alaska Energy Authority and

*Adopted*

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Copper Valley, Ketchikan, Kodiak, Petersburg, and Wrangell for the purchase and sale of the four dam pool hydroelectric project and any amendment to that agreement that substitutes appropriations of \$20,000,000 from the state constitutional budget reserve fund established under art. IX, sec. 17, Constitution of the State of Alaska, for appropriations from the power project fund (AS 42.45.010).

**Sec. 42.45.080. Powers and duties of the commissioner of revenue.** (a) The commissioner of revenue is the fiduciary of the fund. In managing the fund, the commissioner shall

(1) have the same powers and duties as are provided in AS 37.10.071; and

(2) invest the fund in a manner likely to achieve at least a seven percent nominal return over time.

(b) In managing the fund, the commissioner shall

(1) consider the status of the fund's capital and the income generated on both current and probable future bases;

(2) determine the appropriate investment objectives;

(3) establish investment policies to achieve the objectives; and

(4) act only in regard to the best financial interests of the fund.

(c) On July 1 of each year, the commissioner shall determine the monthly average market value of the fund for the previous three fiscal years.

**Sec. 42.45.085. Use of the power cost equalization endowment fund.** (a) Seven percent of the amount determined by the commissioner of revenue on July 1 of each year under AS 42.45.080(c) may be appropriated for the following purposes:

(1) funding the power cost equalization and rural electric capitalization fund (AS 42.45.100);

(2) reimbursement to the Department of Revenue for the costs of establishing and managing the fund; and

(3) reimbursement of other costs of administration of the fund.

(b) Nothing in this section creates a dedicated fund.

**Sec. 42.45.099. Definition.** In AS 42.45.070 - 42.45.099, "fund" means the power cost equalization endowment fund established in AS 42.45.070.

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\* Sec. 5. AS 42.45.070(a) is amended to read:

(a) The power cost equalization endowment fund is established as a separate fund of the authority. The fund consists of

(1) legislative appropriations to the fund that are not designated for annual expenditure for the purpose of power cost equalization;

(2) accumulated earnings of the fund;

(3) gifts, bequests, contributions of money and other assets, and federal money given to the fund that are not designated for annual expenditure for power cost equalization; and

(4) repayments of principal and income that would have been deposited in the former four dam pool transfer fund under former AS 42.45.050 [PAYMENTS RECEIVED AFTER JUNE 30, 2001, FOR THE SALE OF POWER MADE TO THE STATE BY THE PURCHASING UTILITIES UNDER THE MEMORANDUM OF UNDERSTANDING DATED APRIL 11, 2000, BETWEEN THE ALASKA ENERGY AUTHORITY AND THE PURCHASING UTILITIES].

\* Sec. 6. AS 42.45.100(b) is amended to read:

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

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

(2) money appropriated from the National Petroleum Reserve - Alaska special revenue fund under AS 37.05.530(g);

(3) money appropriated from the power cost equalization endowment fund (AS 42.45.070) under AS 42.45.085(a);

(4) gifts, bequests, [AND] contributions from other sources, and federal money; and

(5) ~~[(4)]~~ interest earned on the fund balance.

\* Sec. 7. AS 42.45.100 is amended by adding a new subsection to read:

(d) If the amount available to the fund under (b) of this section is less than \$15,700,000 for a fiscal year, subject to appropriation, an amount necessary to cover the shortfall shall be deposited into the fund from the dividend made available under

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1 AS 44.88.088 by the board of directors of the Alaska Industrial Development and  
2 Export Authority.

3 \* Sec. 8. AS 42.45.100(d) is amended to read:

4 (d) If the amount available to the fund under (b) of this section is less than  
5 \$15,700,000 for a fiscal year, subject to appropriation, an amount necessary to cover  
6 the shortfall. up to the sum of \$9,000,000 for the fiscal year, shall be deposited into  
7 the fund from the dividend made available under AS 44.88.088 by the board of  
8 directors of the Alaska Industrial Development and Export Authority.

9 \* Sec. 9. AS 42.45 is amended by adding a new section to article 5 to read:

10 **Sec. 42.45.310. Acquisition of power project.** (a) Two or more public  
11 utilities that purchase power from a power project acquired or constructed as part of  
12 the former energy program for Alaska and owned by the Alaska Energy Authority  
13 under AS 44.83.396 may form a joint action agency under AS 42.45.300 and under  
14 this section to purchase the power project from the Alaska Energy Authority if the  
15 purchase and sale of project has first been authorized by law.

16 (b) The agency may

17 (1) acquire, own, operate, and manage one or more power projects or  
18 generating or transmission facilities; and

19 (2) participate in the design, development, construction, operation, and  
20 maintenance of a generating or transmission facility.

21 (c) The agency is an instrumentality of the public utilities that form the  
22 agency, but has a separate and independent legal existence from the public utilities.  
23 In addition to the powers authorized under AS 42.45.300, the agency has the power

24 (1) to adopt bylaws of the agency;

25 (2) to sue and be sued;

26 (3) to carry out the authorized purposes of the agency; and

27 (4) subject to (e) of this section, to issue revenue bonds and secure  
28 financing that are not obligations of either the state or the public utilities that formed  
29 the agency to provide financing to carry out the authorized purposes of the agency.

30 (d) The agency is created by a written agreement among the public utilities  
31 forming the agency. Each public utility forming the agency shall adopt the terms of

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1 the agreement by ordinance or resolution. Subject to (c) of this section, the agreement  
 2 establishing the agency may define the powers, functions, and activities of the agency  
 3 and specify the means by which they shall be performed. The agreement may  
 4 establish the rights and responsibilities of the public utilities that form the agency. If  
 5 applicable, the agreement shall provide for

6 (1) apportionment between the public utilities forming the agreement  
 7 of responsibility for providing finances to the expenses incurred in the performance of  
 8 the functions or activities;

9 (2) apportionment of fees or other revenue derived from the functions  
 10 or activities and the manner in which the revenue shall be accounted for;

11 (3) the transfer of personnel and the preservation of employment  
 12 benefits; and

13 (4) the rights of the public utilities forming the agency to terminate the  
 14 agreement, subject to (e) of this section, including resolving disputes if the public  
 15 utilities are unable, upon termination of the agreement, to agree on the transfer of  
 16 personnel or the division of assets and liabilities between the parties to the agreement.

17 (e) The public utilities forming the agency shall pledge and agree with the  
 18 holders of revenue bonds or other financing secured under this section, including with  
 19 a state entity that provides financing, that the public utilities and the agency will not  
 20 terminate the agency or take any other action that would limit or alter the rights and  
 21 powers vested in the agency by this section to fulfill the terms of a contract made by  
 22 the agency with the holders and that the public utilities and the agency will not in any  
 23 way impair the rights and remedies of the holders until the bonds or other financing  
 24 secured under this section, together with the interest on them with interest on unpaid  
 25 installments of interest, and all costs and expenses in connection with an action or  
 26 proceeding by or on behalf of the holders are fully met and discharged. The agency  
 27 may include this pledge and agreement of the public utilities and the agency, insofar  
 28 as it refers to holders of bonds of the agency, in a contract with the holders and,  
 29 insofar as it relates to a state entity, in a contract with the state entity.

30 (f) Only to the extent any of the public utilities forming the agency is subject  
 31 to the particular tax is the agency subject to state and local ad valorem, income, or

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1 excise taxes that may be assessed or levied against property, assets, income, and  
2 receipts of the agency or to the electric cooperative tax (AS 10.25.540 - 10.25.570).

3 (g) A loan, investment, or other financial aid provided to the agency by the  
4 state or any political subdivision of the state does not constitute a violation of  
5 AS 37.10.085.

6 (h) In this section,

- 7 (1) "agency" means a joint action agency formed under this section;
- 8 (2) "public utility" has the meaning given the term in AS 42.05.990;
- 9 (3) "state entity" means a state department, authority, or other  
10 administrative unit of the executive branch of state government.

11 \* Sec. 10. AS 44.83.510(a) is amended to read:

12 (a) Repayment of a loan from the former power development revolving loan  
13 fund must be made with the proceeds from the sale of power from projects in the  
14 former energy program for Alaska. [EXCEPT AS PROVIDED IN AS 44.83.398(i),  
15 THE PAYMENTS REQUIRED TO BE MADE BY THE AUTHORITY ON A LOAN  
16 FROM THE FUND CONSTITUTE DEBT SERVICE FOR THE PURPOSE OF  
17 CALCULATING THE WHOLESALE POWER RATE IN AS 44.83.398(b)(1).]

18 \* Sec. 11. AS 44.83.525 is amended to read:

19 **Sec. 44.83.525. Rate reopeners.** A power sales agreement for the sale of  
20 power from the initial project [ AS DESCRIBED IN AS 44.83.398(a),] financed with  
21 a loan under AS 44.83.510 may include among its provisions an agreed schedule of  
22 wholesale power rates [NOTWITHSTANDING THE PROVISIONS OF AS 44.83.398],  
23 but must include a provision for a rate reopener at least every 15 years. **For purposes**  
24 **of this section, Tyee Lake, Swan Lake, Solomon Gulch, and Terror Lake**  
25 **hydroelectric facilities are considered to be one power project, and this power**  
26 **project is referred to as the initial project.**

27 \* Sec. 12. AS 42.45.050 is repealed.

28 \* Sec. 13. AS 42.45.070(a)(4) and AS 44.83.398 are repealed.

29 \* Sec. 14. The uncodified law of the State of Alaska is amended by adding a new section  
30 to read:

31 INTERIM DETERMINATION OF AMOUNTS AVAILABLE FOR

*change*

*add →*

*42.45.07(c)*

*p/d*

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1 APPROPRIATION. (a) Notwithstanding AS 42.45.080(c) and 42.45.085(a), enacted by sec. 4  
2 of this Act, the amount that may be appropriated from the power cost equalization endowment  
3 fund (AS 42.45.070, enacted by sec. 4 of this Act) shall be determined as follows:

4 (1) for fiscal year 2002, the amount that may be appropriated from the power  
5 cost equalization endowment fund (AS 42.45.070, enacted by sec. 4 of this Act) is seven  
6 percent of the market value of the fund on February 1, 2001;

7 (2) for fiscal year 2003 through the fiscal year that begins after the closing date  
8 of the sale of the four dam pool hydroelectric project under the memorandum of  
9 understanding, the amount that may be appropriated annually from the power cost equalization  
10 endowment fund (AS 42.45.070, enacted by sec. 4 of this Act) is seven percent of the market  
11 value of the fund on February 1 of the prior fiscal year;

12 (3) for subsequent fiscal years, the commissioner of revenue shall exclude the  
13 time period and market value of the power cost equalization endowment fund (AS 42.45.070,  
14 enacted by sec. 4 of this Act) before the closing date of the sale of the four dam pool  
15 hydroelectric project in making the determination required under AS 42.45.080(c), enacted by  
16 sec. 4 of this Act.

17 (b) The definitions contained in sec. 15(d) of this Act apply to the terms used in this  
18 section.

19 \* Sec. 15. The uncodified law of the State of Alaska is amended by adding a new section  
20 to read:

21 LEGISLATIVE AUTHORIZATION TO CONVEY. (a) Notwithstanding  
22 AS 44.83.396, the joint action agency to be formed by the purchasing utilities may purchase,  
23 and the Alaska Energy Authority may sell, the four dam pool hydroelectric project under the  
24 memorandum of understanding.

25 (b) The Alaska Industrial Development and Export Authority may issue bonds or  
26 otherwise extend financing to the joint action agency to be formed by the purchasing utilities,  
27 for the purposes set out upon the terms set out in the memorandum of understanding. The total  
28 principal amount of the bonds and other financing provided by the Alaska Industrial  
29 Development and Export Authority under this subsection may not exceed \$110,000,000.

30 (c) The Department of Community and Economic Development and the Alaska  
31 Energy Authority may modify and amend the loan agreement and note to

WORK DRAFT

WORK DRAFT

I-GH2082VD

1 (1) suspend the enforcement of rights and obligations, including payment  
2 obligations, under the loan agreement and note; and

3 (2) fully release, extinguish, and retire the debt and all other rights and  
4 obligations under the loan agreement and note, and cancel the note, upon completion of the  
5 purchase and sale of the four dam pool hydroelectric project under the memorandum of  
6 understanding.

7 (d) In this section,

8 (1) "Alaska Energy Authority" means the Alaska Energy Authority created in  
9 AS 44.83, successor in interest to the Alaska Power Authority;

10 (2) "Alaska Power Authority" means the former Alaska Power Authority;

11 (3) "authority" means the former Alaska Power Authority;

12 (4) "Copper Valley" means Copper Valley Electric Association, Inc., a  
13 cooperatively owned electric utility serving the communities of Valdez, Glennallen, and  
14 environs;

15 (5) "Department of Commerce and Economic Development" means the former  
16 Department of Commerce and Economic Development;

17 (6) "four dam pool hydroelectric project" means the Tye Lake, Swan Lake,  
18 Solomon Gulch, and Terror Lake hydroelectric facilities owned and administered by the  
19 Alaska Energy Authority under AS 44.83.396;

20 (7) "joint action agency" means an agency formed under AS 42.45.310, enacted  
21 by sec. 9 of this Act;

22 (8) "Ketchikan" means the City of Ketchikan, doing business as Ketchikan  
23 Public Utilities, a municipally owned utility serving Ketchikan and environs;

24 (9) "Kodiak" means the Kodiak Electric Association, Inc., a cooperatively  
25 owned electric utility serving the Kodiak Island Borough;

26 (10) "loan agreement" means the loan agreement effective October 28, 1985,  
27 between the State of Alaska, Department of Commerce and Economic Development, and the  
28 Alaska Power Authority regarding a loan from the power development revolving loan fund  
29 to the Alaska Power Authority regarding the four dam pool hydroelectric project;

30 (11) "memorandum of understanding" means the memorandum of  
31 understanding dated April 11, 2000, between the Alaska Energy Authority and Copper Valley,

WORK DRAFT

WORK DRAFT

I-GH2082\0

1 Ketchikan, Kodiak, Petersburg, and Wrangell for the purchase and sale of the four dam pool  
 2 hydroelectric project and any amendment to that agreement that substitutes appropriations of  
 3 \$20,000,000 from the state constitutional budget reserve fund established under art. IX,  
 4 sec. 17, Constitution of the State of Alaska, for appropriations from the power project fund  
 5 (AS 42.45.010).

