

SCOMM

120:11



Alaska State Legislature

UTILITIES RESTRUCTURING COMMITTEE

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Bill Hudson Chair
John Cowdery Vice Ch.
Brian Porter
Norman Rokeberg
Pete Kott
John Davies
Ethan Berkowitz
Joe Green Alt.

AGENDA

February 9, 2000
8 a.m.

POWER COST EQUALIZATION (PCE)

HB 323 RCA/AOGCC

POWER COST EQUALIZATION

1. Eric Yould, ARECA
2. Video (12 min.)
3. Joe Griffith, Chugach Electric & Member, PCE Blue Ribbon Panel
4. Kevin Ritchie, Alaska Municipal League & Denali Commission
5. Randy Simmons, AIDEA/AEA & Member, PCE Blue Ribbon Panel

HB 323 (if time)

Relating to the employment of hearing examiners, arbitrators, and mediators by the Regulatory Commission of Alaska; repealing a requirement that the principal office of the Alaska Oil and Gas Conservation Commission move to the same location as the principal office of the Regulatory Commission of Alaska; relating to the sharing of record-keeping facilities and clerical staff by the two commissions; and providing for an effective date.



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January 31, 2000

TO: Members
Utilities Restructuring Committee

FROM: Rep. Bill Hudson, Chair

RE: Next Committee Meeting

The next meeting of the Utility Restructuring Committee will be February 9, 2000 at 8 a.m. in Capitol 120. Our agenda topics will be Power Cost Utilization (PCE) and if time, my new legislation, HB 323, which is a companion bill to Senator Pearce's SB 229.

HB 323 is attached, along with an ISER Report about PCE.

Please don't hesitate to call if you have questions or recommendations about this forthcoming meeting.

BH/skp
Attachments: 2



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March 27, 2000

TO: COMMITTEE MEMBERS and Interested Parties

FROM: REP. BILL HUDSON, Chair

RE: March 29 Meeting about PCE

Earlier this session, the House Special Committee on Utilities Restructuring held a hearing on Power Cost Equalization (PCE), due to the importance of this subsidy to electric consumers in rural Alaska, and out of our concerns for its continued funding.

Funding concerns still exist. While my committee is not a finance committee per se, my interest in helping to resolve the PCE funding problem stays high. I have invited the House Community and Regional Affairs Committee to join with us on March 29 for continued discussions on this subject. PLEASE NOTE that the meeting will be held in the House Finance committee room and will convene at 8 a.m. The format will be roundtable discussion between both committees and invited interested parties. Along with members of both committees, I have invited representatives from AIDEA, House Finance Committee Co-Chair Eldon Mulder, and Rep. Ramona Barnes.

Another note: prior to PCE discussions, we will hear HB 169 which was held over from our previous meeting. I do not anticipate that HB 169 will take much time.

At this time, I do not intend to include public testimony on PCE. However, if time allows, brief pertinent comments may be solicited. The meeting will be teleconferenced.



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AGENDA

March 29, 2000

8 a.m.

House Finance Committee Room

1. **HB 169 by Rep. Joe Green**
Relating to including the costs of expansion and political activities in rates of electric cooperatives.

2. **Power Cost Equalization - Roundtable Discussion**
Joint Meeting with Community and Regional Affairs Committee, Rep. Carl Morgan and Rep. John Harris, Co-Chairs

*What is the status of the PCE program for FY 00 and 01?
What are potential funding options? Are there
recommendations we can forward to the Finance Committee?*

PCE DISCUSSION POINTS

1. **CONCERNS: 4 elements**
 - ◆ **FY 00 SUPPLEMENTAL REQUEST WAS FOR 8.0 MILLION...BUT SUPPLEMENTAL CONFERENCE COMMITTEE APPROPRIATED ONLY 3.6 MILLION in SB 250 and TRANSMITTED TO GOV.**
 - ◆ **FY 01 BUDGET-- WHAT ARE LIKELY FUNDING SOLUTIONS?**
Is 14.7 million still what is needed ???
 - ◆ **LONG-TERM FUNDING PLAN --what's in the works?**
 - ◆ **REDUCE OVER TIME CONTINUED NEED FOR PCE SUBSIDY**
2. **ARE THERE ANY PROPOSALS TO ESTABLISH A UNIVERSAL ENERGY FUND "UEF" (similar to telephone universal service fund - USF) FOR PCE AND RURAL ELECTRIC SYSTEM UPGRADES?**
3. **ARE THERE ANY PROPOSALS THAT WOULD USE EXISTING FUNDING, i.e. ASTF, 4-DAM POOL, AHFC/AIDEA DIVIDENDS, ETC. TO CONTINUE PCE SUBSIDIZATION?**
4. **ARE THERE ANY FOCUSED EFFORTS, UNDER ANY ONE AGENCY OR ENTITY, TO DEVELOP NEW/ALTERNATIVE TECHNOLOGY OPPORTUNITIES, i.e. FUEL CELL, WIND, DIESEL REGENERATION, ETC. TO HELP REDUCE, OVER TIME, THE NEED FOR PCE SUBSIDY?**
5. **WHAT ACTION SHALL THESE COMMITTEES TAKE FOLLOWING THIS DISCUSSION?**

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GET SUBCOMMITTEES
HARVARD SYSTEM
IN DOCUMENTS CONSERVAT
ERT IS REFERENCE

e Green

HB 169 is an attempt to clarify that rate monies collected by utility cooperatives cannot be used for political or expansion activities without member approval. Over the past few years we have seen such efforts by utilities in south central Alaska. These activities have been expensive for members of both the cooperative initiating certain actions as well as those defending them. In the end the coop members who own the organizations end up paying huge amounts for essentially frivolous actions by their boards which could have been prevented by enactment of HB 169.

Thank you.

Alaska State Legislature

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PT. OF REVENUE

Representative Joe Green

House Majority Leader

Sponsor Statement

HB 169 - Member approval of political and expansion activities

HB 169 empowers consumers by providing them the opportunity to approve rate charges for political and expansion activities. AS 42.05.381(a) currently restricts rate monies collected by a utility from being used for political contributions or public relations, with some exceptions. However, political and expansion activities *are* being undertaken with these monies, which suggests the statute needs clarification.

HB 169 establishes that an electric cooperative may only include the costs of political or expansion activities in its rates if it; 1) advises members that rate monies will be used for such activities, 2) tells them how much of the rate money would be used for such activities, 3) informs the member that the cooperative would not refuse service if the member declines to consent, and finally, 4) receives the consent of the member.

Each cooperative member receives a billing statement, which could easily include a statement of intent for the rate monies collected, and a questionnaire asking if the member approves of some of their rate money being used for political or expansion activities. I'd appreciate your support of HB 169.

FISCAL NOTE**STATE OF ALASKA
1999 LEGISLATIVE SESSION****BILL NO. HB 169**

Revision Date/Time (Note if correction)

Title ELEC.COOPS:EXPANSION & POLITICAL ACTIVITY

Dept. Affected

Commerce

BRU

Component Ak Public Utilities CommissionSponsor Rep. GreenRequester House URS

Component Serial No.

346**Expenditures/Revenues**

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost:

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)Prepared by Robert A. LohrDivision APUCApproved by Commissioner [Signature]

Agency

Phone 276-8222

Date/Time

Date 5/4/99**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

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CHUGACH ELECTRIC

ASSOCIATION, INC.

EUGENE N. BJORNSTAD, P.E.
General Manager

March 24, 2000

Representative Bill Hudson, Chair
House Special Committee on Utility Restructuring
State Capitol, Room 108
Mail Stop 3101
Juneau, Alaska 99801-1182

Re: HB 169

Attention: Sioux Plummer

Dear Representative Hudson and Committee Members:

We understand HB 169 as an effort to prevent utilities from spending money on ill-advised takeover and political adventures. As victims of this chicanery, Chugach is very sympathetic to the rationale. However, Chugach cannot support HB 169 as a solution because:

- HB 169 would not have prevented MEA's expenditure of funds on its takeover attempt.
- The problem is not best addressed by legislation curtailing or burdening speech. Rather, the matter is best left to the ratemaking efforts of the RCA.
- HB 169 could have unintended effects which far outweigh any possible benefit.
- HB 169 is likely an unconstitutional restraint on speech.

In short, the measure would do more harm than good and for that reason we urge the Committee not to recommend approval of the bill.

HB 169 does not prevent expenditures. For this reason, MEA's attempted purchase of Chugach during the Fall of 1998 and most of 1999 would not have been prevented even if HB169 had been law.

The right place to deal with this is before the Regulatory Commission of Alaska. A.S. 43.05.381(a) already prohibits public utilities from including public relations expenditures in their rates¹ and the regulatory commission has traditionally not allowed these and political costs

¹ Although this provision is a questionable burden on commercial speech as outlined in the attached legal opinion, it has apparently never been challenged.

in rates. Electric utility rates are generally set by the RCA. The RCA is already empowered to determine whether costs such as these are legitimately included in customers' rates. The specific question of who will pay for the costs imposed by political activities or unsolicited takeover attempts can be brought before the RCA by any concerned citizen. Indeed, the issue is likely to be an issue in Chugach's upcoming rate cases.

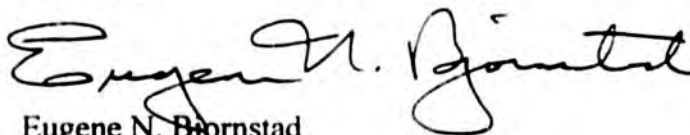
HB 169 could have unintended effects which far outweigh any possible benefit. The following are possible unintended consequences of HB 169:

- Could discourage efforts to attract new businesses or industries to Alaska. For example, efforts to interest a customer of another utility to locate additional operations in the soliciting utility's service territory could be excluded from costs included in rates even though the net effect is to benefit all customers.
- Could discourage utility efforts to develop additional services that could be sold to another utility's customers. This could defeat one of the most effective strategies in enhancing customer value by adding services that can be provided efficiently by the electric utility.
- Could discourage legitimate expenditures to educate the public as to benefits or detriments of a proposed merger or purchase of cooperative assets.

Infringements on free speech deserve careful scrutiny. The attached legal opinion demonstrates the courts' antipathy to limits on speech of the sort proposed by HB 169. The legislators should carefully consider whether the proposal meets the strict standards imposed by our constitutional guarantees of free speech.

For all of the reasons outlined above Chugach has concluded that HB 169 is evidence that bad facts can make for bad law. Chugach urges the committee not to recommend approval of this bill.

Sincerely,



Eugene N. Bjornstad
General Manager

Attachment

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SIMPSON, TILLINGHAST, SORESEN & LORENSEN
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March 20, 2000

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MAR 23 2000

GENERAL COUNSEL'S OFFICE

Mr. Don Edwards, Esq.
General Counsel
Chugach Electric Association, Inc.
P.O. Box 196300
Anchorage, AK. 99519-6300

Re: HB 169 and 1st Amendment Issues
OUR FILE NO: 594.17

Dear Mr. Edwards:

You have asked us to review Section 1 of HB 169 (proposed AS 42.05.381(h)), which would prohibit an electric cooperative from including "expansion activities" in its rates without "first secur[ing] the [coop's existing] customer's consent to the inclusion of a charge for expansion activity." "Expansion activity" includes competitive advertising. In that regard, we believe that the legislation raises serious constitutional issues, in that: (i) advertising is protected commercial speech under both the Alaska and federal constitutions;^{1/} and (ii) no substantial justification for this limitation on protected speech seems apparent. In light of both United States and Alaska Supreme Court decisions that involve facts very similar to those presented by HB 169, it is our view that the legislature may have a difficult time justifying this legislation.^{2/}

^{1/} United States Constitution, Amendment 1; Alaska Constitution, Art. 1, Sec. 5.

^{2/} We appreciate that existing law already prohibits the inclusion of costs for "public relations" in a utility's rates. AS 42.05.381(a). At the outset, that makes the intent of HB 169 even more difficult to understand, since "expansion activity" (the conduct restricted by HB 169) would seem to be subsumed in the existing phrase "public relations."