6 (12) "note" means the promissory note, dated February 13, 1986, which reflects  
 7 the authority's obligation to pay to the Department of Commerce and Economic Development  
 8 related to the loan agreement;

9 (13) "Petersburg" means the City of Petersburg, doing business as Petersburg  
 10 Municipal Power and Light, a municipally owned electric utility serving Petersburg and  
 11 environs;

12 (14) "purchasing utilities" means Copper Valley, Ketchikan, Kodiak,  
 13 Petersburg, and Wrangell;

14 (15) "Wrangell" means the City of Wrangell, doing business as Wrangell  
 15 Municipal Light and Power, a municipally owned electric utility serving Wrangell and  
 16 environs.

17 \* Sec. 16. The uncoded law of the State of Alaska is amended by adding a new section  
 18 to read:

19 **CONDITIONAL EFFECT.** Section 5 of this Act takes effect only if the memorandum  
 20 of understanding between the Alaska Energy Authority and the purchasing utilities dated  
 21 April 11, 2000, is terminated before the closing date of the sale of the four dam pool  
 22 hydroelectric project under that memorandum of understanding.

23 \* Sec. 17. The uncoded law of the State of Alaska is amended by adding a new section  
 24 to read:

25 **CONDITIONAL EFFECT.** Sections 10, 11, and 13 of this Act take effect only if the  
 26 Alaska Energy Authority and the joint action agency to be formed by the purchasing utilities  
 27 under AS 42.45.310, enacted by sec. 9 of this Act, complete the purchase and sale of the four  
 28 dam pool hydroelectric project as described in the memorandum of understanding dated  
 29 April 11, 2000.

30 \* Sec. 18. If sec. 5 of this Act takes effect under sec. 16 of this Act, sec. 5 of this Act  
 31 takes effect on the date of termination of the memorandum of understanding described in sec.

*Refer back  
 to  
 15(LD)  
 16  
 17 - MD  
 18  
 19*

WORK DRAFT

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1-GH2082UD

1 16 of this Act. The executive director of the Alaska Energy Authority shall certify the date  
2 of termination of the memorandum of understanding to the lieutenant governor and the revisor  
3 of statutes.

4 \* Sec. 19. If secs. 10, 11, and 13 of this Act take effect under sec. 17 of this Act, they take  
5 effect on the day after the closing date of the sale of the four dam pool hydroelectric project  
6 under the memorandum of understanding dated April 11, 2000. The executive director of the  
7 Alaska Energy Authority shall certify the closing date of the sale to the lieutenant governor  
8 and the revisor of statutes.

9 \* Sec. 20. Section 8 of this Act takes effect July 1, 2002.

Delete 10

\* Sec. 21. Sections 3 and 12 of this Act take effect July 2, 2000.

11 \* Sec. 22. Except as provided in secs. 18 - 21 of this Act, this Act takes effect July 1,  
12 2000.

# FISCAL NOTE

Bill Version: HB 446

(H) Publish Date: 4/12/00

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected DCED  
 Title Four Dam Pool sale and PCE funding BRU AEA  
 Component \_\_\_\_\_  
 Sponsor Rules Committee  
 Requester At request of Governor Component No. \_\_\_\_\_

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2001    | FY 2002    | FY 2003    | FY 2004    | FY 2005    | FY 2006    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
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| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                               |  |                 |  |  |  |  |
|-------------------------------|--|-----------------|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  | <b>68,000.0</b> |  |  |  |  |
|-------------------------------|--|-----------------|--|--|--|--|

**FUND SOURCE (Thousands of Dollars)**

|                                     |            |                 |            |            |            |            |
|-------------------------------------|------------|-----------------|------------|------------|------------|------------|
| 1002 Federal Receipts               |            |                 |            |            |            |            |
| 1003 GF Match                       |            |                 |            |            |            |            |
| 1004 GF                             |            |                 |            |            |            |            |
| 1005 GF/Program Receipts            |            |                 |            |            |            |            |
| 1037 GF/Mental Health               |            |                 |            |            |            |            |
| Other (Specify Type) Sale of Assets |            | 68,000.0        |            |            |            |            |
| <b>TOTAL</b>                        | <b>0.0</b> | <b>68,000.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

|           |   |   |   |   |   |   |
|-----------|---|---|---|---|---|---|
| Full-time | 0 | 0 | 0 | 0 | 0 | 0 |
| Part-time | 0 | 0 | 0 | 0 | 0 | 0 |
| Temporary | 0 | 0 | 0 | 0 | 0 | 0 |

**ANALYSIS:** (Attach a separate page if necessary)

The Bill authorizes the sale of the Four Dam Pool projects to the purchasing utilities in the amount of \$73 million, less an initial credit of \$5 million, and makes available up to a minimum of \$120 million for the benefit of the Power Cost Equalization (PCE) program. The sale proceeds and other funding sources identified in a companion appropriations bill are deposited into a newly established Power Cost Equalization Endowment Fund, to be managed by the Department of Revenue. Earnings from the Endowment Fund, estimated at approximately \$7.7 million, will be made available for appropriation on an annual basis for the PCE program. Additionally other funds, including a portion of the AIDEA dividend, will be made available to fund the PCE program annually in the amount of \$15.7 million. No General Fund monies are required to fund the Endowment Account or the PCE program. All funds are made available from the sale of assets and from other funds outside of the General Fund.

Prepared by: D. Randy Simmons, Executive Director Phone 269-3000  
 Division AIDEA Date/Time 4/10/00 4:29 PM  
 Approved by Commissioner [Signature] Date 4/10/00  
 Agency \_\_\_\_\_

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# FISCAL NOTE

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

**BILL NO. HB 446**

|   |                      |                |
|---|----------------------|----------------|
| Revision Date/Time (Note if correction) _____       | Dept. Affected _____ | Revenue _____  |
| Title <u>Establish Power Cost Equalization Fund</u> | BRU _____            | Treasury _____ |
|   | Component _____      | Treasury _____ |
| Sponsor <u>Governor</u>                             |                      |                |
| Requester _____                                     | Component No. _____  | 121 _____      |

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2001     | FY 2002     | FY 2003     | FY 2004     | FY 2005     | FY 2006     |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services      | 11.0        | 11.0        | 11.0        | 11.0        | 11.0        | 11.0        |
| Travel                 |             |             |             |             |             |             |
| Contractual            | 12.0        | 46.8        | 46.8        | 46.8        | 46.8        | 46.8        |
| Supplies               |             |             |             |             |             |             |
| Equipment              |             |             |             |             |             |             |
| Land & Structures      |             |             |             |             |             |             |
| Grants & Claims        |             |             |             |             |             |             |
| Miscellaneous          |             |             |             |             |             |             |
| <b>TOTAL OPERATING</b> | <b>23.0</b> | <b>57.8</b> | <b>57.8</b> | <b>57.8</b> | <b>57.8</b> | <b>57.8</b> |

|                             |  |  |  |  |  |  |
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| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
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|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE (Thousands of Dollars)**

|                          |             |             |             |             |             |             |
|--------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts    |             |             |             |             |             |             |
| 1003 GF Match            |             |             |             |             |             |             |
| 1004 GF                  |             |             |             |             |             |             |
| 1005 GF/Program Receipts |             |             |             |             |             |             |
| 1037 GF/Mental Health    |             |             |             |             |             |             |
| PCE Endowment Fund       | 23.0        | 57.8        | 57.8        | 57.8        | 57.8        | 57.8        |
| <b>TOTAL</b>             | <b>23.0</b> | <b>57.8</b> | <b>57.8</b> | <b>57.8</b> | <b>57.8</b> | <b>57.8</b> |

Estimate of any current year (FY2000) cost: \_\_\_\_\_

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

**ANALYSIS:** (Attach a separate page if necessary)

The above represents the costs to the Treasury Division of managing the Power Cost Equalization Fund. Included are the investment manager fees (under contractual expenses) associated with investing approximately half of the endowment in broad market and international securities.

Prepared by: Betty Martin, Comptroller

Phone 465-2352

Division Treasury Division

Date/Time April 12, 2000 - 10 a.m.

Approved by: Commissioner Wilson Condon

Date 04/12/2000

Agency Department of Revenue

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# FISCAL NOTE

Bill Version: HB 446

(H) Publish Date: 4/12/00

## STATE OF ALASKA 2000 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected DCED  
 Title Four Dam Pool sale and PCE funding BRU AEA  
 Component \_\_\_\_\_  
 Sponsor Rules Committee  
 Requester At request of Governor Component No. \_\_\_\_\_

### Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2001    | FY 2002    | FY 2003    | FY 2004    | FY 2005    | FY 2006    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
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|                               |  |                 |  |  |  |  |
|-------------------------------|--|-----------------|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  | <b>68,000.0</b> |  |  |  |  |
|-------------------------------|--|-----------------|--|--|--|--|

### FUND SOURCE (Thousands of Dollars)

|                                     |            |                 |            |            |            |            |
|-------------------------------------|------------|-----------------|------------|------------|------------|------------|
| 1002 Federal Receipts               |            |                 |            |            |            |            |
| 1003 GF Match                       |            |                 |            |            |            |            |
| 1001 GF                             |            |                 |            |            |            |            |
| 1005 GF/Program Receipts            |            |                 |            |            |            |            |
| 1037 GF/Mental Health               |            |                 |            |            |            |            |
| Other (Specify Type) Sale of Assets |            | <b>68,000.0</b> |            |            |            |            |
| <b>TOTAL</b>                        | <b>0.0</b> | <b>68,000.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2000) cost: 0.0

### POSITIONS

|           |   |   |   |   |   |   |
|-----------|---|---|---|---|---|---|
| Full-time | 0 | 0 | 0 | 0 | 0 | 0 |
| Part-time | 0 | 0 | 0 | 0 | 0 | 0 |
| Temporary | 0 | 0 | 0 | 0 | 0 | 0 |

### ANALYSIS: (Attach a separate page if necessary)

The Bill authorizes the sale of the Four Dam Pool projects to the purchasing utilities in the amount of \$73 million, less an initial credit of \$5 million, and makes available up to a minimum of \$120 million for the benefit of the Power Cost Equalization (PCE) program. The sale proceeds and other funding sources identified in a companion appropriations bill are deposited into a newly established Power Cost Equalization Endowment Fund, to be managed by the Department of Revenue. Earnings from the Endowment Fund, estimated at approximately \$7.7 million, will be made available for appropriation on an annual basis for the PCE program. Additionally other funds, including a portion of the AIDEA dividend, will be made available to fund the PCE program annually in the amount of \$15.7 million. No General Fund monies are required to fund the Endowment Account or the PCE program. All funds are made available from the sale of assets and from other funds outside of the General Fund.

Prepared by: D. Randy Simmons, Executive Director Phone 269-3000  
 Division AIDEA Date/Time 4/10/00 4:29 PM  
 Approved by Commissioner [Signature] Date 4/10/00  
 Agency \_\_\_\_\_

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# FISCAL NOTE

Bill Version: HB 446

(H) Publish Date: 4/12/00

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected DCED  
 Title Four Dam Pool sale and PCE funding BRU AEA  
 Component \_\_\_\_\_  
 Sponsor Rules Committee  
 Requester At request of Governor Component No. \_\_\_\_\_

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2001    | FY 2002    | FY 2003    | FY 2004    | FY 2005    | FY 2006    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
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| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                               |  |                 |  |  |  |  |
|-------------------------------|--|-----------------|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  | <b>68,000.0</b> |  |  |  |  |
|-------------------------------|--|-----------------|--|--|--|--|

**FUND SOURCE (Thousands of Dollars)**

|  |            |                 |            |            |            |            |
|--|------------|-----------------|------------|------------|------------|------------|
| 1002 Federal Receipts                      |            |                 |            |            |            |            |
| 1003 GF Match                              |            |                 |            |            |            |            |
| 1004 GF                                    |            |                 |            |            |            |            |
| 1005 GF/Program Receipts                   |            |                 |            |            |            |            |
| 1037 GF/Mental Health                      |            |                 |            |            |            |            |
| Other (Specify Type) <u>Sale of Assets</u> |            | <b>68,000.0</b> |            |            |            |            |
| <b>TOTAL</b>                               | <b>0.0</b> | <b>68,000.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

|           |   |   |   |   |   |   |
|-----------|---|---|---|---|---|---|
| Full-time | 0 | 0 | 0 | 0 | 0 | 0 |
| Part-time | 0 | 0 | 0 | 0 | 0 | 0 |
| Temporary | 0 | 0 | 0 | 0 | 0 | 0 |

**ANALYSIS:** (Attach a separate page if necessary)

The Bill authorizes the sale of the Four Dam Pool projects to the purchasing utilities in the amount of \$73 million, less an initial credit of \$5 million, and makes available up to a minimum of \$120 million for the benefit of the Power Cost Equalization (PCE) program. The sale proceeds and other funding sources identified in a companion appropriations bill are deposited into a newly established Power Cost Equalization Endowment Fund, to be managed by the Department of Revenue. Earnings from the Endowment Fund, estimated at approximately \$7.7 million, will be made available for appropriation on an annual basis for the PCE program. Additionally other funds, including a portion of the AIDEA dividend, will be made available to fund the PCE program annually in the amount of \$15.7 million. No General Fund monies are required to fund the Endowment Account or the PCE program. All funds are made available from the sale of assets and from other funds outside of the General Fund.

Prepared by: D. Randy Simmons, Executive Director Phone 269-3000  
 Division AIDEA Date/Time 4/10/00 4:29 PM  
 Approved by Commissioner [Signature] Date 4/10/00  
 Agency \_\_\_\_\_

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## **PCE/Four Dam Pool**

### **THE SALE MEMORANDUM OF UNDERSTANDING**

- 1) Purchase Price of \$73 million
- 2) All debt service revenues to July 1, 2001 to the State of Alaska (about \$20 mil)
- 3) Insurance Fund to the State of Alaska (about \$13 mil)
- 4) Sum of #2 and #3 have to be at least \$32 million
- 5) \$20 mil. Southeast Intertie Loan funds to State of Alaska
- 6) AIDEA to provide financing up to \$110 million
- 7) Purchasers get \$5 mil credit against sale price for giving up Intertie loan.  
Administration to support federal funds for SE Intertie. If Intertie not started or financed in certain time frame, \$5 mil. refunded to State.
- 8) Any future project liability transferred to Purchasing utilities
- 9) Sale contingent on appropriation of sale proceeds to PCE Endowment
- 10) A minimum of \$120 mil. made available for PCE

### **THE LEGISLATION**

#### **A BILL**

- 1) Authorizes sale of four dam pool to purchasing utilities pursuant to MOU
- 2) Establishes PCE Endowment Fund managed by Revenue
- 3) 7% of average market value of Endowment Fund annually transferred to PCE (over \$8 mil.)
- 4) Other funds such as federal funds, gifts, appropriations could go to Endowment
- 5) Any shortfall in Endowment appropriations to annually fund \$15.7 mil. authorized to come from AIDEA dividend, subject to appropriation, up to \$9 mil. annually
- 6) Authorizes joint action agency for 4 dam pool utilities to operate and issue bonds

#### **APPROPRIATION BILL**

- 1) Sale proceeds appropriated to PCE Endowment
- 2) Insurance fund, SE Intertie Loan, any future repayments appropriated to PCE Endowment
- 3) Next year's debt service revenues appropriated to PCE Fund for 01 PCE program. The following year revenues appropriated to Endowment
- 4) \$500,000 from Southeast Intertie Loan appropriated to AEA to complete deal

**PCE Funding (\$15.7 mil annually)**

**FY 00 Supplemental**

3.6 mil      from extra AIDEA dividend in Fast Track Supplemental  
4.2 mil      from extra AIDEA dividend in regular Supplemental  
7.8 mil

**FY 01**

8 mil      NPRA Fund monies not granted to impact communities appropriated last  
            year to PCE Fund  
.6 mil      Interest Earnings  
10.5 mil      Four Dam Pool revenues to PCE Fund pursuant to sale agreement  
19.1 mil

**FY 02**

3.4 mil      Carryforward from 01 sources  
10.4 mil      AIDEA dividend  
1.9 mil      PCE Endowment revenues and PCE Fund interest  
15.7 mil

**FY 03—and beyond**

8-9 mil      Annual interest from PCE Endowment and PCE Fund  
7-8 mil      AIDEA dividend and other funds  
15.7 mil

A M E N D M E N T

OFFERED IN THE HOUSE FINANCE COMMITTEE

BY

TO: HB 446

1 Page 3, line 10, through page 4, line 5:

2 Delete all material and insert:

3 "Sec. 42.45.070. Power cost equalization endowment fund established. (a) The  
4 power cost equalization endowment fund is established as a separate fund of the authority.

5 The fund consists of

6 (1) legislative appropriations to the fund that are not designated for annual  
7 expenditure for the purpose of power cost equalization;

8 (2) accumulated earnings of the fund;

9 (3) gifts, bequests, contributions of money and other assets, and federal  
10 money given to the fund that are not designated for annual expenditure for the purpose of  
11 power cost equalization; and

12 (4) payments received after June 30, 2001, for the sale of power made to the  
13 state by the purchasing utilities under the memorandum of understanding dated April 11,  
14 2000 between the Alaska Energy Authority and the purchasing utilities.

15 (b) Nothing in this section creates a dedicated fund."

16 Page 4, line 11, following "invest the":

17 Delete "endowment account of the"

i Page 4, following line 18:

2 Insert a new subsection to read:

3 "(c) On July 1 of each year, the commissioner shall determine the monthly average  
4 market value of the fund for the previous three fiscal years."

5 Page 4, lines 19 - 28:

6 Delete all material and insert:

7 "**Sec. 42.45.085. Use of the power cost equalization endowment fund.** (a) Seven  
8 percent of the amount determined by the commissioner of revenue on July 1 of each year  
9 under AS 42.45.080(c) may be appropriated for the following fiscal year for the following  
10 purposes:

11 (1) funding the power cost equalization and rural electric capitalization fund

12 (AS 42.45.100);

13 (2) reimbursement to the Department of Revenue for the costs of establishing  
14 and managing the fund; and

15 (3) reimbursement of other costs of administration of the fund.

16 (b) Nothing in this section creates a dedicated fund."

17 Page 4, line 29:

18 Delete "**Definitions**"

19 Insert "**Definition**"

1 Page 4, line 30 through page 5, line 2:

2 Delete all material.

3 Page 5, line 3:

4 Delete "(3)"

5 Page 5, lines 5 through 18:

6 Delete all material and insert:

7 " \* Sec. 4. AS 42.45.070(a) is amended to read:

8 (a) The power cost equalization endowment fund is established as a separate fund  
9 of the authority. The fund consists of

10 (1) legislative appropriations to the fund that are not designated for annual  
11 expenditure for the purpose of power cost equalization;

12 (2) accumulated earnings of the fund;

13 (3) gifts, bequests, contributions of money and other assets, and federal  
14 money given to the fund that are not designated for annual expenditure for the purpose of  
15 power cost equalization; and

16 (4) repayments of principal and income that would have been deposited

17 in the former four dam pool transfer fund under former AS 42.45.050 [PAYMENTS

18 RECEIVED AFTER JUNE 30, 2001, FOR THE SALE OF POWER MADE TO THE

19 STATE BY THE PURCHASING UTILITIES UNDER THE MEMORANDUM OF

20 UNDERSTANDING DATED APRIL 11, 2000 BETWEEN THE ALASKA ENERGY

1           AUTHORITY AND THE PURCHASING UTILITIES]."

2           Page 5, line 26:

3           Delete "equalization account"

4           Page 5, line 27:

5           Delete "(AS 42.45.070(c) of the"

6           Page 5, line 28:

7           Delete "(AS 42.45.070(a))"

8           Insert "(AS 42.45.070)"

9           Page 5, line 29:

10          Delete "and contributions from other sources,"

11          Insert "[AND] contributions from other sources, and federal money"

12          Page 6, line 20, following "projects":

13          Insert "or generating or transmission facilities"

14          Page 7, line 26, following "bonds":

15          Insert "or other financing secured under this section"

1 Page 8, following line 13:

2 Insert a new bill section to read:

3 **"\* Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to read:

4 **INTERIM DETERMINATION OF AMOUNTS AVAILABLE FOR APPROPRIATION.**

5 (a) Notwithstanding AS 42.45.080(c) and AS 42.45.085(a), enacted by sec. 3 of this Act, the  
6 amount available for appropriation from the power cost equalization endowment fund  
7 (AS 42.45.070, enacted by sec. 3 of this Act) shall be determined as follows:

8 (1) for fiscal year 2002 the amount that may be appropriated from the power cost  
9 equalization endowment fund (AS 42.45.070, enacted by sec. 3 of this Act) is seven percent of the  
10 market value of the fund on February 1, 2001;

11 (2) for fiscal year 2003 through the fiscal year that begins after the closing date of  
12 the sale of the four dam pool hydroelectric project under the memorandum of understanding, the  
13 amount that may be appropriated from the power cost equalization endowment fund (AS 42.45.070,  
14 enacted by sec. 3 of this Act) is the market value of the fund on February 1 of the prior fiscal year;

15 (3) for subsequent fiscal years, the commissioner of revenue shall exclude the time  
16 and market value of the power cost equalization endowment fund (AS 42.45.070, enacted by sec. 3  
17 of this Act) before the closing date of the sale of the four dam pool hydroelectric project in making  
18 the determination required under AS 42.45.080(c), enacted by sec. 3 of this Act.

19 (b) The definitions contained in sec. 10(d) of this Act apply to the terms used in this  
20 section."

21 Renumber the following bill sections accordingly.

1 Page 8, line 30, following "note":  
2 Insert ", and cancel the note,"

3 Page 10, line 8:  
4 Delete "Light Department"  
5 Insert ", doing business as Wrangell Municipal Light and Power"

6 Page 10, line 11:  
7 Delete "AS 42.45.070(b)(4)"  
8 Insert "AS 42.45.070(a)(4)"

9 Page 10, line 21:  
10 Delete "Section 11"  
11 Insert "Section 12"

12 Page 10, line 25:  
13 Delete "If sec. 11"  
14 Insert "If sec. 12"

15 Page 10, line 25, following "section,":  
16 Delete "sec. 11"  
17 Insert "sec. 12"

1 Page 10, line 31:

2 Delete all material.

3 Renumber the following bill section accordingly.

4 Page 11, line 1:

5 Delete "secs. 12 - 15"

6 Insert "secs. 13 - 15"

AMENDMENT

OFFERED IN THE HOUSE FINANCE COMMITTEE

BY

TO: HB 447

1 Page 1, lines 5 through 8:

2 Delete all material.

3 Renumber the remaining bill sections accordingly.

4 Page 1, line 11:

5 Delete "endowment"

6 Page 1, line 12:

7 Delete "account (AS 42.45.070(b)) of the"

8 Delete "(AS 42.45.070(a))"

9 Insert "(AS 42.45.070)"

10 Page 2, line 1, following "cover":

11 Insert "(1)"

12 Page 2, line 2, following "April 1, 2000":

1 Delete "."

2 Insert "; and"

3 Page 2, following line (2):

4 Insert a new paragraph to read:

5 "(2) the costs of the Department of Revenue for establishing and managing  
6 the power cost equalization endowment fund (AS 42.45.070) for the fiscal year ending  
7 June 30, 2001."

8 Page 2, line 3:

9 Delete "(c) of this"

10 Insert "(c)(1) of this"

11 Page 2, line 7:

12 Delete "endowment account (AS 42.45.070(b)) of the"

13 Page 2, line 8:

14 Delete "(AS 42.45.070(a))"

15 Insert "(AS 42.45.070)"

16 Page 2, line 12:

17 Delete "endowment"

1 Page 2, line 13:

2 Delete "account (AS 42.45.070(b)) of the"

3 Delete "(AS 42.45.070(a))"

4 Insert "(AS 42.45.070)"

5 Page 2, line 16:

6 Delete "endowment account"

7 Page 2, line 17:

8 Delete "(AS 42.45.070(b)) of the"

9 Delete "(AS 42.45.070(a))"

10 Insert "(AS 42.45.070)"

11 Page 2, line 18:

12 Following "**\* Sec. 4.**"

13 Insert "(a)"

14 Page 2, following line 21:

15 Insert a new subsection to read:

16 "(b) An amount equal to the payments for the sale of power, to be made to the state by the  
17 purchasing utilities under the memorandum of understanding dated April 11, 2000, received after  
18 June 30, 2001, are appropriated from corporate receipts to the power cost equalization endowment

1 fund (AS 42.45.070)."

2 Page 2, line 22:

3 Delete "secs. 2(b), 2(d), and 3 - 5"

4 Insert "secs. 1(b), 1(d), and 2 - 4"

5 Page 2, line 24:

6 Delete "sec. 2(c)"

7 Insert "sec. 1(c)(1)"

**Introduced:**  
**Referred:**

HB 446

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act establishing and relating to the power cost equalization endowment fund; relating  
2 to the power cost equalization and rural electric capitalization fund; authorizing and  
3 relating to the sale of the four dam pool hydroelectric project; establishing and relating to  
4 joint action agencies created to purchase power projects; and providing for an effective  
5 date."  
6

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

8 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10 **FINDINGS.** The legislature finds that

11 (1) adequate and reliable electric service at affordable rates is a necessary  
12 ingredient of a modern society and a prosperous developing economy;

13 (2) at the current stage of social and economic development in the state, direct  
14 participation by the state is necessary to assist in keeping rates in high-cost service areas to  
15 affordable levels;

(3) providing a long-term stable source for financing power cost equalization will permit and encourage the electric utility industry and its lenders to develop plans, make investments, and take other actions that are necessary or prudent to provide adequate and reliable electric service at affordable rates, and to meet the health and safety needs of residents of the state;

(4) revenue that was anticipated to be generated from the state-owned four dam pool hydroelectric project under the existing power sales agreement and that the legislature intended to provide a long-term source of financing for power cost equalization will no longer be available upon the sale of the four dam pool project;

(5) the proposed sale under the memorandum of understanding dated April 11, 2000, provides the state with fair value for the four dam pool hydroelectric project, relieves the state of the significant financial risks and obligations with respect to the project, and provides a stable long-term financing source for power cost equalization; and

(6) establishment of joint action agencies under this Act and the sale of the four dam pool hydroelectric project to the joint action agency to be formed by the four dam pool local public utilities ensures local control of power generation resources necessary for a healthy economy and benefits the communities and their ratepayers by providing for stable energy rates.