The rationale for simply reenforcing existing law aside, the fact that there is an existing restriction on "public relations" does not change our opinion on HB 169 for two reasons. First, existing law would be subject to the same rigorous constitutional scrutiny that would face the proposed legislation. Second, HB 169 is, if anything, even broader, and therefore more suspect, than existing law. Currently, utilities can request a case-by-case exemption from the restriction on including "public relations" costs in their rate base (AS 42.05.711(d)), but no such exemption would be possible under HB 169. Sec. 3, HB 169. Moreover, the restriction imposed by HB 169 extends to any activity that is "intended to attract customers..."--a large and vague net that could capture a wide range of speech and conduct, and for that reason be especially vulnerable to a 1st Amendment challenge.

Mr. Don Edwards, Esq.

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In undertaking this analysis, we appreciate that the legislation does not expressly prohibit expansion advertising. It is, however, our understanding that forcing a utility to pay for otherwise-legitimate business activity out of its margin (or, alternatively, obtain consumer-by-consumer consent) significantly affects the practicality of engaging in "expansion activity." And, any significant constraint on the exercise of protected commercial speech would be tested under the same standards as an outright prohibition on that speech. See *Alaska Transportation Commission v. AIRPAC, Inc.*, 685 P.2nd 1248, 1254 (Alaska 1984)

Commercial advertising is protected commercial speech. *Central Hudson Gas & Electric Corporation v. Public Service Commission of New York*, 447 U.S. 557 (1980). In *Central Hudson*, the United States Supreme Court considered a case very similar to that presented by HB 169. *Central Hudson* invalidated a public utility commission regulation that banned promotional advertising by electric utilities. The ban had been justified on energy conservation grounds, but the court held that the state's justification was too tenuous and speculative to justify the ban. *Central Hudson* established a four-part analysis to test the validity of government regulation of commercial speech:

At the outset, we must determine whether the expression is protected by the First Amendment. For commercial speech to come within that provision, it at least must concern lawful activity and not be misleading. Next, we ask whether the asserted governmental interest is substantial. If both inquiries yield positive answers, we must determine whether the regulation directly advances the governmental interest asserted, and whether it is not more extensive than is necessary to serve that interest.

447 U.S. at 566.

The Supreme Court recently reaffirmed the *Central Hudson* test in *Greater New Orleans Broadcasting Association v. United States*, 527 U.S. 173, 174-5 (1999) (overbroad federal ban on private casino gambling advertisements broadcast by radio or television stations violated the First Amendment).

In applying the *Central Hudson* test, the government bears the burden of justifying the challenged restriction. *Greater New Orleans*, 527 U.S. at 174.

In *Alaska Transportation Commission v. AIRPAC, Inc.*, 685 P.2d 1248, the Alaska Supreme Court adopted the *Central Hudson* test--again, applying it in a context that was

Mr. Don Edwards, Esq.

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quite similar to HB 169. In *AIRPAC*, the Alaska Transportation Commission had attempted, *inter alia*, to "limit[] AIRPAC's right to solicit customers for its back-haul trip from Anchorage to Dutch Harbor." The Alaska Supreme Court ruled that the ATC's order violated AIRPAC's right to free speech because, under the *Central Hudson* test, the restrictions on AIRPAC's marketing efforts were unnecessary to further any substantial state interest. For example, the ATC's order did not relate to air safety, and "restricting an air taxi operator's right to solicit business for the flight back to its base of operations inhibits economical and efficient service." 685 P.2d 1253-54.

We have like difficulty conforming HB 169 to the *Central Hudson* test. First, expansion advertising is protected speech, in that it "concern[s] a lawful activity and...[is] not...misleading." Second, there is no "substantial state interest" apparent from the bill itself. The inclusion of promotional costs in rates to customers does not raise the involuntary participation issue that exists with respect to political activities by utilities, and therefore we doubt that the bill is motivated by any desire to protect ratepayers' rights of free speech. Compare *Homer Electric Association v. Alaska Public Utilities Commission*, 756 P.2d 874, 878 n.8 (Alaska 1988) (potential constitutional problems with requiring ratepayers to subsidize political or religious activities with which they do not agree); see also proposed AS 42.05.381(i) in Section 1 of HB 169.

Indeed, the only apparent motivation for the bill is to protect other public utilities from competition. If the sole purpose of Alaska's public utilities statutes was to preserve monopolies, an argument for the legislation might be more plausible. However, competition is not prohibited, nor even necessarily discouraged, under our public utility laws. See *Chugach Electric Association v. City of Anchorage*, 426 P.2nd 1001 (Alaska 1967).

Moreover, the final question asked by the *Central Hudson* test is whether the restriction on speech is "not more extensive than necessary" to further the statute's interest. Even to the extent that Alaska's public utility statutes are concerned with potentially unhealthy competition, AS 42.05.221(d) creates a tailored, balanced process for addressing that issue in a specific service area. With this less-intrusive means of controlling damaging competition (whenever it is, in fact, damaging), a sweeping restriction on *all* competitive speech seems especially overbroad.

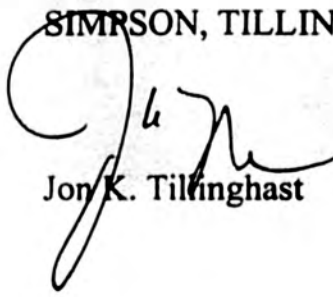
In summary, though we can't warrant that there is no conceivable justification for HB 169's constraints on protected commercial speech, none that meets the governing federal and Alaska test seems evident to us.

Mr. Don Edwards, Esq.
March 20, 2000
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If you have any further questions on this matter, please don't hesitate to ask.

Sincerely,

SIMPSON, TILLINGHAST, SORENS & LORENSEN



Jon K. Tillinghast

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(907) 278-4331**TELECOPIER**
(907) 277-8236**wsc@anchorage.com****March 27, 2000****Edward C. Willis**
22424 North Birchwood Loop, #217
Chugiak, Alaska 99567**RE: HB 169 and First Amendment Issues****Dear Mr. Willis:**

You have asked me to review HB 169, "An Act relating to including the costs of expansion activities and political activities in rates of electric cooperatives," and to specifically address the First Amendment implications of this Act in light of Mr. Tillinghast's March 20, 2000 letter to Don Edwards, the General Counsel of Chugach Electric Association. I have completed that review, and strongly disagree with Mr. Tillinghast's conclusions. The provisions in HB 169 would not infringe on the constitutional rights of electric cooperatives. To the contrary, the Bill is narrowly tailored to protect the important constitutional right of electric cooperative members and customers not to be forced to contribute to causes to which they may object.

Mr. Tillinghast's constitutional analysis rests on the "understanding" that the Bill's requirement that consumers' consent to use of their funds for an expansion activity or a political activity is substantially equal to an outright prohibition of commercial speech. This is an unjustified leap. House Bill 169 does not prohibit electric cooperatives from engaging in political or expansion activities; it merely provides that before these costs are passed through to consumers as part of electrical rates, the cooperative inform its customer/members and receive the customers' consent. The cooperative would remain free to fund expansion or political activities from its margin regardless of customer consent,¹ and from its rates to the extent that the cooperative's members do consent. Thus, the

¹In fact, an electric cooperative's use of funds that would otherwise be returned to its members as capital credits to engage in speech or other activities unrelated to its core purpose of providing electricity would appear to infringe on the constitutional rights of the members not to be compelled to contribute to speech, as discussed below. Unlike corporate shareholders, cooperative members are not free to invest elsewhere if they object to corporate spending. Nothing in this Bill, however, would prohibit cooperatives from using these funds for expressive activities

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assumption underlying Mr. Tillinghast's analysis – that the Bill effectively prohibits speech – is incorrect. The Bill does not regulate the cooperative's speech in anyway. It merely prevents cooperatives from using their rate structure to force nonconsenting customers from contributing to these activities.²

Moreover, even if, as a result of this Bill, electric cooperatives could not afford to speak as much as they otherwise would, this would not arise to a constitutional concern. The First Amendment does not guarantee any speaker unlimited resources to broadcast his or her message.

Rather than infringing on the constitutional right of cooperatives to engage in commercial speech, House Bill 169 protects the First Amendment right of cooperative members not to be compelled to contribute to speech. The United States Supreme Court has repeatedly recognized that the First Amendment protects the right not to speak and the right not to be forced to give financial support to the speech of others, as well as the right of free speech. "At the heart of the First Amendment is the notion that an individual should be free to believe as he will, and that in a free society one's beliefs should be shaped by his mind and his conscience rather than coerced by the State." *Aboud v. Detroit Board of Educ.*, 431 U.S. 209, 234-35, 97 S.Ct. 1782, 1799 (1977); *Keller v. State Bar of Cal.*, 496 U.S. 1, 110 S.Ct. 2228 (1990). Just this week, the Supreme Court confirmed that the right not to be required to contribute to the speech of others is entitled to constitutional protection. *See Board of Regents of the University of Wisconsin System v. Southworth*, 529 U.S. – (2000) (holding that mandatory contributions for student groups must be distributed in a viewpoint neutral manner).

Because utility customers are required to pay the applicable rate, which is established by the State, inclusion in those rates of expenses relating to objectionable speech raises the same constitutional concern as other forced associations. The New York Court of Appeals recognized this concern in two related cases holding that charitable contributions could not be included in a utility's rates. *See Cahill v. Public Service Comm'n*, 69 N.Y.2d 265, 513 N.Y.S.2d 656, 657, 506 N.E.2d 187, 188-89 (N.Y. 1986), *cert. denied* 484 U.S. 829, 830 108 S.Ct. 100, 101, 98 L.Ed.2d 61 (1987)) (*Cahill I*);

²In addition, Mr. Tillinghast fails to recognize that the United States Supreme Court, in discussing the free speech rights of regulated utilities, has carefully reserved the question of whether the costs of this speech can constitutionally be passed on to ratepayers. *See Consolidated Edison Co. v. Public Service Comm'n*, 447 U.S. 530, 543 & n.13, 100 S.Ct. 2326, 2336 & n. 13 (1980) (stating that because Commission did not establish that it could not exclude costs of bill inserts from the utility's rate base, Court had no occasion to address whether utilities would be prevented from passing these costs through to ratepayers), *Id.*, 447 U.S. at 544, 100 S.Ct. at 2337 (Marshall, J., concurring), *Pacific Gas & Electric Co. v. Public Utilities Comm'n*, 475 U.S. 1, 22 n.1, 106 U.S. 903, 915 n.1 (Marshall, J., concurring) (noting that nothing in opinion or plurality opinion addresses whether State may exclude cost of mailing from utility's rate base).

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and *Cahill v. Public Service Comm'n*, 76 N.Y.2d 102, 556 N.Y.S.2d 840, 556 N.E.2d 133 (N.Y. 1990) (*Cahill II*). In *Cahill I*, the Court held that the decision by the New York regulatory commission to allow public utilities to include charitable contributions in their rates constituted sufficient state action to state a claim for violation of First Amendment rights. In *Cahill II*, the Court held that the policy authorizing utilities to include charitable contributions in their rates did violate the First Amendment. Neither *Cahill* decision prevented the utilities from continuing to make charitable contributions from their profits.

The United States Supreme Court cases on forced contributions to the speech of others support the *Cahill* decisions. These cases generally require that only those expenses that 1) are germane to the purpose which justifies the forced association, 2) are justified by the government's interest in requiring the association, and 3) do not add significantly to the burden on free speech that is inherent in the association, are allowable.³ As electric cooperatives are formed and allowed to enjoy regulated monopoly status in order to provide efficient electrical service throughout the state, the cost of expressive activities that are not germane to this purpose, or which, even if arguably germane, unjustly burden the free speech rights of the ratepayers, may not be constitutionally included in rates.