\* Sec. 2. AS 42.05.431(c) is amended to read:

(c) Notwithstanding (b) of this section,

(1) a wholesale agreement for the sale of power from a project licensed by the Federal Energy Regulatory Commission on or before January 1, 1987, and related contracts for the wheeling, storage, regeneration, or wholesale repurchase of power purchased under the agreement, entered into between the Alaska Energy Authority and one or more other public utilities or among the utilities after October 31, 1987, and before January 1, 1988, and amendments to the wholesale agreement or related contract, **and the wholesale agreement or related contract assigned by the Alaska Energy Authority to a joint action agency formed under AS 42.45.310 that purchases the project from the Alaska Energy Authority, are not subject to review or approval by the commission until all long-term debt incurred for the project is retired, or, for a wholesale agreement or related contract assigned to a joint action agency formed under AS 42.45.310, until all long-term debt incurred to pay the purchase price to the Alaska Energy Authority is retired;** and

(2) a wholesale agreement or related contract described in (1) of this subsection may contain a covenant for the public utility to establish, charge, and collect rates sufficient to meet its obligations under the contract; the rate covenant is valid and enforceable.

\* Sec. 3. AS 42.45 is amended by adding new sections to read:

**Article 1A. Power Cost Equalization Endowment Fund.**

**Sec. 42.45.070. Power cost equalization endowment fund established.**

(a) The power cost equalization endowment fund is established as a separate fund of the authority. The fund consists of

(1) legislative appropriations to the fund that are not designated for annual expenditure for the purpose of power cost equalization;

(2) accumulated earnings of the fund;

(3) gifts, bequests, contributions of money and other assets, and federal money given to the fund that are not designated for annual expenditure for the purpose of power cost equalization; and

(4) payments received after June 30, 2001, for the sale of power made to the state by the purchasing utilities under the memorandum of understanding dated April 11, 2000 between the Alaska Energy Authority and the purchasing utilities.

(b) Nothing in this section creates a dedicated fund.

~~**Sec. 42.45.070. Power cost equalization endowment fund established.**~~

~~(a) The power cost equalization endowment fund is established as a separate fund of the authority. The fund consists of~~

~~(1) the endowment account; and~~

~~(2) the equalization account.~~

~~(b) The endowment account is established as a separate account of the fund in the authority. The endowment account of the fund consists of~~

~~(1) legislative appropriations to the fund that are not designated for expenditure for the purpose of power cost equalization;~~

~~(2) accumulated earnings of the fund;~~

~~(3) gifts, bequests, and contributions of money and other assets given to the fund that are not designated for the equalization account; and~~

~~(4) payments received after June 30, 2001, for the sale of power made to the state by the purchasing utilities under the memorandum of understanding dated April 11, 2000 between the Alaska Energy Authority and the purchasing utilities.~~

~~—(c) The equalization account is established as a separate account of the fund in the authority. The equalization account of the fund consists of~~

~~—————(1) the annual transfer to the equalization account from the endowment account provided for in (d) of this section;~~

~~—————(2) legislative appropriations to the fund that are designated for expenditure for the purpose of power cost equalization; and~~

~~—————(3) gifts, bequests, and contributions of money and other assets given to the fund that are designated for the equalization account.~~

~~—(d) On February 1 of each year, the commissioner of revenue shall transfer to the equalization account seven percent of the market value of the endowment account as of that date.~~

~~—(e) Nothing in this section creates a dedicated fund.~~

**Sec. 42.45.080. Powers and duties of the commissioner of revenue. (a)**  
The commissioner of revenue is the fiduciary of the fund. In managing the fund, the commissioner shall

(1) have the same powers and duties as are provided in AS 37.10.071; and

(2) invest the ~~endowment account of the~~ fund in a manner likely to achieve at least a seven percent nominal return over time.

(b) In managing the fund, the commissioner shall

(1) consider the status of the fund's capital and the income generated on both a current and probable future basis;

(2) determine the appropriate investment objectives;

(3) establish investment policies to achieve the objectives; and

(4) act only in regard to the best financial interests of the fund.

(c) On July 1 of each year, the commissioner shall determine the monthly average market value of the fund for the previous three fiscal years.

**Sec. 42.45.085. Use of the power cost equalization endowment fund. (a)**  
Seven percent of the amount determined by the commissioner of revenue on July 1 of each year under AS 42.45.080(c), may be appropriated for the following fiscal year for the following purposes:

(1) funding the power cost equalization and rural electric capitalization fund (AS 42.45.100);

(2) reimbursement to the Department of Revenue for the costs of establishing and managing the fund; and

(3) reimbursement of other costs of administration of the fund.

(b) Nothing in this section creates a dedicated fund.

~~Sec. 42.45.085. Use of the equalization account of the fund. (a) Money in the equalization account of the fund may be appropriated for the following purposes:~~

~~———— (1) funding the power cost equalization and rural electric capitalization fund (AS 42.45.100);~~

~~———— (2) reimbursement to the Department of Revenue for the costs of establishing and managing the fund; and~~

~~———— (3) reimbursement of other costs of administration of the fund.~~

~~(b) The balance remaining in the equalization account that, at the end of the fiscal year, has not been appropriated, or that has been appropriated but not expended, shall be invested until appropriated or expended.~~

**Sec. 42.45.099. Definitions.** In AS 42.45.070 - 42.45.099,

~~———— (1) "endowment account" means the account established in AS 42.45.070(b);~~

~~———— (2) "equalization account" means the account established in AS 42.45.070(c);~~

~~———— (3) "fund" means the power cost equalization endowment fund established in AS 42.45.070.~~

• ~~\*Sec. 4. AS 42.45.070(a)(b) is amended to read:~~

(a) The power cost equalization endowment fund is established as a separate fund of the authority. The fund consists of

———— (1) legislative appropriations to the fund that are not designated for annual expenditure for the purpose of power cost equalization;

———— (2) accumulated earnings of the fund;

———— (3) federal funds, gifts, bequests, and contributions of money and other assets given to the fund that are not designated for annual expenditure for the purpose of power cost equalization ; and

~~(b) The endowment account is established as a separate account of the fund in the authority. The endowment account of the fund consists of~~

~~———— (1) legislative appropriations to the fund that are not designated for expenditure for the purpose of power cost equalization;~~

~~———— (2) accumulated earnings of the fund;~~

~~(3) gifts, bequests, and contributions of money and other assets given to the fund that are not designated for the equalization account; and~~

(4) repayments of principal and income that would have been deposited in the former four dam pool transfer fund under former AS 42.45.050 [PAYMENTS RECEIVED AFTER JUNE 30, 2001, FOR THE SALE OF POWER MADE TO THE STATE BY THE PURCHASING UTILITIES UNDER THE MEMORANDUM OF UNDERSTANDING DATED APRIL 11, 2000 BETWEEN THE ALASKA ENERGY AUTHORITY AND THE PURCHASING UTILITIES].

\* Sec. 5. AS 42.45.100(b) is amended to read:

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

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

(2) money appropriated from the National Petroleum Reserve - Alaska special revenue fund under AS 37.05.530(g);

(3) money appropriated from the equalization account (AS 42.45.070(e)) of the power cost equalization endowment fund (AS 42.45.070(a)) under AS 42.45.085(a);

~~(4) gifts, bequests, and contributions from other sources, and federal money; and~~

(5) [(4)] interest earned on the fund balance.

\* Sec. 6. AS 42.45.100 is amended by adding a new subsection to read:

(d) If the amount available to the fund under (b) of this section is less than \$15,700,000 for a fiscal year, subject to appropriation, an amount necessary to cover the shortfall shall be deposited into the fund from the dividend made available under AS 44.88.088 by the board of directors of the Alaska Industrial Development and Export Authority.

\* Sec. 7. AS 42.45.100(d) is amended to read:

(d) If the amount available to the fund under (b) of this section is less than \$15,700,000 for a fiscal year, subject to appropriation, an amount necessary to cover the shortfall, up to the sum of \$9,000,000 for the fiscal year, shall be deposited into the fund from the dividend made available under AS 44.88.088 by the board of directors of the Alaska Industrial Development and Export Authority.

\* Sec. 8. AS 42.45 is amended by adding a new section to article 5 to read:

**Sec. 42.45.310. Acquisition of power project.** (a) Two or more public utilities that purchase power from a power project acquired or constructed as part of the former energy program for Alaska and owned by the Alaska Energy Authority under AS 44.83.396, may form a joint action agency under AS 42.45.300 and this section to purchase the power project from the Alaska Energy Authority if the purchase and sale of project has first been authorized by law.

(b) The agency may

(1) acquire, own, operate, and manage one or more power projects or generating or transmission facilities; and

(2) participate in the design, development, construction, operation, and maintenance of a generating or transmission facility.

(c) The agency is an instrumentality of the public utilities that form the agency, but has a separate and independent legal existence from the public utilities. In addition to the powers authorized under AS 42.45.300, the agency has the power to

(1) adopt bylaws of the agency;

(2) sue and be sued;

(3) carry out the authorized purposes of the agency;

(4) subject to (e) of this section, issue revenue bonds and secure financing that are not obligations of either the state or the public utilities that formed the agency to provide financing to carry out the authorized purposes of the agency.

(d) The agency is created by a written agreement among the public utilities forming the agency. Each public utility forming the agency shall adopt the terms of the agreement by ordinance or resolution. Subject to (c) of this section, the agreement establishing the agency may define the powers, functions, and activities of the agency, and specify the means by which they shall be performed. The agreement may establish the rights and responsibilities of the public utilities that form the agency. If applicable, the agreement shall provide for

(1) apportionment between the public utilities forming the agreement of responsibility for providing finances to the expenses incurred in the performance of the functions or activities;

(2) apportionment of fees or other revenue derived from the functions or activities and the manner in which the revenue shall be accounted for;

(3) the transfer of personnel and the preservation of employment benefits; and

(4) the rights of the public utilities forming the agency to terminate the agreement, subject to (e) of this section, including resolving disputes if the public utilities are unable, upon termination of the agreement, to agree on the transfer of personnel or the division of assets and liabilities between the parties to the agreement.

(e) The public utilities forming the agency shall pledge and agree with the holders of revenue bonds or other financing secured under this section, including with a state entity that provides financing, that the public utilities and the agency will not terminate the agency or take any other action that would limit or alter the rights and powers vested in the agency by this section to fulfill the terms of a contract made by the agency with the holders and that the public utilities and the agency will not in any way impair the rights and remedies of the holders until the bonds or other financing secured under this section, together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders are fully met and discharged. The agency may include this pledge and agreement of the public utilities and the agency, insofar as it refers to holders of bonds of the agency, in a contract with the holders and, insofar as it relates to a state entity, in a contract with the state entity.

(f) Only to the extent any of the public utilities forming the agency is subject to the particular tax is the agency subject to state and local ad valorem, income, or excise taxes that may be assessed or levied against property, assets, income, and receipts of the agency, or the electric cooperative tax (AS 10.25.540 - 10.25.570).

(g) A loan, investment, or other financial aid provided to the agency by the state or any political subdivision of the state does not constitute a violation of AS 37.10.085.

(h) In this section,

(1) "agency" means a joint action agency formed under this section;

(2) "public utility" has the meaning given the term in AS 42.05.990;

(3) "state entity" means a state department, authority, or other administrative unit of the executive branch of state government.

\* Sec. 9. The uncodified law of the State of Alaska is amended by adding a new section to read:

INTERIM DETERMINATION OF AMOUNTS AVAILABLE FOR APPROPRIATION. Notwithstanding AS 42.45.080(c) and AS 42.45.085, enacted by sec. 3 of this Act, the amount available for appropriation from the power cost equalization endowment fund (AS 42.45.070) shall be determined as follows:

(1) for fiscal year 2002, the amount that may be appropriated from the fund is seven percent of the market value of fund on February 1, 2001.

(2) for fiscal year 2003 through the fiscal year that follows the closing date of the sale of the four dam pool hydroelectric project under the memorandum of understanding, the amount that may be appropriated from the fund is seven percent of the market value of the fund on February 1 of the prior fiscal year.

(3) For subsequent fiscal years, the commissioner shall exclude the time and market value of the fund before the closing date of the sale of the four dam pool hydroelectric project in making the determination required under AS 42.45.080(c).

(4) The definitions contained in sec. 10(d) of this Act apply to the terms used in this section.

\* Sec. 109. The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE AUTHORIZATION TO CONVEY. (a) Notwithstanding AS 44.83.396, the joint action agency to be formed by the purchasing utilities may purchase, and the Alaska Energy Authority may sell, the four dam pool hydroelectric project under the memorandum of understanding.

(b) The Alaska Industrial Development and Export Authority may issue bonds or otherwise extend financing to the joint action agency to be formed by the purchasing utilities, for the purposes and upon the terms set out in the memorandum of understanding. The total principal amount of the bonds and other financing provided by the authority under this subsection may not exceed \$110,000,000.

(c) The Department of Community and Economic Development and the Alaska Energy Authority may modify and amend the loan agreement and note to

(1) suspend the enforcement of rights and obligations, including payment obligations, under the loan agreement and note; and

(2) fully release, extinguish, and retire the debt and all other rights and obligations under the loan agreement and note, and cancel the note, upon completion of the purchase and sale of the four dam pool hydroelectric project under the memorandum of understanding.

(d) In this section,

(1) "Alaska Energy Authority" means the Alaska Energy Authority created in AS 44.83, successor in interest to the Alaska Power Authority;

(2) "Alaska Power Authority" means the former Alaska Power Authority;

(3) "authority" means the former Alaska Power Authority;

(4) "Copper Valley" means Copper Valley Electric Association, Inc., a cooperatively owned electric utility serving the communities of Valdez, Glennallen, and environs;

(5) "department" means the former Department of Commerce and Economic Development;

(6) "Department of Commerce and Economic Development" means the former Department of Commerce and Economic Development;

(7) "Department of Community and Economic Development" means the Department of Community and Economic Development, successor to the department;

(8) "four dam pool hydroelectric project" means the Tyce Lake, Swan Lake, Solomon Gulch, and Terror Lake hydroelectric facilities owned and administered by the Alaska Energy Authority under AS 44.83.396;

(9) "joint action agency" means an agency formed under AS 42.45.310, enacted by sec. 8 of this Act;

(10) "Ketchikan" means the City of Ketchikan, doing business as Ketchikan Public Utilities, a municipally owned utility serving Ketchikan and environs;

(11) "Kodiak" means the Kodiak Electric Association, Inc., a cooperatively owned electric utility serving the Borough of Kodiak;

(12) "loan agreement" means the loan agreement effective October 28, 1985, between the State of Alaska, Department of Commerce and Economic Development and the Alaska Power Authority regarding a loan from the power development revolving loan fund to the Alaska Power Authority regarding the four dam pool hydroelectric project;

(13) "memorandum of understanding" means the memorandum of understanding dated April 11, 2000, between the Alaska Energy Authority and Copper Valley, Ketchikan, Kodiak, Petersburg, and Wrangell for the purchase and sale of the four dam pool hydroelectric project;

(14) "note" means the Promissory Note, dated February 13, 1986, which reflects the authority's obligation to pay the department related to the loan agreement;

(15) "Petersburg" means the City of Petersburg, doing business as Petersburg Municipal Power and Light, a municipally owned electric utility serving Petersburg and environs;

(16) "purchasing utilities" means Copper Valley, Ketchikan, Kodiak, Petersburg, and Wrangell;

(17) "Wrangell" means the City of Wrangell, doing business as Wrangell Municipal Light and Power, Light Department, a municipally owned electric utility serving Wrangell and environs.

\* **Sec. 1110.** AS 42.45.050 is repealed.

\* **Sec. 1211.** AS 42.45.070(a)(b)(4) and AS 44.83.398 are repealed.

\* **Sec. 1312.** (a) Section 4 of this Act takes effect only if the memorandum of understanding between the Alaska Energy Authority and the purchasing utilities dated April 11, 2000 is terminated before the closing date of the sale of the four dam pool hydroelectric project under that memorandum of understanding.

(b) If sec. 4 of this Act takes effect under (a) of this section, sec. 4 of this Act takes effect on the date of termination of the memorandum of understanding described in (a) of this section. The executive director of the Alaska Energy Authority shall certify the date of termination of the memorandum of understanding to the lieutenant governor and the revisor of statutes.

\* **Sec. 1413.** (a) Section 1211 of this Act takes effect only if the Alaska Energy Authority and the joint action agency to be formed by the purchasing utilities under

AS 42.45.310, enacted by sec. 8 of this Act, complete the purchase and sale of the four dam pool hydroelectric project as described in the memorandum of understanding dated April 11, 2000.

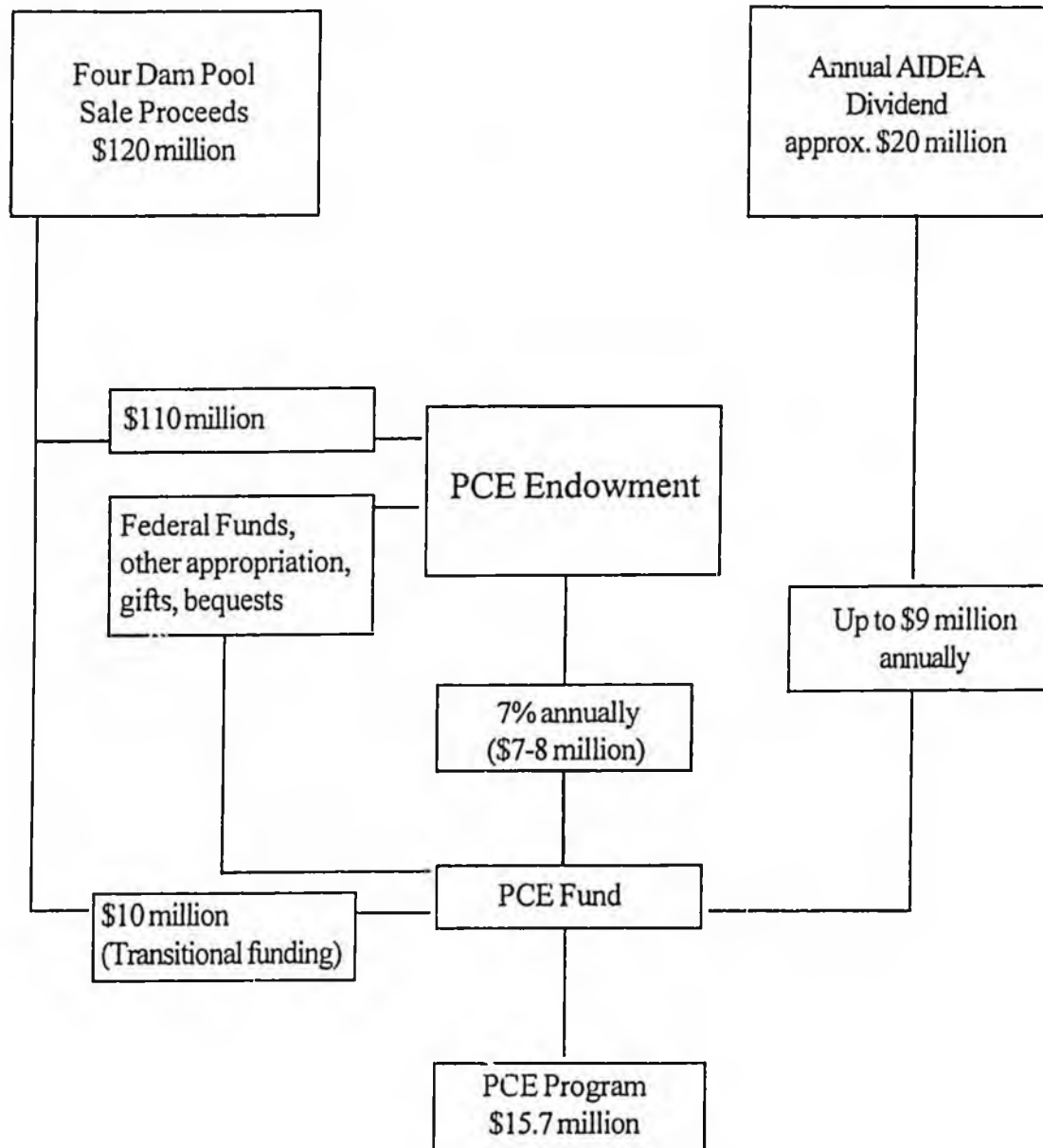
(b) If sec. ~~11~~12 of this Act takes effect under (a) of this section, sec. ~~12~~11 of this Act takes effect on the day after the closing date of the sale of the four dam pool hydroelectric project under the memorandum of understanding dated April 11, 2000. The executive director of the Alaska Energy Authority shall certify the closing date of the sale to the lieutenant governor and the revisor of statutes.

\* Sec. ~~15~~14. Section 7 of this Act takes effect July 1, 2002.

~~\* Sec. 15. Section 10 of this Act takes effect July 2, 2000.~~

~~\* Sec. 16. [stet.] \* Sec. 16.~~ Except as provided in secs. ~~13 - 15~~12 - 15 of this Act, this Act takes effect July 1, 2000.

# Long-Term PCE Funding



Endowment Fund Earnings = 7.0%  
PCE Fund Earnings = 6.0%  
PCE Expenditure = \$15.7 Million

## POWER COST EQUALIZATION (FY 2001 - Subsequent Years)

|                                    | Deposit Date | Fiscal Year 2000 | 2001   | 2002    | 2003    | 2004    | 2005    | 2006    | 2007    | 2008    | Subsequent Years |
|------------------------------------|--------------|------------------|--------|---------|---------|---------|---------|---------|---------|---------|------------------|
| <b>Endowment Fund</b>              |              |                  |        |         |         |         |         |         |         |         |                  |
| SE Interlie PPF Appropriation      | 7/1/00       |                  | 19,500 |         |         |         |         |         |         |         |                  |
| Four Dam Pool Debt Service         | 8/1/01       |                  |        | 9,000   |         |         |         |         |         |         |                  |
| Four Dam Pool Sale                 | 12/31/01     |                  |        | 81,000  |         |         |         |         |         |         |                  |
| Mkt Value Increase for Fiscal Year |              |                  | 1,410  | 4,880   | 7,706   | 7,701   | 7,700   | 7,700   | 7,700   | 7,700   | 7,700            |
| Transfer to PCE Fund               |              |                  | 1,422  | 7,776   | 7,771   | 7,706   | 7,703   | 7,702   | 7,700   | 7,700   | 7,700            |
| Balance -- End of Fiscal Year      |              |                  | 19,488 | 106,592 | 106,526 | 106,521 | 106,518 | 106,516 | 106,516 | 106,516 | 106,516          |
| <b>PCE Fund</b>                    |              |                  |        |         |         |         |         |         |         |         |                  |
|                                    | Deposit Date | Fiscal Year 2001 | 2002   | 2003    | 2004    | 2005    | 2006    | 2007    | 2008    | 2009    | Subsequent Years |
| Carryforward                       | 8/1/00       |                  | 3,406  |         |         |         |         |         |         |         |                  |
| Carryforward                       | 7/1/00       | 8,000            |        |         |         |         |         |         |         |         |                  |
| Four Dam Pool Debt Service         | 8/1/00       | 10,500           |        |         |         |         |         |         |         |         |                  |
| Transfer from Endowment Fund       |              |                  | 1,422  | 7,776   | 7,771   | 7,706   | 7,703   | 7,702   | 7,700   | 7,700   | 7,700            |
| Earnings -- PCE Fund               |              | 606              | 461    | 461     | 461     | 461     | 461     | 461     | 461     | 461     | 461              |
| AIDEA Dividend or Other Funds      |              |                  | 10,411 | 7,462   | 7,467   | 7,533   | 7,536   | 7,537   | 7,538   | 7,539   | 7,539            |
| Available for PCE Expenditure      |              | 19,106           | 15,700 | 15,700  | 15,700  | 15,700  | 15,700  | 15,700  | 15,700  | 15,700  | 15,700           |
| <b>PCE Expenditure</b>             |              | 15,700           | 15,700 | 15,700  | 15,700  | 15,700  | 15,700  | 15,700  | 15,700  | 15,700  | 15,700           |

4/13/00

## Memorandum of Understanding

This Memorandum of Understanding ("MOU") is entered into this 11th day of April, 2000, between the Purchasing Utilities and the Alaska Energy Authority ("AEA").

### Recitals

- A. AEA is the owner of the Swan Lake Hydroelectric Project, the Lake Tye Hydroelectric Project, the Solomon Gulch Hydroelectric Project and the Terror Lake Hydroelectric Project, collectively referred to as the Four Dam Pool projects (the "Projects").
- B. Power from the Projects is sold by AEA to the City of Ketchikan, the City of Wrangell, the City of Petersburg, Copper Valley Electric Association, Inc., and Kodiak Electric Association, Inc. (collectively the "Purchasing Utilities") pursuant to the Long-Term Power Sales Agreement between the Purchasing Utilities and AEA effective October 28, 1985 (the "PSA").
- C. Under the PSA, the State of Alaska ("State") has substantial risks related to the projects including the risk of uninsured facility failures, deficiencies in the R&R fund for the Projects and the risk of design deficiencies. The State also bears the risk of decreased power sales from the projects. The PSA permits the Purchasing Utilities to withhold some or all of the State's revenues if necessary to fund State obligations under the PSA.
- D. AEA and the Purchasing Utilities have negotiated provisions under which the State, by and through AEA, would sell the Projects to a joint action agency ("Agency") to be formed under AS 42.45.300, whose board is solely appointed by the Purchasing Utilities (the "Purchaser").
- E. Currently, a portion of the State revenue from the Four Dam Pool energy sales is allocated for funding of the State's Power Cost Equalization Program ("PCE"). The parties agree that the sale of the Projects is expressly conditioned on the proceeds of the sale, together with certain other funds described herein, being used by the State to establish an endowment for the long-term funding of the PCE program (the "PCE Endowment").
- F. Sale of the Projects in accordance with this MOU will provide the State with fair value for the Projects, relieve the State of substantial risks related to the Projects and allow for the establishment of the PCE Endowment. Sale of the Projects allows the Projects to be owned and operated by the local utilities and communities they were originally intended to benefit and allows the revenues from the Projects to be used for the benefit of the Projects.