Without HB 169, electric cooperatives cannot constitutionally include in their rates the costs of any expressive activities not directly related to their core function of providing electricity to their members.⁴ It would be difficult, however, for individual electric consumers to enforce their

³In *Southworth*, the Supreme Court recognized that this "germaneness" test would be unworkable in the University context, where the University seeks to stimulate all speech. The Court therefore required that money collected from students be distributed to student groups through a viewpoint neutral procedure. The Court did note, however, that "if a university decided that its students' First Amendment interests were better protected by some type of optional or refund system, it would be free to do so." This would seem to further support the legislature's adoption of a volunteer system for ratepayer contribution to cooperative speech.

⁴Alaska Statute 42.05.381(a) also prevents a utility from including certain non-germane expenses in its rates.

All rates demanded or received by a public utility . . . for a service furnished or to be furnished shall be just and reasonable, however, a rate may not include an allowance for costs of political contributions, or public relations except for reasonable amounts spent for

- (1) energy conservation efforts;
- (2) public information designed to promote more efficient use of the utility's facilities or services or to protect the physical plant of the utility;

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constitutional rights. House Bill 169 provides an efficient mechanism to protect consumer's rights, by requiring the cooperatives to obtain consumer consent before passing the costs of certain expressive activity through to consumers. Of course, nothing in HB 169 allows a utility to charge a rate that is not also in conformity with AS 42.05.381(a) or that has not been properly approved by the Regulatory Commission of Alaska. Rather than prohibiting the cooperatives' commercial speech, HB 169 simply protects consumers from being forced to fund expression without their consent.

For these reasons, I respectfully disagree with Mr. Tillinghast's opinion. House Bill 169 would not infringe on the constitutional right of electric cooperatives to speak, even if it does reduce the funds available to them to support this speech. The right of cooperative customers not to be compelled to contribute to expressive activities or causes with which they disagree is, however, implicated, and HB 169 appears narrowly tailored to protect this important constitutional right.

Very truly yours,

ASHBURN & MASON



William S Cummings

WSC

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-
- (3) informing shareholders and members of a cooperative of meetings of the utility and encouraging attendance, or
 - (4) emergency situations to the extent and under the circumstances authorized by the commission for good cause shown.



3/29/00
Utilities Restructuring Committee
Teleconference Participants

TCN: 10551

Participant Lists

View List for

☒ ALL☐ Both**Participants**Unidentified Testifiers: Unidentified Observers: **ANCHORAGE (ANC)**

1 Name: Ms. Marie Becker *AVEC* Phone: 561 7972
Address: 4831 Eagle St Affiliation: AK Village
City /St /Zip: Anchorage AK 99503 Type: Observer
Bill: PCE

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Bill: PCE

FAIRBANKS (FBX)

1 Name: Mr. George Kitchens Phone: 458-5866
Address: 758 Illinois St. Affiliation: GVEA
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Bill: PCE

KENAI (KEN)

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Bill: PCE

MATSU (MAT)

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Bill: PCE

RON ZOBEL RCA COMMISSION (OF1)

1 Name: Mr. BERNIE SMITH *and Ron Zobel, RCA Attorney* Phone:
Address: Affiliation: RCA
City /St /Zip: Type: Testifier
Bill: PCE

SITKA (SIT)

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Bill: PCE

Special Rural Community, Schools & Municipal Supplement

Focus: Rural, municipal, and school legislative issues.

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Power Cost Equalization: Tough problem, big consequences

Finding a way to sustain, for the long term, the rural Power Cost Equalization program is a tough problem that has serious consequences. There is simply no easy solution, and as much as people wish for an easy "black box" solution — new energy technologies as alternatives to diesel-generated power — the high capital cost of those make them unrealistic in many outlying Alaska communities. There appears to be the commitment in the Legislature to see the program through to the end of this fiscal year (the House included money in its fast-track supplemental budget, and the Senate seems favorably inclined toward some form of short-term funding), but there's no money for FY 2001, or for the long term.

Gov. Tony Knowles' position is clear. He wants the program extended, long-term. And despite the fiscal conservatism of the Legislature's current leadership, there seems little support among lawmakers for a flat cutoff to the payments because of the consequences. The governor is working on ideas for a long-term funding solution but so far there have been no solutions, no "breakthroughs."

If PCEs were to be just ended, utility bills for rural consumers would jump, and operating costs (and consumer charges) for new water and sewer systems being installed in many villages would increase sharply. This would jeopardize a massive state and federal investment in village clean water and sanitation. Also, many small rural utilities would simply fail, according to an analyses of the problem by the University of Alaska's Institute of Social and Economic Research.

Cost of electric power

(average, per Kilowatt Hour)

Urban Alaska:	9.5 cents
PCE communities:	42 cents

Continued on next page

How did we get into this? PCEs began in early 1980s

Continued from preceding page

Power Cost Equalization began in the early 1980s when the state Legislature established a priority on stabilizing energy costs (then rising rapidly, with oil prices) in the state, using "nonrenewable" resource income (from petroleum) to finance the needed capital expenditures for "renewable" power, of which hydro was the favored choice. Hydro was a good investment for parts of the state — coastal communities near good hydro sites, and railbelt communities which could be served through the intertie, the "railbelt" electric grid. The problem was fashioning a policy which helped the entire state. Since there was no single technological solution to help the state's many smaller, outlying communities, in 1984 the state Legislature established a subsidy program for rural utilities, Power Cost Equalization, modeled on a temporary program established in 1980.

There was a logic to it. The state had spent hundreds of millions of dollars with the "four dam pool," hydro facilities at Lake Tyee and Swan Lake in Southeast, Soloman Gulch near Valdez and Terror Lake on Kodiak Island, as well as Bradley Lake near Homer, which generates power for the utilities from the Kenai Peninsula to Fairbanks. An ambitious project to build a multi-billion dollar hydro project on the Susitna River between Anchorage and Fairbanks was also under way in the mid-1980s. It was halted by former Gov. Bill Sheffield when the project's economics began to look dubious and when oil prices turned down, but several hundreds of millions of dollars were spent on studies and feasibility work on the project.

Most of these investments were sunk costs. The state will never, for example, recoup its capital investment in the four dam pool, although five coastal utilities buying power from those facilities are repaying part of the cost. Thus, there is an ongoing subsidy to these communities. Bradley Lake is the one state hydro project which will be paid for through sales of power to railbelt utilities.

Monthly electricity use

(Kilowatt Hours)

Urban Alaska:	688 kwh/month
Rural	326kwh/month

PCE was attempt to share benefits of a statewide energy program

PCE was an attempt to share the benefits of this statewide energy program with outlying communities. Since a technological solution wasn't feasible, in most cases, (involving a capital subsidy, as in hydro) the only practical alternative seemed a cash payment to lower rural rates. The federal

Continued on next page

PCE program has undergone changes

program subsidizing high-cost rural telephone service across the nation is the closest analogy. Over the years, the PCE program has been changed. In 1993 the policy of straight general fund appropriations from the operating budget to cover PCE costs, about \$20 million per year, was ended. In its place, the Legislature established a PCE fund of about \$60 million, made an allocation of 40 percent of revenues received from the five coastal utilities buying power from the four-dam pool, and made a commitment to continue the program until 2013. It was known in 1993 that \$60 million wouldn't fund PCEs until 2013 even with 40 percent of the four-dam pool payments, but there was a hope that between that year and time the money ran out, other solution, or other funding, would be found. But it wasn't found. The fund ran out last year.

Faced with a cutoff of the PCE payments to rural utilities, in 1999 the Legislature cobbled together a patchwork scheme to fund the program for another year, and also made changes to reduce its cost. Schools (mostly state-supported REAA schools) and commercial users were excluded, so the program helped only residential users. The amount of monthly power usage to which the subsidy applied was also reduced from 700 kilowatt hours/month to 500 kWh/mo, and the "floor" (target rate for equalization) was raised from 9.5 cents to 12 cents. The effect of these changes reduced the Fiscal Year 2000 cost of the program from \$22 million to \$16 million, a \$6 million savings.

Funding sources for the one-year extension included a dedication of 60 percent of Four Dam Pool revenues (up from 40 percent), and use of lease revenues from National Petroleum Reserve - Alaska federal 1999 lease sale bonuses, the state's share of which was about \$40 million.

Cost of electric power

(average, per Kilowatt Hour)

Alakanuk:	42 cents
Akiachak	50 cents
Dillingham	22 cents
Noatak	55 cents
Nome	20cents
Anchorage	9 cents

NPR-A leasing revenues for PCEs never materialized

The flaw in this arrangement was that the NPR-A revenues never materialized. Federal law requires the state to give priority to grants to communities "impacted" by activity on NPR-A, meaning communities within the North Slope Borough near the

Continued on next page

Supplemental appropriation of \$8 million is on a fast track

Continued from previous page

NPR-A lease area. The Legislature's thinking in 1999 was that there would be some money left over after grants were made to the NSB communities, and they directed these funds as PCE program fund sources. It should have been no surprise, however, that applications for grants from the NSB and its communities outstripped the shared leasing revenues, by about \$30 million, in fact. Thus, there was no money left over, and the PCE is short of funds for its current year.

Gov. Knowles proposed that \$8 million from the annual dividend paid by the Alaska Industrial Development and Export Authority (\$26 million this year) be appropriated to complete the FY 2000 funding for PCE. This is in the governor's supplemental budget request. The state House has approved this as part of the governor's "fast track" supplemental budget bill. If the Legislature does not approve this or find some other funding source, the PCE checks will stop going out to rural utilities by the end of March.

Technology is not an easy solution

Capital costs for energy alternatives

Diesel (with fuel storage)	\$1,000 per kW
Wind/diesel combination	\$2,900 per kW
Hydroelectric (Old Harbor)*	\$5,000 per kW
Microturbines	\$3,459 per kW
Fuel Cells	\$3,000 — \$5,000 per kW

** Data from project in Old Harbor*

Source: ARECA

"USE"

POWER COST EQUALIZATION

Report and Recommendations

of the

Governor's Blue Ribbon Committee

February 1, 1999

C. Universal Service Fund

The Committee recommends that the legislature enact a universal service fund for electric utility service, similar to the universal service fund already authorized for telephone service. Funding would be provided by a monthly surcharge on all electric utility bills statewide. The proceeds of the fund would be used solely to ensure that a lifeline supply of power will be available in all established communities at a designated "lifeline rate." The Committee considered setting the lifeline rate at either 100% or 150% of the statewide average residential rate. At 100%, a lifeline supply of power would be made available at approximately 11.3 cents per kWh. At 150%, a lifeline supply would be made available at approximately 17.0 cents per kWh.

The financial implications of these alternatives are as follows:

- At 150%, the estimated cost of the lifeline program is \$14.7 million per year. With 60% of Four Dam Pool debt service providing \$6.6 million in program revenue during a typical year, the annual amount needed from the universal service fund is estimated at \$8.1 million. Based on estimated electric utility sales of 5.0 billion kWh per year statewide, the required surcharge would be about 0.16 cents per kWh. This would cost an average residential customer in the Railbelt about \$14 per year.

The \$14.7 million estimated program cost is comparable to the estimated cost of PCE given the program changes recommended above. The estimated PCE cost net of recommended changes is as follows:

\$23,000.0 Preliminary estimate – full funding of PCE in FY 2000.

- 2,600.0 Remove commercial customers from eligibility.

- 3,700.0 Cut eligible kWh (residential) from 700 per month to one-half the monthly statewide average.

- 1,000.0 Limit community facilities to public health and safety.

\$15,700.0 FY 2000 PCE cost following proposed amendments.

Spreadsheets included in Attachment 6 show the estimated annual payments to utilities under three scenarios:

- i. The "lifeline rate" program benchmarked at 17.0 cents per kWh (i.e. 150% of the statewide average residential rate).
- ii. The "lifeline rate" program benchmarked at 11.3 cents per kWh (i.e. 100% of the statewide average residential rate).
- iii. The existing PCE program.

At the 17.0 cent per kWh benchmark, the lifeline rate program would cost an estimated \$14.7 million per year. A summary spreadsheet of Option 1A (the "150% option") is included in Attachment 7.

Only one additional community would be added to the program that is not currently eligible for PCE – Glennallen. A lower benchmark rate would add more communities.

- If the lifeline rate were set at 100% of the statewide average (11.3 cents rather than 17.0 cents), the initial year program cost would be approximately \$22.9 million, \$16.3 million of which would come from the universal service fund. This would require a surcharge of about 0.32 cents per kWh on all electric utility bills statewide, and would cost an average residential consumer in the Railbelt about \$27 per year.

The "100% option" would add several communities to the list of those receiving benefits under the rate support program – communities which are not presently eligible for PCE but whose residential rates exceed 11.3 cents. One or more of these communities could be relatively large and might therefore be entitled to a relatively large payment for community facilities. (Presently, the maximum kWhs each month that can be claimed for community facilities is equal to the community population times 70.) If the 100% option were adopted, the Committee would recommend limiting the community population to 1,000 for purposes of this calculation based on the premise that the local tax base of larger communities can better support the operating costs of public facilities.

The concept of the 100% option more closely approximates the original concept of the PCE program, which was to "equalize" rural power costs with average rates in Anchorage, Fairbanks, and Juneau. In actual practice, however, PCE has not equalized rates – average rural rates for PCE-eligible usage are still about twice as

high as urban rates. A summary spreadsheet of Option 1B (the "100% option") is included in Attachment 8.

The Committee is aware of the natural resistance that will develop to any proposal that will increase rates. However, there are many precedents for cost pooling in which the benefits of lower cost enjoyed by some consumers are shared to a limited extent with those whose cost of service is higher. It occurs within any service territory that has standard rates and occurs on a larger scale within such structures as the Four Dam Pool. The Committee believes that the proposed level of surcharge, particularly at the 150% level, is an acceptable amount to ensure that a lifeline supply of power is available to all households and essential public facilities at a reasonably affordable price.

Recommendation #4 – A statewide organization or agency should be designated to establish rural utility operating standards. State support should be withheld from rural utilities unless the standards are met or are in the process of being met.

The Committee resolved that, in exchange for continuing public support of rural electricity lifeline rates, effective measures must be taken to ensure that small, single-village utilities are properly managed and that they become, as much as possible, self-reliant. This will require a combination of operating standards, assistance in meeting these standards, and enforcement of sanctions if utility management does not make satisfactory progress. An enforceable commitment to improved utility management must be part of any recommendation to continue providing public financial support.

DISCUSSION OF ALTERNATIVE OPTIONS

As noted at the outset, the Committee believes that other options to fund PCE or an alternative rate support program should also be brought to the attention of the Governor and legislature. These options are as follows:

OPTION 2

Option 2 would extend the modified PCE program through 2013, consistent with legislative intent enacted in 1993 to fund PCE for 20 years. In addition to the funding sources that all of the options have in common – the 60% share of Four Dam Pool debt service and the re-appropriation of the \$20 million Swan/Tyee intertie loan – Option 2 requires a \$75 million State general fund endowment in FY 2000 to carry the program the rest of the way. A summary spreadsheet showing Option 2 is included in Attachment 9.



**Matanuska Electric
Association, Inc.**

P.O. Box 2929
Palmer, Alaska 99645-2929
Telephone: (907) 745-3231
Fax: (907) 745-9328

FEB 4 2000

MEMO

TO: All Members, Alaska State Legislature

DATE: February 3, 2000

The Alaska Legislature and the Governor have expressed a continued interest in addressing the permanent funding of Power Cost Equalization (PCE) and in encouraging the most reliable and inexpensive power in the Railbelt. Toward those goals committees have met, agencies have debated and blue ribbon commissions have deliberated. No solution that benefits both the Railbelt and Rural Alaska has yet been offered for consideration.

→ With respect to the Railbelt, two independent studies by nationally recognized experts, Black and Veatch, International and CH2M Hill, recommended power pooling with centralized economic dispatch for the inter-connected Railbelt utilities. While the savings have been expressed as a relatively small percentage of total power costs, they represent significant sums of money due to the large quantities of energy involved. Power pooling would also spread the benefits from previous and future state or federal subsidies to consumers throughout the entire Railbelt power grid. In addition, power pooling would ease access to the market for new generation and new technology.

Matanuska Electric Association (MEA) has considered the potential benefits to the Railbelt from power pooling with centralized economic dispatch and recommends legislation to accomplish that goal. MEA also recognizes that PCE could be funded through a statewide 3 mills per kWh universal service charge adder. Collectively, the residents of the Railbelt would not pay more than they do now, but would simply be sharing some of the savings realized through greater efficiencies from power pooling with Rural Alaska.

→ Power pooling would also allow the development of a fund within the Railbelt that could provide funding for intertie and reliability enhancements. With a postage stamp rate for wholesale electricity throughout the Railbelt, improvements anywhere on the system benefit all equally, whereas today each utility jockeys for grants and subsidies to give itself an advantage. We have attached our November 30, 1999, proposal submitted to the Alaska Industrial Development and Export Authority as part of their effort to gather information to address statewide energy needs. MEA has also crafted draft legislation that could serve as a vehicle for implementing this solution to maximize efficiency in the Railbelt and provide a permanently funded PCE program.

Sincerely,

Tuckerman Babcock

Manager, Government and Strategic Affairs

Alaska State Legislature
House of Representatives
Minority Leader

Alaska State Capitol
Juneau, Alaska 99801-1182
1-888-465-4919 (toll free)
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Representative Ethan Berkowitz
District 13

House Bill 396

"An Act transferring the assets, liabilities, and responsibilities of the Alaska Municipal Bond Bank Authority and of the Alaska Student Loan Corporation to the Alaska Housing Finance Corporation; and relating to the Alaska Housing Finance Corporation."

Sponsor Statement

House Bill 396 authorizes the Alaska Housing Finance Corporation (AHFC) to "purchase" the Alaska Student Loan Corporation (ASLC) and the Alaska Municipal Bond Bank Authority (AMMBA). Consolidating three of Alaska's best performing and most valuable assets creates a more efficient entity without changing the mission of any existing agency. It also represents a step towards resolving the budget gap – the "purchase" reduces general fund expenditures and creates additional revenue.

It is important to note that this bill neither authorizes nor condones any adverse impact to the clients that are served by the affected agencies.

Estimates of the purchase price indicate that the ASLC's and AMMBA's worth is of such a magnitude that it could create a dividend or endowment fund capable of paying for recurring costs, such as Power Cost Equalization (PCE). Consequently, that recurrent cost is freed from the state's general fund and could lead to a larger AHFC dividend to the state.

There are additional benefits to this bill. Analysts expect that ASLC and AMMBA will enjoy improved bond ratings and AHFC will have increased bonding capacity. Similarly, the overlapping costs that each agency has to pay – such as attorney fees for bond counsel – can be saved.

HB 396 is a long bill but a simple one. It allows some of our best performing assets to achieve even greater performance. I would appreciate your support.

CS FOR HOUSE BILL NO. 396()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Finance

Sponsor(s): REPRESENTATIVE BERKOWITZ

A BILL

FOR AN ACT ENTITLED

1 "An Act transferring the assets, liabilities, and responsibilities of the Alaska
2 Municipal Bond Bank Authority and of the Alaska Student Loan Corporation to
3 the Alaska Housing Finance Corporation; and relating to the Alaska Housing
4 Finance Corporation."

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

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

8 PURPOSE. (a) This bill authorizes the Alaska Housing Finance Corporation to
9 purchase the Alaska Student Loan Corporation and the Alaska Municipal Bond Bank.

10 (b) Recognizing that the Alaska Student Loan Corporation and the Alaska Municipal
11 Bond Bank provide valuable benefits to the State of Alaska, it is important to emphasize that
12 the legislature intends that the functions of the Alaska Student Loan Corporation and the
13 functions of the Alaska Municipal Bond Bank shall continue to be performed.

14 (c) Proceeds from the sale of the Alaska Student Loan Corporation and the Alaska

1 Municipal Bond Bank should be used to augment the power cost equalization and rural
2 electric capitalization fund established in AS 42.45.100.

3 * Sec. 2. AS 09.38.015(c) is amended to read:

4 (c) Property of the state, a municipality, or a [AND OF THE ALASKA
5 MUNICIPAL BOND BANK AUTHORITY OR ANOTHER] state public corporation
6 is exempt.

7 * Sec. 3. AS 14.40.956 is amended to read:

8 Sec. 14.40.956. Cooperation with other authorities. In issuing a bond, the
9 corporation may request the assistance of and work with the Alaska Industrial
10 Development and Export Authority and the Alaska Housing Finance Corporation
11 [MUNICIPAL BOND BANK AUTHORITY]. The Alaska Industrial Development and
12 Export Authority may invest in and issue bonds for space-related projects of the
13 Alaska Aerospace Development Corporation. The Alaska Industrial Development and
14 Export Authority and the Alaska Housing Finance Corporation [MUNICIPAL BOND
15 BANK AUTHORITY] may purchase and market bonds of the Alaska Aerospace
16 Development Corporation.

17 * Sec. 4. AS 14.42.130(b) is amended to read:

18 (b) Public notice of a meeting of the board at which the issuance of
19 corporation bonds under AS 14.42.220 is authorized shall be provided at least 24
20 hours before the meeting.

21 * Sec. 5. AS 14.42.140 is amended to read:

22 Sec. 14.42.140. Minutes of meetings. The board shall keep minutes of each
23 meeting held to carry out its responsibilities under AS 14.42.130 - 14.42.390 and
24 send a certified copy to the governor and to the Legislative Budget and Audit
25 Committee.

26 * Sec. 6. AS 14.42.150 is amended to read:

27 Sec. 14.42.150. Administration of affairs. The board shall manage the assets
28 and business of the corporation and may adopt bylaws and regulations, in accordance
29 with AS 44.62 (Administrative Procedure Act), governing the manner in which the
30 business of the corporation under AS 14.42.130 - 14.42.390 is conducted and the
31 manner in which its powers under AS 14.42.130 - 14.42.390 are exercised. The board

1 shall delegate supervision of the administration of the corporation to the executive
2 director [OFFICER] of the corporation.

3 * Sec. 7. AS 14.42.170 is amended to read:

4 Sec. 14.42.170. Staff. The employees of the Alaska Commission on
5 Postsecondary Education shall serve as staff for the corporation in connection with
6 the exercise of its responsibilities under AS 14.42.130 - 14.42.390.

7 * Sec. 8. AS 14.42.190 is amended to read:

8 Sec. 14.42.190. Budget. The portion of the operating budget of the
9 corporation used in connection with the exercise of its responsibilities under
10 AS 14.42.130 - 14.42.390 is subject to AS 37.07 (Executive Budget Act).