- G. Sale of the Projects, will require, among other things, the enactment of legislation approving the sale and the enactment of such legislation and appropriations as are necessary to establish the PCE Endowment contemplated herein, approval of the AEA board of directors, approval of the governing bodies of the Purchasing Utilities, authorization by the State Legislature for the Alaska Industrial Development and Export Authority ("AIDEA") to provide financing for the sale and approval by the AIDEA board of directors of such financing.
- H. The development, construction, maintenance and operation of the Southeast Intertie by the Purchaser will permit the sale of excess power generated by the Projects and will be an important component in the development of the electric system in Southeast Alaska. Formation of the Purchaser as an Agency requires an amendment to AS 42.45.300 that will provide the basis for the Purchaser's financing, acquisition, purchase, construction, operation and maintenance of the Projects and the Southeast Intertie.
- I. This MOU is intended to set forth the principal terms and conditions under which the State, by and through AEA, would sell the Projects to the Purchaser. The parties intend that this MOU be incorporated into legislation to be submitted to the Alaska State Legislature authorizing the sale of the Projects, AIDEA financing for the sale, and the establishment of the PCE Endowment.

NOW, THEREFORE, in exchange for the mutual promises contained herein and for other consideration the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Sale of Projects. The State of Alaska, by and through AEA will sell the Projects, together with the uncommitted balance as of the Closing Date of the Project R&R fund, to the Purchaser for a purchase price of \$73 million ("Purchase Price"). The purchase price shall be payable to the State in cash at the closing of the transaction (the "Closing") which will occur on or before December 31, 2001, unless that date is extended by mutual agreement of AEA and the Purchaser ("Closing Date"). The Purchase Price may be increased as described in Section 6 below. The Purchase Price shall be used by the State to fund the PCE Endowment.
2. Establishment of PCE Endowment. As an integral part of the sale transaction contemplated herein, the State shall establish the PCE Endowment to provide for long-term funding of the PCE program. As a condition of the sale of the Projects, the parties agree that all proceeds received from the State from the sale of the Projects together with certain

other funds made available to the State, as more particularly described herein, shall be utilized to fund the PCE Endowment.

3. Assumption of Risks/Release of State. At the Closing, the Purchaser shall assume all risks related to the Projects of every kind or nature and whether known or not. At the Closing, the State and AEA shall be fully released by the Purchasing Utilities and the Purchaser from all liabilities, claims, expenses and ownership risks of whatever nature relating to the Projects, including, without limitation, any liabilities, claims, expenses and ownership risks under the PSA and the Insurance Agreement.
4. Debt Service Payments Pending Close. The Purchasing Utilities shall be obligated to continue making the payments to the State required pursuant to section 5(e) of the PSA (the "Debt Service Payments") for power sold from the Projects pending the Closing of the transaction. Notwithstanding the forgoing, if the sale is consummated, the Purchasing Utilities shall not be required to make Debt Service Payments for power sold from the projects for the period from July 1, 2001 through the earlier of (i) the Closing Date or (ii) December 31, 2001. The required Debt Service Payments shall not be subject to the right of the Purchasing Utilities to withhold some or all of the Debt Service Payments pursuant to section 6(a) of the PSA ("Self Help Right"). The entire amount of the Debt Service Payments made by the Purchasing Utilities shall be used by the State for the benefit of PCE. Subject to payment by the Purchasing Utilities of the Debt Service Payments required pursuant to this Section, concurrent with the Closing, the balance of the Initial Project Revenue Fund shall be released to the Purchaser.
5. Insurance Agreement and State Insurance Fund. AEA and the Purchasing Utilities have entered into an Amended Agreement for the Satisfaction of Insurance Payment Obligation and Concerning Risk Allocation dated June 23, 1994 as amended July 30, 1999 (the "Insurance Agreement"). The Insurance Agreement shall be extended by AEA and the Purchasing Utilities through the Closing Date upon the same terms and conditions as currently exist including the requirement for the Purchasing Utilities to pay to AEA the full Annual Payment Amount on July 1, 2000 and again on July 1, 2001. AEA shall either (i) upon the Closing, assign to the Purchaser all insurance policies purchased by AEA with respect to the Projects if such assignment is permitted under the policies, or (ii) pay to the Purchaser, upon receipt by AEA, the amount of any premium rebates received by AEA with respect to the early cancellation of such policies.

AEA currently holds an Insurance Fund for specified Project purposes. Concurrently with the Closing, the uncommitted balance of the Insurance

Fund shall be released and shall be used by the State to fund the PCE Endowment.

6. Adjustment to Purchase Price. In the event that the sum of (i) the Debt Service Payments received by the State for power sold from July 1, 1999, through June 30, 2001, pursuant to Section 4 of this MOU, and (ii) the amount of the Insurance Fund released under Section 5 of this MOU, (such sum is referred to herein as the "Additional Funds") is less than \$32 million, the Purchase Price shall be increased by an amount equal to the difference between \$32 million and the Additional Funds.
  
7. Southeast Intertie Loan Funds/Credit. \$20 million ("Intertie Loan Funds") has previously been appropriated to the power project fund to be used for a low interest loan for the proposed transmission intertie between the Tyee Lake Hydroelectric project and Ketchikan (the "Southeast Intertie"). The parties agree that, as an integral part of the transaction contemplated herein, effective no later than August 1, 2000, the Intertie Loan Funds shall be released and be used by the State to fund the PCE Endowment. In recognition of the release of the Intertie Loan Funds, at Closing, the Purchaser shall be provided a credit against the Purchase Price of \$5 million. The Purchaser shall be obligated to immediately pay the State an additional \$5 million as repayment of the credit provided in this Section if (i) the Purchaser abandons efforts to complete the Southeast Intertie or (ii) within 5 years following the date of this MOU the Purchaser has not provided AIDEA with an approved finance plan demonstrating committed funds sufficient to complete the Southeast Intertie or (iii) field construction of the Southeast Intertie is not commenced within 10 years following the date of this MOU.
  
8. AIDEA Financing. The Alaska Industrial Development and Export Authority ("AIDEA") shall be authorized to provide purchase financing to the Purchaser. The AIDEA financing, which shall be subject to the approval of the AIDEA board, shall be at an interest rate of 6.5%. The AIDEA financing shall be on such terms and conditions as would be typical for a similar transaction financed by the issuance of publicly issued bonds, including provisions for typical debt service and other project reserves. AIDEA shall receive such security as is necessary to prudently secure the AIDEA financing including, without limitation, a first lien on the Projects and related assets. The Purchasing Utilities shall be required to subordinate any and all rights of the Purchasing Utilities, including those under the PSA, to the AIDEA lien. The AIDEA financing shall be in an amount sufficient to provide funds to the Purchaser for the Purchase Price, required debt service reserve funds and up to \$20 million in reasonably necessary project reserve funds.

In addition to the purchase financing described above, subject to AIDEA board approval, AIDEA shall be authorized to provide an additional \$5 million in financing (upon the same terms and conditions as the purchase financing). The proceeds of such additional financing may only be used by the Purchaser to (i) provide funds to the Purchaser to partially fund construction of the Southeast Intertie but only if field construction of the Southeast Intertie is commenced within 10 years following the date of this MOU or (ii) to repay the State for the credit provided in Section 7 hereof in the event such repayment is required in accordance with Section 7.

The total amount of financing to be provided by AIDEA pursuant to this Section shall not exceed \$110 million.

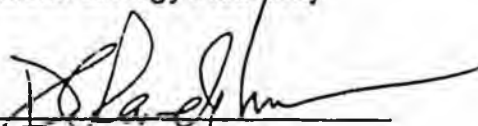
9. Required Repairs. AEA shall complete in a satisfactory manner those repairs previously identified and currently underway at the Swan Lake and Terror Lake projects. With the exception of the identified repairs set forth in this Section and those repairs for which AEA is responsible under the Insurance Agreement, pending the Closing, AEA shall not be responsible for any other repairs to the Projects, such repairs to be the responsibility of the Purchasing Utilities.
10. Support for Federal Funding of Southeast Intertie. The Knowles Administration, AEA and AIDEA will support additional federal funding for the Southeast Intertie through utilization of the Governor's Office in Washington, D.C. The Governor will provide written support to the Congressional Delegation for such federal funding and the Governor's Washington, D.C. Office will coordinate its support efforts with those of the Purchasing Utilities.
11. Closing Conditions. The Closing shall be conditioned on the approval of the State Legislature on or before August 1, 2000, of legislation authorizing the sale of the Projects, of such legislation and appropriations as are necessary to establish the PCE endowment contemplated herein, of legislation authorizing AIDEA to provide the financing described herein, and of such legislation as may be necessary to allow for the establishment of the Purchaser as a legal entity, and the enactment of all such legislation. The Closing shall also be conditioned upon the approval of the AEA board of directors, the approval of the governing bodies of the Purchasing Utilities, the approval by the AIDEA board of directors of the financing described herein, the legal establishment of the Purchaser, and the receipt of any additional approvals as may be required to transfer to the Purchaser the Projects and any required licenses, permits, rights of way, and land interests.
12. Integrated Agreement. AEA and the Purchasing Utilities agree that all provisions of this MOU are essential elements of the transaction

contemplated herein. In the event that any provision of this MOU is not approved by the State Legislature or by the governing bodies of AEA, AIDEA or the Purchasing Utilities, the sale transaction contemplated herein shall not be consummated.

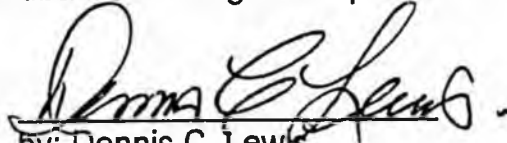
13. Termination Rights. The Purchasing Utilities shall have the right to terminate the purchase of the Projects at any time prior to Closing if the Purchase Price is increased above \$73 million or if other material losses occur to the Projects which would, in the absence of this MOU, be State responsibilities under the PSA. Notice of termination pursuant to this Section shall be made in writing and shall be effective upon receipt by AEA. Effective upon termination, the Purchasing Utilities Self Help Right shall be reinstated, the PSA shall be in full force and effect, and this MOU shall be terminated.
14. Best Efforts. The Purchasing Utilities and AEA shall use their best efforts to obtain the approvals of their governing bodies and the State Legislature and to satisfy the other Closing Conditions described in this MOU.
15. Authority of Parties Executing. The individuals executing this MOU on behalf of the Purchasing Utilities have been duly authorized by the Purchasing Utilities to execute this MOU on their behalf. The individual executing this MOU on behalf of the AEA is its Executive Director and is duly authorized to execute this MOU on behalf of AEA.
16. Definitive Agreement. Upon the enactment of the legislation contemplated in this MOU, the parties shall execute a definitive purchase and sale agreement incorporating the terms of this MOU related to the sale of the Projects and such other terms and conditions as may be necessary to consummate sale of the Projects as contemplated herein.
17. Further Actions. AEA and the Purchasing Utilities shall take such further actions and execute such other documents as may be necessary to further the intent of this MOU.

WHEREFORE the parties have executed this Agreement as of the date first written above.

Alaska Energy Authority

  
by: D. Randy Simmons  
Executive Director

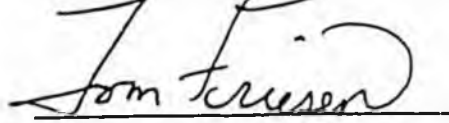
The City of Petersburg,  
dba Petersburg Municipal Power and Light

  
by: Dennis C. Lewis

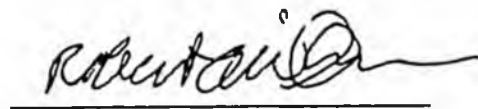
The City of Wrangell  
dba Wrangell Municipal Light and Power

  
by: William B. Privett

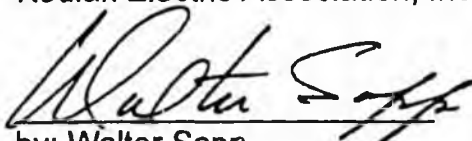
The City of Ketchikan,  
dba Ketchikan Public Utilities

  
by: Tom Friesen

Copper Valley Electric Association, Inc.

  
by: Robert A. Wilkinson

Kodiak Electric Association, Inc.

  
by: Walter Sapp

TONY KNOWLES  
GOVERNOR  
GOVERNMENT BUILDING, 3RD FLOOR

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

HB-46

STATE OF ALASKA  
JUNEAU, ALASKA 99801  
PHONE 907-586-3000  
FAX 907-586-3002  
WWW.ALASKA.GOV

April 11, 2000

The Honorable Brian Porter  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Porter:

This bill I am introducing today implements the terms of a Memorandum of Understanding (MOU) between the Alaska Energy Authority (AEA) and several Alaska communities and utilities served by the Four Dam Pool projects for the sale of those hydroelectric facilities. This sale represents years of hard work by AEA and the local utilities and meets the three principles essential to a successful agreement:

- 1) The sale must return fair value to the state for its assets and meet sound business practices as judged by the AEA;
- 2) The sale must benefit Alaska communities and their ratepayers through local control and economic development opportunities;
- 3) Proceeds from the sale must be used to provide long-term funding of the Power Cost Equalization (PCE) program.

This bill authorizes the sale of the Four Dam Pool to the purchasing utilities pursuant to the MOU. The Alaska Industrial Development & Export Authority (AIDEA) is authorized to provide financing for the sale, not to exceed \$110 million. It also authorizes a "joint action agency" to enable the new utility pool to operate and issue bonds.


To receive the sale proceeds for long-term PCE funding, an endowment fund is established under the management of the Department of Revenue. Seven percent of endowment earnings will be used annually to fund the PCE program. Other funds, such as the securing of federal funds, may also be placed in the endowment.

The Honorable Brian Porter  
April 11, 2000  
Page 2

Any shortfall in funding the \$15.7 million PCE program from endowment earnings would be met through a portion of the AIDEA annual dividend, not to exceed \$9 million annually.

Although time in this session may be short, the opportunity to culminate years of negotiations, to provide financial benefit to the state and local communities, and to create a mechanism for long-term funding of PCE cannot be lost. I urge your prompt consideration of this landmark piece of legislation.