11 * Sec. 9. AS 14.42.200 is amended to read:

12 Sec. 14.42.200. General powers. In addition to other powers granted under
13 AS 14.42.130 - 14.42.390 [IN THIS CHAPTER], the corporation, in the exercise of
14 its power and functions under AS 14.42.130 - 14.42.390, may

15 (1) sue and be sued in its own name;

16 (2) adopt an official seal;

17 (3) adopt regulations under AS 44.62 (Administrative Procedure Act)
18 to carry out the purposes of this chapter;

19 (4) make and execute agreements, contracts, and other instruments
20 necessary or convenient in the exercise of the powers and functions of the corporation
21 under AS 14.42.130 - 14.42.390, including contracts with a person or governmental
22 entity;

23 (5) receive, administer, and comply with the conditions and
24 requirements respecting any appropriation, gift, grant, or donation of property or
25 money;

26 (6) borrow money as provided in AS 14.42.220 [THIS CHAPTER] to
27 carry out its corporate purposes under AS 14.42.130 - 14.42.390 and issue its
28 obligations as evidence of the borrowing;

29 (7) include in a borrowing under AS 14.42.220 the amounts to pay
30 financing charges, interest on the obligations for a period not exceeding one year after
31 the date on which the corporation estimates funds will otherwise be available to pay

1 the interest, consultant, advisory, and legal fees, and other expenses necessary or
2 incident to the borrowing;

3 (8) invest or reinvest, subject to its contracts with noteholders and
4 bondholders, money held under AS 14.42.130 - 14.42.390 by the corporation as set
5 out in AS 37.10.071;

6 (9) collect from a borrower amounts owed with respect to a student
7 loan the corporation has purchased;

8 (10) gather information on student loans available to residents of
9 Alaska and disseminate the information to reasonably assure that qualified residents
10 are aware of financial resources available to those attending or desiring to attend
11 institutions for which loans may be made under AS 14.43.090 - 14.43.325, 14.43.600 -
12 14.43.700, or 14.43.710 - 14.43.750;

13 (11) service student loans held by the corporation;

14 (12) purchase or participate in the purchase of student loans;

15 (13) contract in advance for the purchase or sale of student loans;

16 (14) sell or participate in the sale, either public or private and on terms
17 authorized by the board, of student loans to the Student Loan Marketing Association
18 or to other purchasers;

19 (15) collect and pay reasonable fees and charges in connection with the
20 purchase, sale, and servicing of student loans;

21 (16) enter into agreements with the federal government, including
22 guaranty agreements and supplemental guaranty agreements as described in the United
23 States Higher Education Act of 1965, as necessary to provide for the receipt by the
24 corporation of administrative allowances and other benefits available under the United
25 States Higher Education Act of 1965;

26 (17) administer federal money allotted to the state involving insured
27 student loans and related administrative costs and other matters;

28 (18) enter into agreements with the Alaska Commission on
29 Postsecondary Education relating to student loans [, THE ADMINISTRATION OF
30 THE STUDENT LOAN FUND CREATED UNDER AS 14.42.210,] and the payment
31 of and security for bonds of the corporation issued under AS 14.42.220;

(19) to the extent permitted under contracts with bond holders, consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other terms of a student loan purchased by the corporation;

(20) procure insurance against any loss in connection with the operation of its programs under AS 14.42.130 - 14.42.390;

(21) provide advisory services to borrowers and other participants in the corporation's programs under AS 14.42.130 - 14.42.390;

(22) enter into credit facility agreements to carry out the purposes of AS 14.42.130 - 14.42.390 and make pledges, covenants, and agreements with respect to the repayment of borrowings under the credit facility agreements;

(23) do all acts necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied in AS 14.42.130 - 14.42.390 [AS 14.42.100 - 14.42.390].

* Sec. 10. AS 14.42.210(a) is amended to read:

(a) The student loan fund is established in the corporation. The [STUDENT LOAN] fund is a trust fund to be used to carry out the purposes of AS 14.42.130 - 14.42.390 [AS 14.42.100 - 14.42.390], AS 14.43.090 - 14.43.325, 14.43.600 - 14.43.700, 14.43.710 - 14.43.750, and AS 14.44.025. The fund consists of money or assets appropriated or transferred to the corporation for the fund and money or assets deposited in it by the corporation. The corporation may establish separate accounts in the fund.

* Sec. 11. AS 14.42.210(b) is amended to read:

(b) Money and other assets of the student loan fund may be used to secure bonds of the corporation issued under AS 14.42.220, invested in student loans and investments under AS 37.10.071, and used to purchase loans approved under AS 14.43.090 - 14.43.325, 14.43.600 - 14.43.700, or 14.43.710 - 14.43.750.

* Sec. 12. AS 14.42.220(f) is amended to read:

(f) The corporation may not issue bonds under this section, other than refunding bonds, during any two consecutive fiscal years in an aggregate amount greater than \$125,000,000 unless the legislature, by law, approves issuance of a greater amount.

1 * Sec. 13. AS 14.42.270 is amended to read:

2 Sec. 14.42.270. Pledge and agreement of state. The state pledges to and
3 agrees with holders of bonds issued by the former Alaska Student Loan Corporation
4 or by the Alaska Housing Finance Corporation under AS 14.42.220
5 [CORPORATION] that the state will not limit or alter the rights and powers vested in
6 the corporation under AS 14.42.130 - 14.42.390 [AS 14.42.100 - 14.42.390] to fulfill
7 the terms of a contract made by the former Alaska Student Loan Corporation or
8 by the Alaska Housing Finance Corporation under AS 14.42.220
9 [CORPORATION] with the bondholders or in any way impair the rights and remedies
10 of the bondholders until the bonds, together with the interest on them with interest on
11 unpaid installments of interest, and all costs and expenses in connection with an action
12 or proceeding by or on behalf of the bondholders, are fully met and discharged. The
13 corporation may include this pledge and agreement of the state in a contract with
14 bondholders.

15 * Sec. 14. AS 14.42.280 is amended to read:

16 Sec. 14.42.280. Exemption from taxation. The real and personal property of
17 the corporation and its assets, income, and receipts are declared to be the property of
18 a political subdivision of the state and devoted to an essential public and governmental
19 function and purpose, and the property, assets, income, receipts, and other interests of
20 the corporation are exempt from all taxes and special assessments of the state or a
21 political subdivision of the state, including municipalities, school districts, public utility
22 districts, and other governmental units. Bonds of the corporation issued under
23 AS 14.42.220 are declared to be issued by a political subdivision of the state and for
24 an essential public and governmental purpose, and the bonds, interest on them, income
25 from them, and transfer of them, and all assets, income, and receipts pledged to pay
26 or secure the payment of the bonds, or interest on them, are exempt from taxation by
27 or under the authority of the state, except for inheritance and estate taxes and taxes on
28 transfers by or in contemplation of death.

29 * Sec. 15. AS 14.42.290 is amended to read:

30 Sec. 14.42.290. Bonds legal investments for fiduciaries. The bonds of the
31 corporation issued under AS 14.42.220 are securities in which public officers and

bodies of the state, municipalities, insurance companies, insurance associations, other persons carrying on an insurance business, banks, bankers, trust companies, savings banks, savings associations, building and loan associations, investment companies, other persons carrying on a banking business, administrators, guardians, executors, trustees, other fiduciaries, and other persons who are authorized to invest in bonds or other obligations of the state [,] may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the corporation issued under AS 14.42.220 are also securities that may be deposited with and may be received by public officers and bodies of the state and municipalities for any purpose for which the deposit of bonds or other obligations of the state is not or may be authorized.

* Sec. 16. AS 14.42.300 is amended to read:

Sec. 14.42.300. Operation of certain statutes excepted. (a) In the exercise of its powers and functions under AS 14.42.130 - 14.42.390, the [THE] corporation

(1) is not a municipality as the term is defined in AS 01.10.060;

(2) except [EXCEPT] as provided in AS 14.42.190, [THE CORPORATION] is not subject to AS 37; and

(3) for [FOR] all other purposes, [THE CORPORATION] is a political subdivision and an instrumentality of the state.

(b) The funds, income, and receipts of the corporation that are obtained by it in the exercise of its powers and functions under AS 14.42.130 - 14.42.390 are not money of the state, nor may real property in which the corporation has an interest be considered land owned in fee by the state or to which the state may become entitled or in any way land belonging to the state, or state land referred to in art. VIII of the Alaska Constitution.

* Sec. 17. AS 14.42.310 is amended to read:

Sec. 14.42.310. Annual audit. The financial records of the corporation that relate to its exercise of its powers and functions under AS 14.42.130 - 14.42.390 shall be audited annually by the legislative auditor or by a certified public accountant approved by the legislative auditor. The legislative auditor may prescribe the form and content of these [THE] financial records of the corporation and shall have access to

1 these records at any time.

2 * Sec. 18. AS 14.42.390 is amended to read:

3 Sec. 14.42.390. Definitions. In AS 14.42.130 - 14.42.390 [AS 14.42.100 -
4 14.42.390],

5 (1) "board" means the board of directors of the corporation;

6 (2) "corporation" means the Alaska Housing Finance [STUDENT
7 LOAN] Corporation (AS 18.56.020).

8 * Sec. 19. AS 14.43.090(a) is amended to read:

9 (a) There is created a scholarship revolving loan fund. The fund shall be used
10 to make scholarship loans to students selected under AS 14.43.090 - 14.43.160, to pay
11 the costs of collecting scholarship loans that are in default if those costs are not
12 recovered from the student, and to pay the costs of administering the fund. Unless the
13 instrument evidencing the scholarship loan has been sold or assigned to the former
14 Alaska Student Loan Corporation or to the Alaska Housing Finance Corporation,
15 repayments of principal and interest on a scholarship loan shall be paid into the
16 scholarship revolving loan fund. If money estimated to be available is inadequate to
17 fully fund estimated scholarship loans for any fiscal year, additional funding from the
18 general fund may be requested and appropriated for that year.

19 * Sec. 20. AS 14.43.090(d) is amended to read:

20 (d) The commission may sell or assign notes and other instruments evidencing
21 scholarship loans to the Alaska Housing Finance [STUDENT LOAN] Corporation and
22 enter into agreements with the corporation relating to loans [, THE
23 ADMINISTRATION OF THE STUDENT LOAN FUND CREATED UNDER
24 AS 14.42.210,] and the payment of and security for bonds of the corporation.
25 Proceeds from the sale or assignment of notes and other instruments shall be deposited
26 in the scholarship revolving loan fund.

27 * Sec. 21. AS 14.43.120(f) is amended to read:

28 (f) Interest on a loan made under AS 14.43.090 - 14.43.160 is equal to the
29 interest rate

30 (1) paid in each year on bonds issued by the former Alaska Student
31 Loan Corporation or the Alaska Housing Finance Corporation under AS 14.42.220;

1 and

2 (2) necessary to pay the administrative cost of the student loan program
3 that is represented by the loan.

4 * Sec. 22. AS 14.43.120(r) is amended to read:

5 (r) The rate of interest, time of payment of an installment of principal or
6 interest, or other terms of a scholarship loan may be modified if required to establish
7 or maintain tax-exempt status under 26 U.S.C. 103 (Internal Revenue Code of 1986),
8 as amended, for the interest on bonds issued by the former Alaska Student Loan
9 Corporation or the Alaska Housing Finance Corporation.

10 * Sec. 23. AS 14.43.120(t) is amended to read:

11 (t) Payment of interest under (l) of this section and forgiveness under (s) of
12 this section are subject to appropriation by the legislature. Money obtained from the
13 sale of bonds by the former Alaska Student Loan Corporation or the Alaska Housing
14 Finance Corporation under AS 14.42.220 may not be appropriated for the payment
15 of interest or the forgiveness of loans.

16 * Sec. 24. AS 14.43.120(u) is amended to read:

17 (u) The commission by regulation shall set a loan origination fee, not to
18 exceed five percent of the total scholarship loan amount, to be assessed upon a
19 scholarship loan that is funded from the student loan fund of the Alaska Housing
20 Finance [STUDENT LOAN] Corporation. The loan origination fee shall be deducted
21 at the time the loan is disbursed. Subject to appropriation, the loan origination fees
22 shall be deposited into an origination fee account within the student loan fund of the
23 Alaska Housing Finance [STUDENT LOAN] Corporation, and subsequently used by
24 the corporation to offset losses incurred as a result of death, disability, default, or
25 bankruptcy of the borrower.

26 * Sec. 25. AS 14.43.255(a) is amended to read:

27 (a) There is created a memorial scholarship revolving loan fund. The fund
28 shall be used to provide educational scholarship loans to students selected under
29 AS 14.43.250 - 14.43.325. Unless the instrument evidencing the memorial scholarship
30 loan has been sold or assigned to the former Alaska Student Loan Corporation or the
31 Alaska Housing Finance Corporation, repayments of a loan shall be deposited into

the memorial scholarship revolving loan fund and shall be used to make new loans.

* Sec. 26. AS 14.43.255(c) is amended to read:

(c) The commission may sell or assign notes and other instruments evidencing memorial scholarship loans to the Alaska Housing Finance [STUDENT LOAN] Corporation and enter into agreements with the corporation relating to loans [, THE ADMINISTRATION OF THE STUDENT LOAN FUND CREATED UNDER AS 14.42.210,] and the payment of and security for bonds of the corporation. Proceeds from the sale or assignment of a note or other instrument shall be deposited in the appropriate memorial scholarship loan fund account.

* Sec. 27. AS 14.43.620 is amended to read:

Sec. 14.43.620. Teacher scholarship revolving loan fund. (a) There is created a teacher scholarship revolving loan fund. The fund shall be used to make scholarship loans to students selected under AS 14.43.600 - 14.43.700. Unless the instrument evidencing the teacher scholarship loan has been sold or assigned to the former Alaska Student Loan Corporation or the Alaska Housing Finance Corporation, repayments of principal and interest on a teacher scholarship loan shall be paid into the teacher scholarship revolving loan fund and shall be used to make new teacher scholarship loans. If estimated funds available are inadequate to fully fund estimated teacher scholarship loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

(b) The commission may sell or assign notes and other instruments evidencing teacher scholarship loans to the Alaska Housing Finance [STUDENT LOAN] Corporation and enter into agreements with the corporation relating to loans [, THE ADMINISTRATION OF THE STUDENT LOAN FUND CREATED UNDER AS 14.42.210] and the payment of and security for bonds of the corporation. Proceeds from the sale or assignment of the notes or other instruments shall be deposited in the teacher scholarship revolving loan fund.

* Sec. 28. AS 14.43.720 is amended to read:

Sec. 14.43.720. Family education loan account. (a) The family education loan account is created within the scholarship revolving loan fund (AS 14.43.090). The account shall be used to make family education loans to families selected under

AS 14.43.710 - 14.43.750, to pay the costs of collecting family education loans that are in default if those costs are not recovered from the family, and to pay the costs of administering the account. Unless the instrument evidencing the family education loan has been sold or assigned to the former Alaska Student Loan Corporation or the Alaska Housing Finance Corporation, repayments of principal and interest on family education loans shall be paid into the family education loan account. If estimated funds available from family education loan repayments are inadequate to fully fund estimated family education loans in a fiscal year, additional funding from the general fund may be requested and appropriated for that year.

(b) The commission may sell or assign notes and other instruments evidencing family education loans to the Alaska Housing Finance [STUDENT LOAN] Corporation and enter into agreements with the corporation relating to loans [, THE ADMINISTRATION OF THE STUDENT LOAN FUND CREATED UNDER AS 14.42.210,] and the payment of and security for bonds of the corporation. Proceeds from the sale or assignment of notes and other instruments shall be deposited in the family education loan account.

* Sec. 29. AS 21.76.080(b) is amended to read:

(b) An expenditure may be made from a joint insurance fund only to

(1) pay claims, losses, or benefits, including interest on them, and the administrative and adjustment expenses incurred in connection with them, involving the types of protection for which the fund provides coverage as specified in the joint insurance agreement;

(2) pay contractual obligations of a joint insurance fund established by a municipal joint insurance arrangement to the Alaska Housing Finance Corporation [MUNICIPAL BOND BANK AUTHORITY] or other lender; and

(3) purchase insurance coverage for members of a municipal joint insurance arrangement on a group basis.

* Sec. 30. AS 44.85.010 is amended to read:

Sec. 44.85.010. Legislative policy. (a) It is the policy of the state

(1) to foster and promote by all reasonable means the provision of adequate capital markets and facilities for borrowing money by municipalities in the

1 state to finance capital improvements or for other authorized purposes, to assist these
2 municipalities in fulfilling their capital needs and requirements by use of borrowed
3 money within statutory interest rate or cost of borrowing limitations, to the greatest
4 extent possible to reduce costs of borrowed money to taxpayers and residents of the
5 state, and equally to encourage continued investor interest in the purchase of bonds or
6 notes of municipalities as sound and preferred securities for investment;

7 (2) to encourage municipalities to continue their independent
8 undertakings and financing of capital improvements and other authorized purposes and
9 to assist them by making capital funds available at reduced interest costs for orderly
10 financing of capital improvements and other purposes especially during periods of
11 restricted credit or money supply, particularly for those municipalities not otherwise
12 able to borrow for capital needs;

13 (3) to assist municipalities to provide for adequate insurance coverage
14 by authorizing the Alaska Housing Finance Corporation [MUNICIPAL BOND
15 BANK AUTHORITY] to issue negotiable or nonnegotiable revenue bonds, notes, or
16 certificates of participation either directly or through an entity it may create for the
17 purpose of providing a self-insurance program for municipalities or municipal joint
18 insurance arrangements organized under AS 21.76.

19 (b) The legislature further declares that

20 (1) the exercise of the powers of the state in the interest of its
21 municipalities is required to further and implement the policies declared in (a) of this
22 section by authorizing the Alaska Housing Finance Corporation to exercise
23 [CREATION OF A STATE BOND BANK AUTHORITY AS A BODY CORPORATE
24 AND POLITIC THAT WILL HAVE] full powers to borrow money and to issue its
25 bonds and notes to make capital funds available for borrowing by municipalities and
26 by granting broad powers to the corporation to function as a bond bank authority to
27 carry out the declared policies, which are in the public interest of the state and its
28 taxpayers and residents;

29 (2) state funds should be applied or authorized to be paid to a state
30 corporation in its capacity as a bond bank authority only to provide adequate
31 assurance and security to the holders of the bonds or notes of the bond bank authority;

(3) the Alaska Housing Finance Corporation [BOND BANK AUTHORITY] should conduct its operations to provide the lowest rates in terms of borrowing to municipalities as is consistent with a self-supporting operation with no expectation of subsidization with state funds; the legislature does not intend that the bond bank authority be utilized as a means to finance municipalities beyond their capability to meet repayment schedules and debt service requirements of bonds or notes.

* Sec. 31. AS 44.85.070 is amended to read:

Sec. 44.85.070. Staff. [THE BOND BANK AUTHORITY SHALL EMPLOY AN EXECUTIVE SECRETARY WHO MAY WITH THE APPROVAL OF THE BOND BANK AUTHORITY SELECT AND EMPLOY ADDITIONAL STAFF AS NECESSARY. EMPLOYEES AND AGENTS OF THE BOND BANK AUTHORITY OTHER THAN LEGAL COUNSEL AND THE EXECUTIVE SECRETARY ARE IN THE CLASSIFIED SERVICE UNDER AS 39.25.] In addition to its staff of regular employees, the bond bank authority may contract for and engage the services of the bond counsel, consultants, experts, and financial advisors the bond bank authority considers necessary for the purpose of developing information, or conducting studies, investigations, hearings, or other proceedings.

* Sec. 32. AS 44.85.080 is amended to read:

Sec. 44.85.080. Powers of bond bank authority. The bond bank authority may

- (1) sue and be sued;
- (2) adopt and alter an official seal;
- (3) make and enforce bylaws and regulations for the conduct of its business and for the use of its services and facilities;
- (4) maintain an office at any place in the state;
- (5) acquire, hold, use, and dispose of its income, revenues, funds, and money to carry out the purposes of this chapter;
- (6) acquire, rent, lease, hold, use, and dispose of other personal property for its purposes under this chapter;
- (7) subject to AS 44.85.100(b), borrow money and issue its negotiable

1 bonds o. notes under this chapter and provide for and secure their payment, provide
2 for the rights of their holders and purchase, hold and dispose of any [OF ITS] bonds
3 or notes issued under this chapter;

4 (8) fix and revise from time to time and charge and collect fees and
5 charges for the use of its services or facilities;

6 (9) to carry out the purposes of this chapter, accept gifts or grants
7 from the United States, or from any governmental unit or person, firm, or corporation,
8 carry out the terms or provisions or make agreements with respect to the gifts or
9 grants, and do all things necessary, useful, desirable, or convenient in connection with
10 procuring, accepting, or disposing of the gifts or grants;

11 (10) do anything authorized by this chapter, through its officers, agents,
12 or employees or by contracts with a person;

13 (11) make, enter into, and enforce all contracts necessary, convenient,
14 or desirable for the purposes of the bond bank authority or pertaining to a loan to a
15 political subdivision, a purchase or sale of municipal bonds or other investments, or
16 the performance of its duties and execution of any of its powers under this chapter;

17 (12) purchase or hold municipal bonds at prices and in a manner the
18 bond bank authority considers advisable, and sell municipal bonds acquired or held by
19 it at prices without relation to cost and in a manner the bond bank authority considers
20 advisable;

21 (13) invest funds or money of the bond bank authority not required at
22 the time of investment for loan to political subdivisions for the purchase of municipal
23 bonds, in the same manner as permitted for investment of funds belonging to the state,
24 except as otherwise provided in this chapter;

25 (14) prescribe the form of application or procedure required of a
26 political subdivision for a loan or purchase of its municipal bonds, fix the terms and
27 conditions of the loan or purchase, and enter into agreements with political
28 subdivisions with respect to loans or purchases;

29 (15) render services to a political subdivision in connection with a
30 public or private sale of its municipal bonds, including advisory and other services, and
31 charge for services rendered;

1 (16) charge for its costs and services in review or consideration of a
2 proposed loan to a political subdivision or purchase by the bond bank authority of
3 municipal bonds of the political subdivision, whether or not the loan is made or the
4 municipal bonds purchased;

5 (17) fix and establish terms and provisions with respect to a purchase
6 of municipal bonds by the bond bank authority, including date and maturities of the
7 bonds, provisions as to redemption or payment before maturity, and any other matters
8 which in connection with the purchase are necessary, desirable, or advisable in the
9 judgment of the bond bank authority;

10 (18) procure insurance against any losses in connection with its
11 property, operations, or assets in amounts and from insurers as it considers desirable;

12 (19) to the extent permitted under [ITS] contracts with the holders of
13 bonds or notes issued under this chapter [OF THE BOND BANK AUTHORITY],
14 consent to modification of the rate of interest, time and payment of installment of
15 principal or interest, security or any other term of a bond or note, contract or
16 agreement of any kind to which the bond bank authority is a party;

17 (20) by regulation, create a new entity for the purpose of issuing
18 negotiable or nonnegotiable revenue bonds, notes, or certificates of participation to
19 finance a self-insurance program for municipalities or municipal joint insurance
20 arrangements organized under AS 21.76; the powers, duties, and membership of the
21 new entity shall be limited to the powers, duties, and membership of the authority and
22 stated in the regulation; the new entity shall be a public corporation and an
23 instrumentality of the state with the same legal existence and continuing succession as
24 the bond bank authority; and

25 (21) do all acts and things necessary, convenient, or desirable to carry
26 out the powers expressly granted or necessarily implied in this chapter.

27 * Sec. 33. AS 44.85.100 is amended to read:

28 Sec. 44.85.100. Annual report and audit. (a) Before October 1 of each year
29 the bond bank authority shall make a report of its activities under this chapter for the
30 preceding fiscal year to the governor and notify the legislature that the report is
31 available. The report must [SHALL] set out a complete operating and financial

1 statement covering its operations under this chapter during the year. The bond bank
2 authority must have an audit of its books and accounts kept under this chapter made
3 at least once in each year by certified public accountants. The [AND THE] cost of
4 the audit shall be considered an expense of the bond bank authority, and a copy of the
5 audit shall be filed with the commissioner of revenue and the legislature.

6 (b) The bond bank authority shall include in the report required by (a) of this
7 section an estimate of the amount of revenue bonds of the bond bank authority to be
8 issued under this chapter during the fiscal year following the fiscal year in which the
9 report is submitted. Under this chapter, the [THE] bond bank authority may not
10 issue revenue bonds, other than refunding bonds, in excess of \$50,000,000 during any
11 fiscal year beginning after June 30, 1981, unless the legislature, by law, approves the
12 estimate required by this subsection for that fiscal year.

13 * Sec. 34. AS 44.85.110 is amended to read:

14 Sec. 44.85.110. Annual budget. The bond bank authority shall prepare and
15 submit [AN ANNUAL BUDGET] under AS 37.07 (Executive Budget Act) the portion
16 of the Alaska Housing Finance Corporation budget used in connection with the
17 exercise of its responsibilities under this chapter.