Sincerely,



Tony Knowles  
Governor

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 14, 2000

**SUBJECT:** Four dam pool sale (CSHB 446(FIN))

**TO:** Representative Gene Therriault  
Attn: Mike Tibbles

**FROM:**  Teresa B. Cramer  
Legislative Counsel

You have received a draft CSHB 446(FIN). The CS adds a subsection (b) to appropriate future receipts for the sale of power from the four dam pool hydroelectric facilities. Section 4(b) reads:

(b) An amount equal to the payments for the sale of power, to be made to the state by the purchasing utilities under the memorandum of understanding dated April 11, 2000, received after June 30, 2001, is appropriated from corporate receipts of the Alaska Energy Authority to the power cost equalization endowment fund (AS 42.45.070).

Because this subsection makes an appropriation that is executed over a series of years, it is possible that the bill may be construed as making a continuing appropriation. One superior court in Anchorage has found continuing appropriations to be an unconstitutional dedication of funds. (*Trustees for Alaska v. State*, Superior Court, Third Judicial District, Anchorage, (3AN-84-12053 Civ)) The court's reasoning is unclear, but the decision was not appealed and remains the only judicial decision regarding continuing appropriations. The applicability of the *Trustees* case to this bill is undeterminable because the basis on which the *Trustees* court made its decision was not adequately discussed in the record of the case.

Please also note that the provisions of sec. 14(a)(3) appear to be intended to last indefinitely into the future. If that's the case, we should add it to the codified law instead of placing it here. Let me know if it needs changing.

TC:jdr  
00-163.jdr

1-GH2082\D  
Cramer  
4/14/00

**CS FOR HOUSE BILL NO. 446(FIN)**

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

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:**

**Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act establishing and relating to the power cost equalization endowment fund;  
 2 relating to the power cost equalization and rural electric capitalization fund;  
 3 authorizing and relating to the sale of the four dam pool hydroelectric project;  
 4 establishing and relating to joint action agencies created to purchase power  
 5 projects; and providing for an effective date."

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

7 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new  
 8 section to read:

9 **FINDINGS.** The legislature finds that

10 (1) adequate and reliable electric service at affordable rates is a necessary  
 11 ingredient of a modern society and a prosperous developing economy;

12 (2) at the current stage of social and economic development in the state, direct  
 13 participation by the state is necessary to assist in keeping rates in high-cost service areas to

1 affordable levels;

2 (3) providing a long-term, stable financing source for power cost equalization  
3 will permit and encourage the electric utility industry and its lenders to develop plans, make  
4 investments, and take other actions that are necessary or prudent to provide adequate and  
5 reliable electric service at affordable rates and to meet the health and safety needs of residents  
6 of the state;

7 (4) revenue that was anticipated to be generated from the state-owned four dam  
8 pool hydroelectric project under the existing power sales agreement and that the legislature  
9 intended to provide a long-term source of financing for power cost equalization will no longer  
10 be available upon the sale of the four dam pool project;

11 (5) the proposed sale under the memorandum of understanding dated April 11,  
12 2000, provides the state with fair value for the four dam pool hydroelectric project, relieves  
13 the state of the significant financial risks and obligations with respect to the project, and  
14 provides a long-term, stable financing source for power cost equalization; and

15 (6) establishment of joint action agencies under this Act and the sale of the  
16 four dam pool hydroelectric project to the joint action agency to be formed by the four dam  
17 pool local public utilities ensure local control of power generation resources necessary for a  
18 healthy economy and benefit the communities and their ratepayers by providing for stable  
19 energy rates.

20 \* Sec. 2. AS 42.05.431(c) is amended to read:

21 (c) Notwithstanding (b) of this section,

22 (1) a wholesale agreement for the sale of power from a project licensed  
23 by the Federal Energy Regulatory Commission on or before January 1, 1987, and  
24 related contracts for the wheeling, storage, regeneration, or wholesale repurchase of  
25 power purchased under the agreement, entered into between the Alaska Energy  
26 Authority and one or more other public utilities or among the utilities after October 31,  
27 1987, and before January 1, 1988, and amendments to the wholesale agreement or  
28 related contract, **and the wholesale agreement or related contract assigned by the**  
29 **Alaska Energy Authority to a joint action agency formed under AS 42.45.310 that**  
30 **purchases the project from the Alaska Energy Authority,** are not subject to review  
31 or approval by the commission until all long-term debt incurred for the project is

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retired, or, for a wholesale agreement or related contract assigned to a joint action agency formed under AS 42.45.310, until all long-term debt incurred to pay the purchase price to the Alaska Energy Authority is retired; and

(2) a wholesale agreement or related contract described in (1) of this subsection may contain a covenant for the public utility to establish, charge, and collect rates sufficient to meet its obligations under the contract; the rate covenant is valid and enforceable.

\* Sec. 3. AS 42.45.040 is amended to read:

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

\* Sec. 4. AS 42.45 is amended by adding new sections to read:

**Article 1A. Power Cost Equalization Endowment Fund.**

**Sec. 42.45.070. Power cost equalization endowment fund established.** (a)

The power cost equalization endowment fund is established as a separate fund of the authority. The fund consists of

(1) legislative appropriations to the fund that are not designated for annual expenditure for the purpose of power cost equalization;

(2) accumulated earnings of the fund;

(3) gifts, bequests, contributions of money and other assets, and federal money given to the fund that are not designated for annual expenditure for power cost equalization; and

(4) payments received after June 30, 2001, for the sale of power made to the state by the purchasing utilities under the memorandum of understanding dated April 11, 2000, between the Alaska Energy Authority and the purchasing utilities.

(b) Nothing in this section creates a dedicated fund.

(c) In this section, "memorandum of understanding" means the memorandum of understanding dated April 11, 2000, between the Alaska Energy Authority and

L

1 Copper Valley, Ketchikan, Kodiak, Petersburg, and Wrangell for the purchase and sale  
2 of the four dam pool hydroelectric project and any amendment to that agreement that  
3 substitutes appropriations of \$20,000,000 from the state constitutional budget reserve  
4 fund established under art. IX, sec. 17, Constitution of the State of Alaska, for  
5 appropriations from the power project fund (AS 42.45.010).

6 **Sec. 42.45.080. Powers and duties of the commissioner of revenue.** (a) The  
7 commissioner of revenue is the fiduciary of the fund. In managing the fund, the  
8 commissioner shall

9 (1) have the same powers and duties as are provided in AS 37.10.071;  
10 and

11 (2) invest the fund in a manner likely to achieve at least a seven  
12 percent nominal return over time.

13 (b) In managing the fund, the commissioner shall

14 (1) consider the status of the fund's capital and the income generated  
15 on both current and probable future bases;

16 (2) determine the appropriate investment objectives;

17 (3) establish investment policies to achieve the objectives; and

18 (4) act only in regard to the best financial interests of the fund.

19 (c) On July 1 of each year, the commissioner shall determine the monthly  
20 average market value of the fund for the previous three fiscal years.

21 **Sec. 42.45.085. Use of the power cost equalization endowment fund.** (a)  
22 Seven percent of the amount determined by the commissioner of revenue on July 1 of  
23 each year under AS 42.45.080(c) may be appropriated for the following purposes:

24 (1) funding the power cost equalization and rural electric capitalization  
25 fund (AS 42.45.100);

26 (2) reimbursement to the Department of Revenue for the costs of  
27 establishing and managing the fund; and

28 (3) reimbursement of other costs of administration of the fund.

29 (b) Nothing in this section creates a dedicated fund.

30 **Sec. 42.45.099. Definition.** In AS 42.45.070 - 42.45.099, "fund" means the  
31 power cost equalization endowment fund established in AS 42.45.070.

1 \* Sec. 5. AS 42.45.070(a) is amended to read:

2 (a) The power cost equalization endowment fund is established as a separate  
3 fund of the authority. The fund consists of

4 (1) legislative appropriations to the fund that are not designated for  
5 annual expenditure for the purpose of power cost equalization;  
6 (2) accumulated earnings of the fund;  
7 (3) gifts, bequests, contributions of money and other assets, and federal  
8 money given to the fund that are not designated for annual expenditure for power cost  
9 equalization; and

10 (4) repayments of principal and income that would have been  
11 deposited in the former four dam pool transfer fund under former AS 42.45.050  
12 [PAYMENTS RECEIVED AFTER JUNE 30, 2001, FOR THE SALE OF POWER  
13 MADE TO THE STATE BY THE PURCHASING UTILITIES UNDER THE  
14 MEMORANDUM OF UNDERSTANDING DATED APRIL 11, 2000, BETWEEN  
15 THE ALASKA ENERGY AUTHORITY AND THE PURCHASING UTILITIES].

16 \* Sec. 6. AS 42.45.100(b) is amended to read:

17 (b) The fund shall be administered by the authority as a fund distinct from the  
18 other funds of the authority. The fund is composed of

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

21 (2) money appropriated from the National Petroleum Reserve - Alaska  
22 special revenue fund under AS 37.05.530(g);

23 (3) money appropriated from the power cost equalization  
24 endowment fund (AS 42.45.070) under AS 42.45.085(a);

25 (4) gifts, bequests, [AND] contributions from other sources, and  
26 federal money; and

27 (5) [(4)] interest earned on the fund balance.

28 \* Sec. 7. AS 42.45.100 is amended by adding a new subsection to read:

29 (d) If the amount available to the fund under (b) of this section is less than  
30 \$15,700,000 for a fiscal year, subject to appropriation, an amount necessary to cover  
31 the shortfall shall be deposited into the fund from the dividend made available under

1 AS ~~44.88.088~~ by the board of directors of the Alaska Industrial Development and  
2 Export Authority.

3 \* **Sec. 8.** AS 42.45.100(d) is amended to read:

4 (d) If the amount available to the fund under (b) of this section is less than  
5 \$15,700,000 for a fiscal year, subject to appropriation, an amount necessary to cover  
6 the shortfall, up to the sum of \$9,000,000 for the fiscal year, shall be deposited into  
7 the fund from the dividend made available under AS 44.88.088 by the board of  
8 directors of the Alaska Industrial Development and Export Authority.

9 \* **Sec. 9.** AS 42.45 is amended by adding a new section to article 5 to read:

10 **Sec. 42.45.310. Acquisition of power project.** (a) Two or more public  
11 utilities that purchase power from a power project acquired or constructed as part of  
12 the former energy program for Alaska and owned by the Alaska Energy Authority  
13 under AS 44.83.396 may form a joint action agency under AS 42.45.300 and under  
14 this section to purchase the power project from the Alaska Energy Authority if the  
15 purchase and sale of project has first been authorized by law.

16 (b) The agency may

17 (1) acquire, own, operate, and manage one or more power projects or  
18 generating or transmission facilities; and

19 (2) participate in the design, development, construction, operation, and  
20 maintenance of a generating or transmission facility.

21 (c) The agency is an instrumentality of the public utilities that form the  
22 agency, but has a separate and independent legal existence from the public utilities.

23 In addition to the powers authorized under AS 42.45.300, the agency has the power

24 (1) to adopt bylaws of the agency;

25 (2) to sue and be sued;

26 (3) to carry out the authorized purposes of the agency; and

27 (4) subject to (e) of this section, to issue revenue bonds and secure  
28 financing that are not obligations of either the state or the public utilities that formed  
29 the agency to provide financing to carry out the authorized purposes of the agency.

30 (d) The agency is created by a written agreement among the public utilities  
31 forming the agency. Each public utility forming the agency shall adopt the terms of

1 the agreement by ordinance or resolution. Subject to (c) of this section, the agreement  
2 establishing the agency may define the powers, functions, and activities of the agency  
3 and specify the means by which they shall be performed. The agreement may  
4 establish the rights and responsibilities of the public utilities that form the agency. If  
5 applicable, the agreement shall provide for

6 (1) apportionment between the public utilities forming the agreement  
7 of responsibility for providing finances to the expenses incurred in the performance of  
8 the functions or activities;

9 (2) apportionment of fees or other revenue derived from the functions  
10 or activities and the manner in which the revenue shall be accounted for;

11 (3) the transfer of personnel and the preservation of employment  
12 benefits; and

13 (4) the rights of the public utilities forming the agency to terminate the  
14 agreement, subject to (e) of this section, including resolving disputes if the public  
15 utilities are unable, upon termination of the agreement, to agree on the transfer of  
16 personnel or the division of assets and liabilities between the parties to the agreement.

17 (e) The public utilities forming the agency shall pledge and agree with the  
18 holders of revenue bonds or other financing secured under this section, including with  
19 a state entity that provides financing, that the public utilities and the agency will not  
20 terminate the agency or take any other action that would limit or alter the rights and  
21 powers vested in the agency by this section to fulfill the terms of a contract made by  
22 the agency with the holders and that the public utilities and the agency will not in any  
23 way impair the rights and remedies of the holders until the bonds or other financing  
24 secured under this section, together with the interest on them with interest on unpaid  
25 installments of interest, and all costs and expenses in connection with an action or  
26 proceeding by or on behalf of the holders are fully met and discharged. The agency  
27 may include this pledge and agreement of the public utilities and the agency, insofar  
28 as it refers to holders of bonds of the agency, in a contract with the holders and,  
29 insofar as it relates to a state entity, in a contract with the state entity.

30 (f) Only to the extent any of the public utilities forming the agency is subject  
31 to the particular tax is the agency subject to state and local ad valorem, income, or

1 excise taxes that may be assessed or levied against property, assets, income, and  
2 receipts of the agency or to the electric cooperative tax (AS 10.25.540 - 10.25.570).