18 * Sec. 35. AS 44.85.120 is amended to read:

19 Sec. 44.85.120. Care and custody of bonds. The bond bank authority, in
20 accordance with AS 36.30 (State Procurement Code), may enter into agreements or
21 contracts with a bank, trust company, banking or financial institution inside or outside
22 the state as may be necessary, desirable, or convenient, in the opinion of the bond
23 bank authority, for rendering services in connection with the care, custody, or
24 safekeeping of municipal bonds or other investments held or owned by the bond bank
25 authority under this chapter, for rendering services in connection with the payment
26 or collection of amounts payable as to principal or interest, and for rendering services
27 in connection with the delivery to the bond bank authority of municipal bonds or other
28 investments purchased by it or sold by it under this chapter, and to pay the cost of
29 those services. The bond bank authority may also, in connection with any of the
30 services to be rendered by a bank, trust company, or banking or financial institution
31 as to the custody and safekeeping of its municipal bonds or investments under this

chapter, require security in the form of collateral bonds, surety agreements, or security agreements in such form and amount as, in the opinion of the bond bank authority, is necessary or desirable.

* Sec. 36. AS 44.85.180(a) is amended to read:

(a) Subject to AS 44.85.100(b), the bond bank authority may issue its bonds or notes in principal amounts that it considers necessary to provide funds for any purposes under this chapter, including

(1) the purchase of municipal bonds;

(2) the making of loans through the purchase of municipal bonds, notes, or certificates of participation secured by an agreement between the bond bank authority and a municipality or a municipal joint insurance arrangement organized under AS 21.76;

(3) the payment, funding, or refunding of the principal of, or interest or redemption premiums on, bonds or notes issued under this chapter [BY IT] whether the bonds or notes or interest to be funded or refunded have or have not become due;

(4) the establishment or increase of reserves to secure or to pay bonds or notes or interest on bonds or notes and all other costs or expenses of the bond bank authority incident to and necessary or convenient to carry out its corporate purposes and powers under this chapter.

* Sec. 37. AS 44.85.180(b) is amended to read:

(b) Except as otherwise provided in this chapter or by the bond bank authority, every issue of bonds or notes under this chapter shall be general obligations payable out of the revenues or funds of the bond bank authority, subject only to agreements with the holders of particular bonds or notes pledging a particular revenue or fund. Bonds or notes may be additionally secured by a pledge of a grant or contributions from the United States or the state or a political subdivision or a person, firm, or corporation, or a pledge of income or revenues, funds or money of the bond bank authority from any source whatsoever.

* Sec. 38. AS 44.85.180(c) is amended to read:

(c) Notwithstanding the provisions of (a) and (b) of this section, the total

1 amount of [BOND BANK AUTHORITY] bonds and notes issued under this chapter
2 outstanding at any one time, except bonds or notes issued to fund or refund bonds or
3 notes, may not exceed \$300,000,000.

4 * Sec. 39. AS 44.85.230 is amended to read:

5 Sec. 44.85.230. Purchase and disposition of own obligations. The bond
6 bank authority may purchase bonds or notes issued under this chapter [OF THE
7 BOND BANK AUTHORITY] out of its funds or money [AVAILABLE FOR THE
8 PURCHASE OF ITS OWN BONDS AND NOTES]. The bond bank authority may
9 hold, cancel, or resell the bonds or notes subject to and in accordance with agreements
10 with holders of its bonds or notes.

11 * Sec. 40. AS 44.85.260 is amended to read:

12 Sec. 44.85.260. Presumption of validity. After issuance under this chapter,
13 all bonds or notes [OF THE BOND BANK AUTHORITY] shall be conclusively
14 presumed to be fully authorized and issued under the laws of the state, and a person
15 or a municipality is estopped from questioning their authorization, sale, issuance,
16 execution, or delivery by the bond bank authority or the former Alaska Municipal
17 Bond Bank Authority.

18 * Sec. 41. AS 44.85.270(a) is amended to read:

19 (a) The bond bank authority shall establish and maintain a special fund called
20 the "Alaska municipal bond bank authority reserve fund" in which there shall be
21 deposited or transferred

22 (1) all money appropriated by the legislature for the purpose of the
23 fund in accordance with the provisions of (g) of this section;

24 (2) all proceeds of bonds required to be deposited in the fund by terms
25 of a contract between the bond bank authority or the former Alaska Municipal Bond
26 Bank Authority and [ITS] bondholders or a resolution of the bond bank authority or
27 the former Alaska Municipal Bond Bank Authority with respect to the proceeds of
28 bonds;

29 (3) all other money appropriated by the legislature to the reserve fund;
30 and

31 (4) any other money or funds of the bond bank authority that it decides

1 to deposit in the fund.

2 * Sec. 42. AS 44.85.270(b) is amended to read:

3 (b) Subject to the provisions of (h) of this section, money in the reserve fund
4 shall be held and applied solely to the payment of the interest on and principal of
5 bonds issued under this chapter [OF THE BOND BANK AUTHORITY] as the
6 interest and principal become due and payable and for the retirement of bonds; and the
7 money may not be withdrawn if a withdrawal would reduce the amount in the reserve
8 fund to an amount less than the required debt service reserve except for payment of
9 interest then due and payable on bonds and the principal of bonds then maturing and
10 payable and for the retirement of bonds in accordance with the terms of a contract
11 between the bond bank authority or the former Alaska Municipal Bond Bank
12 Authority and [ITS] bondholders and for which payments of other money of the bond
13 bank authority is not then available. In this subsection, "required debt service reserve"
14 means, as of the date of computation, the amount required to be on deposit in the
15 reserve fund as provided by resolution of the bond bank authority or the former
16 Alaska Municipal Bond Bank Authority.

17 * Sec. 43. AS 44.85.270(f) is amended to read:

18 (f) Notwithstanding any other provision of this chapter, bonds may not be
19 issued under this chapter [BY THE BOND BANK AUTHORITY] unless there is in
20 the reserve fund the required debt service reserve for all bonds then issued and
21 outstanding and for the bonds to be issued; however, the bond bank authority may
22 satisfy this requirement by depositing as much of the proceeds of the bonds to be
23 issued, upon their issuance, as is needed to meet the required debt service reserve.
24 The bond bank authority may at any time issue its bonds or notes for the purpose of
25 increasing the amount in the reserve fund to the required debt service reserve, or to
26 meet whatever higher or additional reserve that may be fixed by the bond bank
27 authority with respect to the fund.

28 * Sec. 44. AS 44.85.270(i) is amended to read:

29 (i) All references to the "reserve fund" in this section include special accounts
30 within the reserve fund which may be created [BY THE AUTHORITY] to secure the
31 payment of particular bonds. The commissioner of revenue may lend surplus money

1 in the general fund to the bond bank authority for deposit to any account in the
2 reserve fund in an amount equal to the required debt service reserve. The loans shall
3 be made on such terms and conditions as may be agreed upon by the commissioner
4 of revenue and the bond bank authority, including, without limitation, terms and
5 conditions providing that the loans need not be repaid until the obligations of the
6 corporation secured and to be secured by the account in the reserve fund are no longer
7 outstanding.

8 * Sec. 45. AS 44.85.290 is amended to read:

9 Sec. 44.85.290. Application of funds. Money or investments in a fund or
10 account of the bond bank authority established or held for bonds, notes, indebtedness,
11 or liability to be paid, funded, or refunded by issuance of bonds or notes issued under
12 this chapter, unless the resolution authorizing the bonds or notes provides otherwise,
13 shall be applied to the payment or retirement of the bonds, notes, indebtedness or
14 liability issued or incurred under this chapter, and to no other purpose.

15 * Sec. 46. AS 44.85.310 is amended to read:

16 Sec. 44.85.310. Default in payment. If the bond bank authority defaults in
17 the payment of principal of or interest on [AN ISSUE OF] notes or bonds issued
18 under this chapter [AFTER THEY BECOME DUE], whether at maturity or upon call
19 for redemption, and the default continues for 30 days, or if the bond bank authority
20 fails or refuses to comply with this chapter or defaults in an agreement made with the
21 holders of [AN ISSUE OF] notes or bonds issued under this chapter, the holders of
22 25 percent in the aggregate principal amount of the outstanding notes or bonds of that
23 issue, by instrument filed in the office of the clerk of the district court of the first
24 judicial district and executed in the same manner as a deed to be recorded, may
25 appoint a trustee to represent the holders of those notes or bonds for the purposes
26 provided in this chapter.

27 * Sec. 47. AS 44.85.320(a) is amended to read:

28 (a) A trustee appointed under AS 44.85.310 [THIS SECTION] may, and shall
29 in the trustee's name, upon written request of the holders of 25 percent in principal
30 amount of the outstanding notes or bonds,

31 (1) by civil action enforce all rights of the noteholders or bondholders,

1 including the right to require the bond bank authority to collect rates, charges, and
2 other fees and to collect interest and amortization payments on municipal bonds and
3 notes held by it adequate to carry out an agreement as to, or pledge of, the rates,
4 charges, and other fees and of the interest and amortization payments, and to require
5 the bond bank authority to carry out any other agreements with the holders of the notes
6 or bonds and to perform its duties under this chapter;

7 (2) bring a civil action upon the notes or bonds;

8 (3) by civil action require the bond bank authority to account as if it
9 were the trustee of an express trust for the holders of the notes or bonds;

10 (4) by civil action enjoin anything that may be unlawful or in violation
11 of the rights of the holders of the notes or bonds;

12 (5) declare all the notes or bonds due and payable, and if all defaults
13 are made good, then with the consent of the holders of 25 percent of the principal
14 amount of the outstanding notes or bonds, annul the declaration and its consequences;

15 (6) the trustee, in addition to the foregoing, has all the powers
16 necessary for the exercise of functions specifically set out or incident to the general
17 representation of bondholders or noteholders in the enforcement and protection of their
18 rights.

19 * Sec. 48. AS 44.85.410(1) is amended to read:

20 (1) "bond bank authority" means the Alaska Housing Finance
21 Corporation (AS 18.56.020) in its capacity as a bond bank authority while
22 carrying out its functions under this chapter [MUNICIPAL BOND BANK
23 AUTHORITY ESTABLISHED BY AS 44.85.020];

24 * Sec. 49. AS 44.85.420 is amended to read:

25 Sec. 44.85.420. Short title. This chapter may be cited as the Alaska
26 Municipal Bond Bank Authority Act or the Alaska Municipal Bond Bank Act. [IN
27 TRANSACTIONS INVOLVING GENERAL OBLIGATION BONDS OF
28 MUNICIPALITIES, THE ALASKA MUNICIPAL BOND BANK AUTHORITY
29 CREATED BY THIS CHAPTER MAY BE REFERRED TO AS THE ALASKA
30 MUNICIPAL BOND BANK WITH THE SAME LEGAL EFFECT AS IF THE
31 REFERENCE WERE TO ALASKA MUNICIPAL BOND BANK AUTHORITY.]

1 * Sec. 50. AS 14.42.100, 14.42.110, 14.42.120, 14.42.160, 14.42.210(c); AS 39.25.110(12);
2 AS 39.50.200(b)(33); AS 44.85.020, 44.85.030, 44.85.040, 44.85.060; 44.85.410(2);
3 AS 44.99.030(a)(8), and 44.99.030(a)(13) are repealed.

4 * Sec. 51. The uncoded law of the State of Alaska is amended by adding a new section
5 to read:

6 TRANSITION. (a) The assets and liabilities of the Alaska Student Loan Corporation
7 and the Alaska Municipal Bond Bank Authority are transferred to the Alaska Housing Finance
8 Corporation on the effective date of this Act.

9 (b) Regulations of the Alaska Student Loan Corporation or the Alaska Municipal Bond
10 Bank Authority in effect on the effective date of this Act remain in effect until repealed or
11 amended by the Alaska Housing Finance Corporation. The regulations may be amended by
12 the Alaska Housing Finance Corporation any time after this Act takes effect.