3 (g) A loan, investment, or other financial aid provided to the agency by the  
4 state or any political subdivision of the state does not constitute a violation of  
5 AS 37.10.085.

6 (h) In this section,

7 (1) "agency" means a joint action agency formed under this section;

8 (2) "public utility" has the meaning given the term in AS 42.05.990;

9 (3) "state entity" means a state department, authority, or other  
10 administrative unit of the executive branch of state government.

11 \* **Sec. 10.** AS 44.83.510(a) is amended to read:

12 (a) Repayment of a loan from the former power development revolving loan  
13 fund must be made with the proceeds from the sale of power from projects in the  
14 former energy program for Alaska. [EXCEPT AS PROVIDED IN AS 44.83.398(i),  
15 THE PAYMENTS REQUIRED TO BE MADE BY THE AUTHORITY ON A LOAN  
16 FROM THE FUND CONSTITUTE DEBT SERVICE FOR THE PURPOSE OF  
17 CALCULATING THE WHOLESALE POWER RATE IN AS 44.83.398(b)(1).]

18 \* **Sec. 11.** AS 44.83.525 is amended to read:

19 **Sec. 44.83.525. Rate reopeners.** A power sales agreement for the sale of  
20 power from the initial project [, AS DESCRIBED IN AS 44.83.398(a),] financed with  
21 a loan under AS 44.83.510 may include among its provisions an agreed schedule of  
22 wholesale power rates [NOTWITHSTANDING THE PROVISIONS OF AS 44.83.398],  
23 but must include a provision for a rate reopener at least every 15 years. For purposes  
24 of this section. Tye Lake, Swan Lake, Solomon Gulch, and Terror Lake  
25 hydroelectric facilities are considered to be one power project, and this power  
26 project is referred to as the initial project.

27 \* **Sec. 12.** AS 42.45.050 is repealed.

28 \* **Sec. 13.** AS 42.45.070(a)(4) and AS 44.83.398 are repealed.

29 \* **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section  
30 to read:

31 INTERIM DETERMINATION OF AMOUNTS AVAILABLE FOR

1 APPROPRIATION. (a) Notwithstanding AS 42.45.080(c) and 42.45.085(a), enacted by sec. 4  
2 of this Act, the amount that may be appropriated from the power cost equalization endowment  
3 fund (AS 42.45.070, enacted by sec. 4 of this Act) shall be determined as follows:

4 (1) for fiscal year 2002, the amount that may be appropriated from the power  
5 cost equalization endowment fund (AS 42.45.070, enacted by sec. 4 of this Act) is seven  
6 percent of the market value of the fund on February 1, 2001;

7 (2) for fiscal year 2003 through the fiscal year that begins after the closing date  
8 of the sale of the four dam pool hydroelectric project under the memorandum of  
9 understanding, the amount that may be appropriated annually from the power cost equalization  
10 endowment fund (AS 42.45.070, enacted by sec. 4 of this Act) is seven percent of the market  
11 value of the fund on February 1 of the prior fiscal year;

12 (3) for subsequent fiscal years, the commissioner of revenue shall exclude the  
13 time period and market value of the power cost equalization endowment fund (AS 42.45.070,  
14 enacted by sec. 4 of this Act) before the closing date of the sale of the four dam pool  
15 hydroelectric project in making the determination required under AS 42.45.080(c), enacted by  
16 sec. 4 of this Act.

17 (b) The definitions contained in sec. 15(d) of this Act apply to the terms used in this  
18 section.

19 \* **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section  
20 to read:

21 **LEGISLATIVE AUTHORIZATION TO CONVEY.** (a) Notwithstanding  
22 AS 44.83.396 the joint action agency to be formed by the purchasing utilities may purchase,  
23 and the Alaska Energy Authority may sell, the four dam pool hydroelectric project under the  
24 memorandum of understanding.

25 (b) The Alaska Industrial Development and Export Authority may issue bonds or  
26 otherwise extend financing to the joint action agency to be formed by the purchasing utilities,  
27 for the purposes and upon the terms set out in the memorandum of understanding. The total  
28 principal amount of the bonds and other financing provided by the Alaska Industrial  
29 Development and Export Authority under this subsection may not exceed \$110,000,000.

30 (c) The Department of Community and Economic Development and the Alaska  
31 Energy Authority may modify and amend the loan agreement and note to

1 (1) suspend the enforcement of rights and obligations, including payment  
2 obligations, under the loan agreement and note; and

3 (2) fully release, extinguish, and retire the debt and all other rights and  
4 obligations under the loan agreement and note, and cancel the note, upon completion of the  
5 purchase and sale of the four dam pool hydroelectric project under the memorandum of  
6 understanding.

7 (d) In this section,

8 (1) "Alaska Energy Authority" means the Alaska Energy Authority created in  
9 AS 44.83, successor in interest to the Alaska Power Authority;

10 (2) "Alaska Power Authority" means the former Alaska Power Authority;

11 (3) "authority" means the former Alaska Power Authority;

12 (4) "Copper Valley" means Copper Valley Electric Association, Inc., a  
13 cooperatively owned electric utility serving the communities of Valdez, Glennallen, and  
14 environs;

15 (5) "Department of Commerce and Economic Development" means the former  
16 Department of Commerce and Economic Development;

17 (6) "four dam pool hydroelectric project" means the Tyee Lake, Swan Lake,  
18 Solomon Gulch, and Terror Lake hydroelectric facilities owned and administered by the  
19 Alaska Energy Authority under AS 44.83.396;

20 (7) "joint action agency" means an agency formed under AS 42.45.310, enacted  
21 by sec. 9 of this Act;

22 (8) "Ketchikan" means the City of Ketchikan, doing business as Ketchikan  
23 Public Utilities, a municipally owned utility serving Ketchikan and environs;

24 (9) "Kodiak" means the Kodiak Electric Association, Inc., a cooperatively  
25 owned electric utility serving the Kodiak Island Borough;

26 (10) "loan agreement" means the loan agreement effective October 28, 1985,  
27 between the State of Alaska, Department of Commerce and Economic Development, and the  
28 Alaska Power Authority regarding a loan from the power development revolving loan fund  
29 to the Alaska Power Authority regarding the four dam pool hydroelectric project;

30 (11) "memorandum of understanding" means the memorandum of  
31 understanding dated April 11, 2000, between the Alaska Energy Authority and Copper Valley,

1 Ketchikan, Kodiak, Petersburg, and Wrangell for the purchase and sale of the four dam pool  
2 hydroelectric project and any amendment to that agreement that substitutes appropriations of  
3 \$20,000,000 from the state constitutional budget reserve fund established under art. IX,  
4 sec. 17, Constitution of the State of Alaska, for appropriations from the power project fund  
5 (AS 42.45.010).

6 (12) "note" means the promissory note, dated February 13, 1986, which reflects  
7 the authority's obligation to pay to the Department of Commerce and Economic Development  
8 related to the loan agreement;

9 (13) "Petersburg" means the City of Petersburg, doing business as Petersburg  
10 Municipal Power and Light, a municipally owned electric utility serving Petersburg and  
11 environs;

12 (14) "purchasing utilities" means Copper Valley, Ketchikan, Kodiak,  
13 Petersburg, and Wrangell;

14 (15) "Wrangell" means the City of Wrangell, doing business as Wrangell  
15 Municipal Light and Power, a municipally owned electric utility serving Wrangell and  
16 environs.

17 \* **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section  
18 to read:

19 **CONDITIONAL EFFECT.** Section 5 of this Act takes effect only if the memorandum  
20 of understanding between the Alaska Energy Authority and the purchasing utilities dated  
21 April 11, 2000, is terminated before the closing date of the sale of the four dam pool  
22 hydroelectric project under that memorandum of understanding.

23 \* **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section  
24 to read:

25 **CONDITIONAL EFFECT.** Sections 10, 11, and 13 of this Act take effect only if the  
26 Alaska Energy Authority and the joint action agency to be formed by the purchasing utilities  
27 under AS 42.45.310, enacted by sec. 9 of this Act, complete the purchase and sale of the four  
28 dam pool hydroelectric project as described in the memorandum of understanding dated  
29 April 11, 2000.

30 \* **Sec. 18.** If sec. 5 of this Act takes effect under sec. 16 of this Act, sec. 5 of this Act  
31 takes effect on the date of termination of the memorandum of understanding described in sec.

1 16 of this Act. The executive director of the Alaska Energy Authority shall certify the date  
2 of termination of the memorandum of understanding to the lieutenant governor and the revisor  
3 of statutes.

4 \* **Sec. 19.** If secs. 10, 11, and 13 of this Act take effect under sec. 17 of this Act, they take  
5 effect on the day after the closing date of the sale of the four dam pool hydroelectric project  
6 under the memorandum of understanding dated April 11, 2000. The executive director of the  
7 Alaska Energy Authority shall certify the closing date of the sale to the lieutenant governor  
8 and the revisor of statutes.

9 \* **Sec. 20.** Section 8 of this Act takes effect July 1, 2002.

10 \* **Sec. 21.** Sections 3 and 12 of this Act take effect July 2, 2000.

11 \* **Sec. 22.** Except as provided in secs. 18 - 21 of this Act, this Act takes effect July 1,  
12 2000.

1-GH2083VD  
Cramer  
4/13/00

**CS FOR HOUSE BILL NO. 447(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act making appropriations relating to power cost equalization and the sale  
2 of the four dam pool hydroelectric project and to capitalize funds; making  
3 appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska,  
4 from the constitutional budget reserve fund; and providing for an effective date."

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

6 \* **Section 1.** (a) The appropriation made in sec. 5, ch. 19, SLA 1993, lapses into the  
7 Railbelt energy fund (AS 37.05.520).

8 (b) The sum of \$19,500,000 is appropriated from the constitutional budget reserve  
9 fund to the power cost equalization endowment fund (AS 42.45.070).

10 (c) The sum of \$500,000 is appropriated from the constitutional budget reserve fund  
11 to the Alaska Energy Authority to cover the costs of

12 (1) completing the sale of the four dam pool hydroelectric project under the  
13 memorandum of understanding dated April 11, 2000; and

14 (2) the Department of Revenue in establishing and managing the power cost

1 equalization endowment fund (AS 42.45.070) for the fiscal year ending June 30, 2001.

2 (d) The unexpended and unobligated balance of the appropriation made by (c) of this  
3 section on the 180th day after the earlier of the closing date of the sale of the four dam pool  
4 hydroelectric project under the memorandum of understanding dated April 11, 2000, or the  
5 termination of the memorandum of understanding dated April 11, 2000, is reappropriated to  
6 the power cost equalization endowment fund (AS 42.45.070).

7 \* **Sec. 2.** An amount equal to the proceeds from the sale of the four dam pool hydroelectric  
8 project and from the repayment of the Southeast intertie credit under the memorandum of  
9 understanding dated April 11, 2000, to be paid to the state by the joint action agency to be  
10 formed by the purchasing utilities, is appropriated from corporate receipts of the Alaska  
11 Energy Authority to the power cost equalization endowment fund (AS 42.45.070).

12 \* **Sec. 3.** The unexpended and unobligated balance of the four dam pool state insurance  
13 fund held by the Alaska Energy Authority and to be released under the memorandum of  
14 understanding dated April 11, 2000, is appropriated upon its release to the power cost  
15 equalization endowment fund (AS 42.45.070).

16 \* **Sec. 4.** (a) An amount equal to the payments for the sale of power, to be made to the  
17 state by the purchasing utilities under the memorandum of understanding dated April 11, 2000,  
18 received by June 30, 2001, is appropriated from corporate receipts of the Alaska Energy  
19 Authority to the power cost equalization and rural electric capitalization fund (AS 42.45.100).

20 (b) An amount equal to the payments for the sale of power, to be made to the state  
21 by the purchasing utilities under the memorandum of understanding dated April 11, 2000,  
22 received after June 30, 2001, is appropriated from corporate receipts of the Alaska Energy  
23 Authority to the power cost equalization endowment fund (AS 42.45.070).

24 \* **Sec. 5.** DEFINITION FOR THE APPROPRIATIONS MADE BY THIS ACT. In this  
25 Act, "memorandum of understanding dated April 11, 2000" means the memorandum of  
26 understanding dated April 11, 2000, between the Alaska Energy Authority and Copper Valley,  
27 Ketchikan, Kodiak, Petersburg, and Wrangell for the purchase and sale of the four dam pool  
28 hydroelectric project and any amendment to that agreement that substitutes appropriations of  
29 \$20,000,000 from the state constitutional budget reserve fund established under art. IX, sec.  
30 17, Constitution of the State of Alaska for appropriations from the power project fund  
31 (AS 42.45.010).

1 \* Sec. 6. CONSTITUTIONAL BUDGET RESERVE FUND. The appropriations made in  
2 sec. 1(b) and 1(c) of this Act are made under art. IX, sec. 17(c), Constitution of the State of  
3 Alaska.

4 \* Sec. 7. LAPSE PROVISION. The appropriations made by secs. 1(b), 1(d), and 2 - 4 of  
5 this Act are for the capitalization of funds and do not lapse.

6 \* Sec. 8. CONDITIONAL EFFECTIVE DATE. This Act takes effect only if the Twenty-  
7 First Alaska State Legislature passes legislation that is enacted into law establishing and  
8 relating to the power cost equalization endowment fund, relating to the power cost  
9 equalization and rural electric capitalization fund, authorizing and relating to the sale of the  
10 four dam pool hydroelectric project, and establishing and relating to joint action agencies  
11 created to purchase power projects.

12 \* Sec. 9. If this Act takes effect, it takes effect on the earliest effective date of any section  
13 of the Act described in sec. 8 of this Act.