13 * Sec. 52. The uncoded law of the State of Alaska is amended by adding a new section
14 to read:

15 ALASKA HOUSING FINANCE CORPORATION MAY PURCHASE CERTAIN
16 LOANS. (a) Notwithstanding any other provision of law, the Alaska Housing Finance
17 Corporation may purchase, at an appropriate discount mutually satisfactory to the board of
18 directors of the Alaska Housing Finance Corporation and the board of directors of the Alaska
19 Student Loan Corporation, the student loans that are held on the day immediately before the
20 effective date of this Act by the Alaska Student Loan Corporation. The Alaska Student Loan
21 Corporation shall deposit the full amount received under this subsection in the general fund.

22 (b) Notwithstanding any other provision of law, the Alaska Housing Finance
23 Corporation may purchase, at an appropriate discount mutually satisfactory to the board of
24 directors of the Alaska Housing Finance Corporation and the board of directors of the Alaska
25 Municipal Bond Bank Authority, the loans that are held on the day immediately before the
26 effective date of this Act by the Alaska Municipal Bond Bank Authority. The Alaska
27 Municipal Bond Bank Authority shall deposit the full amount received under this subsection
28 in the general fund.

POWER COST EQUALIZATION PROGRAM

RESTRUCTURING

The proposal is to restructure PCE so that:

- ◆ PCE is funded without Railbelt consumer subsidies
- ◆ PCE is phased out over time
- ◆ Electric systems can be rebuilt as they age
- ◆ Economic development projects can be constructed as electric systems are rebuilt.

Alaska Energy Foundation

Under this plan, the Alaska Science & Technology Foundation will be reinvented as the Alaska Energy Foundation (AEF). AEF will continue many of the ASTF missions, such as research and education. Instead of the miscellaneous projects that ASTF has funded in the past, the new AEF will focus on economical energy development projects throughout the state.

Annual earnings from the current \$100 million ASTF endowment and the 4-Dam Pool will fund this new foundation. The AEF Board will determine how to distribute the funds. These funds can be used to pay for:

- ◆ Power Cost Equalization**
- ◆ 4-Dam Pool Reinvestment**
- ◆ Electrical System Upgrades**
- ◆ Statewide Energy Projects**
- ◆ Energy Research and Development**
- ◆ Aerospace Corporation Operations & Capital**
- ◆ Science Education**

ALASKA ENERGY FOUNDATION ANNUAL FUNDING

This foundation will be funded from two sources:

1. annual earnings from the \$100,000,000 endowment, approximately \$14.5 million, and
2. annual 4-Dam Pool proceeds, approximately \$9.5 million

Total Annual Funding equals \$24 million.

PCE Reduction and Capitalization Plan

A. Reduction Plan

1. PCE payments to be reduced by \$850,000 each year (5% of \$17M); PCE to be phased out by FY 2019.
2. Lump sum payments to be made to electric utilities on May 1 and September 1 each year. The annual amount will be determined by the prior year's kilowatt usage.

This allows the utility to plan ahead. For example, electric utilities:

- ◆ will be able to purchase bulk fuel (barge deliveries) for the winter, thereby reducing their operating costs
- ◆ will have funds to perform preventative maintenance prior to winter
- ◆ will be able to plan cash flow for years in advance
- ◆ will decrease utility management and administration costs preparing monthly PCE reports and requests to DCRA and APUC

B. Capitalization Plan

- ◆ Reductions to PCE will be placed into an Electric Utility Rebuilding fund.
- ◆ 20% of 4-Dam Pool will continue to fund statewide energy projects.
- ◆ The State will be able to provide increasing funds over time, to rebuild power systems as they age.
- ◆ Federal Funds (USDA) can be leveraged to rebuild plants.
- ◆ Rebuilt plants can meet increased power demands associated with economic development projects.

Power Cost Equalization Reduction and Capitalization Plan

Reduction Plan

The amount of the reduction equals 5% annually (\$850,000).

Capitalization Plan

The amount of the PCE capitalization grows 5% annually (\$850,000).

<u>State Funds</u>		<u>State Funds</u>		<u>Federal Match</u>	<u>TOTAL</u>
<u>PCE Funding</u>	<u>PCE Capitalization</u>	<u>4-Dam Pool</u>	<u>USDA Funds</u>	<u>Capitalization</u>	
FY 99	\$ 17,000,000				
00	16,150,000	\$ 850,000	\$ 1,900,000	\$ 2,750,000	\$ 5,500,000
01	15,300,000	1,700,000	1,900,000	3,600,000	7,200,000
02	14,450,000	2,550,000	1,900,000	4,450,000	8,900,000
03	13,600,000	3,400,000	1,900,000	5,300,000	10,600,000
04	12,750,000	4,250,000	1,900,000	6,150,000	12,300,000
05	11,900,000	5,100,000	1,900,000	7,000,000	14,000,000
06	11,050,000	5,950,000	1,900,000	7,850,000	15,700,000
07	10,200,000	6,800,000	1,900,000	8,700,000	17,400,000
08	9,350,000	7,650,000	1,900,000	9,550,000	19,100,000
09	8,500,000	8,500,000	1,900,000	10,400,000	20,800,000
10	7,650,000	9,350,000	1,900,000	11,250,000	22,500,000
11	6,800,000	10,200,000	1,900,000	12,100,000	24,200,000
12	5,950,000	11,050,000	1,900,000	12,950,000	25,900,000
13	5,100,000	11,900,000	1,900,000	13,800,000	27,600,000
14	4,250,000	12,750,000	1,900,000	14,650,000	29,300,000
15	3,400,000	13,600,000	1,900,000	15,500,000	31,000,000
16	2,550,000	14,450,000	1,900,000	16,350,000	32,700,000
17	1,700,000	15,300,000	1,900,000	17,200,000	34,400,000
18	850,000	16,150,000	1,900,000	18,050,000	36,100,000
19	-	17,000,000	1,900,000	18,900,000	37,800,000
TOTALS	\$ 178,500,000	\$ 178,500,000	\$ 38,000,000	\$ 216,500,000	<u>\$ 433,000,000</u>

PROPOSED PCE FUNDING

Amount Needed:		Funding Sources		
		<u>ASTF Foundation</u>	<u>4-Dam Pool</u>	<u>Total PCE Funds</u>
FY 00	\$ 16,150,000	\$ 12,250,000	\$ 3,900,000	\$ 16,150,000
01	15,300,000	11,400,000	3,900,000	15,300,000
02	14,450,000	10,550,000	3,900,000	14,450,000
03	13,600,000	9,700,000	3,900,000	13,600,000
04	12,750,000	8,850,000	3,900,000	12,750,000
05	11,900,000	8,000,000	3,900,000	11,900,000
06	11,050,000	7,150,000	3,900,000	11,050,000
07	10,200,000	6,300,000	3,900,000	10,200,000
08	9,350,000	5,450,000	3,900,000	9,350,000
09	8,500,000	4,600,000	3,900,000	8,500,000
10	7,650,000	3,750,000	3,900,000	7,650,000
11	6,800,000	2,900,000	3,900,000	6,800,000
12	5,950,000	2,050,000	3,900,000	5,950,000
13	5,100,000	1,200,000	3,900,000	5,100,000
14	4,250,000	350,000	3,900,000	4,250,000
15	3,400,000	-	3,400,000	3,400,000
16	2,550,000	-	2,550,000	2,550,000
17	1,700,000	-	1,700,000	1,700,000
18	850,000	-	850,000	850,000
	\$ 161,500,000	\$ 94,500,000	\$ 67,000,000	\$ 161,500,000

4-Dam Pool Funds

Fy '00 Budget includes \$9,493,720 from the 4-Dam Pool. This money is split three ways:

1. 40% (\$3.8M) is placed back into the 4-Dam Pool
2. 40% (\$3.8M) is placed into PCE
3. 20% (\$1.9M) is placed into power projects.

(NO CHANGES ARE PROPOSED)

REMAINING ALASKA ENERGY FOUNDATION FUNDS

After PCE and the 4-Dam Pool Reinvestment are paid, there are remaining funds. These funds are to be distributed as determined by the AEF Board.

These funds can be used in the following example categories:

- ◆ Aerospace Operations & Capital
- ◆ Science Education
- ◆ Energy Resource Science, Research, & Development
- ◆ Electrical Generation Research & Development
- ◆ Electrical System Upgrades

Alaska Energy Foundation - Expenditures and Reinvestments

	<u>Total Annual AEF Funds</u>	<u>PCE</u>	<u>4-Dam Pool Reinvestment</u>	<u>Annual AEF Science, Education & Project Funds</u>
FY 00	\$ 24,000,000	\$ 16,150,000	\$ 3,900,000	\$ 3,950,000
01	24,000,000	15,300,000	3,900,000	4,800,000
02	24,000,000	14,450,000	3,900,000	5,650,000
03	24,000,000	13,600,000	3,900,000	6,500,000
04	24,000,000	12,750,000	3,900,000	7,350,000
05	24,000,000	11,900,000	3,900,000	8,200,000
06	24,000,000	11,050,000	3,900,000	9,050,000
07	24,000,000	10,200,000	3,900,000	9,900,000
08	24,000,000	9,350,000	3,900,000	10,750,000
09	24,000,000	8,500,000	3,900,000	11,600,000
10	24,000,000	7,650,000	3,900,000	12,450,000
11	24,000,000	6,800,000	3,900,000	13,300,000
12	24,000,000	5,950,000	3,900,000	14,150,000
13	24,000,000	5,100,000	3,900,000	15,000,000
14	24,000,000	4,250,000	3,900,000	15,850,000
15	24,000,000	3,400,000	3,900,000	16,700,000
16	24,000,000	2,550,000	3,900,000	17,550,000
17	24,000,000	1,700,000	3,900,000	18,400,000
18	24,000,000	850,000	3,900,000	19,250,000
19	24,000,000	-	3,900,000	20,100,000
	\$ 480,000,000	\$ 161,500,000	\$ 78,000,000	\$240,500,000

**Annual Reinvestment Funds For Science, Education,
and Capital Energy Projects**

	<u>Annual AEF Science, Education & Project Funds</u>	<u>Energy Projects</u>	<u>Science & Research</u>	<u>Science Education</u>
FY 00	\$ 3,950,000	\$ 1,316,667	\$ 1,316,667	\$ 1,316,667
01	4,800,000	1,600,000	1,600,000	1,600,000
02	5,650,000	1,883,333	1,883,333	1,883,333
03	6,500,000	2,166,667	2,166,667	2,166,667
04	7,350,000	2,450,000	2,450,000	2,450,000
05	8,200,000	2,733,333	2,733,333	2,733,333
06	9,050,000	3,016,667	3,000,000	3,000,000
07	9,900,000	3,900,000	3,000,000	3,000,000
08	10,750,000	4,750,000	3,000,000	3,000,000
09	11,600,000	5,600,000	3,000,000	3,000,000
10	12,450,000	6,450,000	3,000,000	3,000,000
11	13,300,000	7,300,000	3,000,000	3,000,000
12	14,150,000	8,150,000	3,000,000	3,000,000
13	15,000,000	9,000,000	3,000,000	3,000,000
14	15,850,000	9,850,000	3,000,000	3,000,000
15	16,700,000	10,700,000	3,000,000	3,000,000
16	17,550,000	11,550,000	3,000,000	3,000,000
17	18,400,000	12,400,000	3,000,000	3,000,000
18	19,250,000	13,250,000	3,000,000	3,000,000
19	20,100,000	14,100,000	3,000,000	3,000,000
	\$ 240,500,000	\$ 132,166,667	\$ 54,150,000	\$ 54,150,000

***NOTES: 1. Annual Distributions to Each Category Dependent Upon
AEF Board Actions**

**2. Depending upon the type of Energy Projects, federal match funds
are available.**

PCE Plan Results:

PCE will be funded, but not by urban taxes

PCE will gradually fade away

Electric Systems will be upgraded, so Alaskans won't be faced with paying many millions to rebuild broken down systems in the future

Economic development can occur when power systems are capable of increased loads.

Costs to oversee the current PCE program will be reduced in DCRA and APUC.