

LEG. FINANCE - BILLS 1983 - 1984 2048
SB 168 - CSSB 168 2048

58168

Passes To Testify

Ernie Hayden
Thomas Bayliss

Don Koenigs
Hayes of Progress

Jack Shay
Hayes of America

Lin Wilson
Engineer

Robert Campbell
Attorney

Rich Underkoff
Programming Manager

30 Minutes



*City of Petersburg
P. O. Box 929
Petersburg, Alaska 99833*

MAY 17 1983

May 11, 1983

Senators Don Bennett and John Sackett
Co-Chairman - Senate Finance Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

SUBJECT: Senate Bill No. 168: "An Act relating to the Alaska Power Authority; and providing for an effective date."

Gentlemen:

The City of Petersburg wishes to offer comments on Senate Bill No. 168 and the underlying enabling act of the Alaska Power Authority (Chapter 44.83 of the Alaska Statutes).

Petersburg is an intended purchaser of wholesale power from the Tyee Lake Hydroelectric Project, scheduled for completion in early 1984. However, we cannot enter into a power purchase agreement under terms and conditions currently mandated by laws governing the Alaska Power Authority. The problem the City is facing is due in part to the expense of the project and in part to our inability to establish reasonable and predictable rates for future project electricity.

When the Tyee project was initially proposed, we expected that its power cost would be substantially lower than diesel power. The low cost hydro power was expected to effect an immediate reduction in the City's power cost and to control subsequent affects of inflation on retail electric rates.

But present estimates of the wholesale rate for Tyee power indicate that retail rates will increase considerably as a result of connection to the Tyee supply. In fact, Tyee power will be the most expensive of any project currently in the system established by the energy program for Alaska as a result of state legislation adopted last year (House Bill 9). In real numbers, it is proposed that Petersburg and Wrangell would have to pay wholesale rates of 15.64c/kWh in 1986 escalating to 19.37c/kWh in 2001.

For purposes of comparison to current rates, in FY 82 the average retail cost of energy for Petersburg consumers was 13.1¢/kWh. Of this amount, 6.0¢ was attributable to direct costs of generation; 3.4¢ to direct distribution costs; 1.5¢ to debt service costs; and 2.2¢ to administrative and general overhead expenditures. Our cost records also show that direct generation costs from our hydro plant amounted to 0.8¢/kWh, and that from diesel generation averaged 10.9¢/kWh.

The economics of the Tyee Project are favorable over the long term when Petersburg will have to augment its existing generating resources to meet increased demand for electric power. Over the early years, however, the Tyee power is much more expensive than alternative energy sources available to the City's customers.

The other major part of the problem with existing law governing the energy program for Alaska is our inability to identify and control future costs of operation, maintenance and debt service.

- 1) APA's initial estimate for operation, maintenance and inspection on the Tyee Project is \$1,412,000. We think the local utilities should have some control over and accountability for these on going expenditures. We also think that we could locally operate and maintain the project in compliance with industry standards, but in a less expensive manner. (Petersburg has owned and operated a hydroelectric project since 1926.)

The Thomas Bay Power Commission is a joint operating agency that was established in 1976 by Wrangell and Petersburg to manage and control hydroelectric projects in our area. But it appears the commission would not qualify to operate and maintain the project pursuant to a strict interpretation of language in 44.83.425(5).

- 2) Implementation of the "Susitna Black Mail Clause" AS 44.83.398(b)(2) would increase Tyee's wholesale power rate to annually generate ten percent of the amount the State has invested in the project. The State has an investment of \$79,480,000 in Tyee -- wholesale rates would increase by an additional 18.4¢/kWh to generate this sort of a return for the State.

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- 3) A third area of uncertainty has been termed the "system increment problem". All wholesale power rates of projects on the system would be unilaterally increased whenever the legislature decides to add a new project to the system which has more debt financing than the average for other projects in the system.

This feature of the law represents a potentially unlimited "deep pocket" (our consumers) to pay debt service on yet to be identified projects developed by the authority under its system approach.

The staff of the Alaska Power Authority is fully aware of these problems. APA staff has suggested that we should initiate new legislation if we have alternative ideas to the approaches available under the existing statutory framework.

We do have recommendations for amending Chapter 44.83 of the Alaska Statutes beyond and to a certain extent, in a different fashion than that proposed by SB 168. We trust the manner of correcting these problems with the Board of the Alaska Power Authority, Governor Sheffield and our legislators.

We recommend that the system approach be abandoned in favor of a project-by-project approach for financing the power projects developed under the energy program for Alaska. If SB 168 is passed and approved during the current session of the legislature without some other changes to AS 44.83 we may be permanently "locked in" to a system approach due to long term commitments made in the bond sale.

Please consider the following statutory amendments during the current session of the legislature.

- 1) Sale of Lake Tree Project. The simplest way to control operating and maintenance expenditures and limit liability for debt service is to allow local utilities to purchase the projects developed under the energy program for Alaska. Since purchase of the project would be quite expensive, we must look to the State for an equity contribution and protection against high installment purchase payments in the early years. We propose the addition of a new section to AS 44.83 to read:

Sec. 44.83.399 Sale of a Power Project. (a) The authority may sell a power project that is acquired or constructed as a part of the energy program for Alaska to a qualified utility.

(b) When the authority sells a power project, it shall establish a schedule of equal annual payments that, unless the purchasing utility agrees to a different schedule, establishes as the purchase price for the power project an amount not to exceed the principal amount of bonds issued and loans made for the power project, requires payment of the purchase price over a term of not less than thirty (30) years and imposes interest on the unpaid balance of the purchase price at an annual rate not to exceed the average net effective interest rates on the bonds issued for the power project.

(c) Notwithstanding (b) of this section, a purchasing utility shall be protected against high installment payments in the first twenty (20) years of a purchase agreement. Annual payments of both principal and interest the utility must pay toward the purchase price of the power project shall be limited to an amount that does not exceed the product of multiplying 8¢/kWh, increased on each anniversary date of the purchase contract by 2.68%, times the output of the power project during the year for which the calculation is being made and subtracting from that product the costs of operating and maintaining the power project during the same year.

(A question may arise relating to why we are recommending a limitation of 8¢/kWh, escalated by 2.68% per year. A principal cause of the high Tyee power rates, as initially estimated by the APA staff, is attributable to the low utilization, or plant factor, of the Tyee project. Petersburg and Wrangell have been encouraged to develop a market for the uncommitted surplus potential of Tyee, as a means of reducing the unit cost of power. Our analysis of this marketing endeavor has concluded that 8¢/kWh is the limitation necessary to compete with alternative energy sources.)

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2) Complementary Amendments. The following amendments should be made to resolve ambiguities and make the foregoing section compatible with the remainder of AS 44.83:

a) AS 44.83.396(a) should be amended to read:

(a) A power project that is acquired or constructed as part of the energy program for Alaska is owned (BY THE STATE) and shall be administered by the authority, unless the power project is sold to a qualified utility, in which case the power project shall be owned and administered by the purchasing utility.

b) AS 44.83.425(5) should be amended to read:

(5) "qualified utility" means an electric utility owned by a public agency or any combination joint operating agency established as an instrumentality of public agencies to manage and control electric generation, transmission or distribution systems that is certified by the Alaska Public Utilities Commission to serve all or part of a market area that is served or will be served by the power project, and that the authority determines is capable of operating and maintaining the power project.

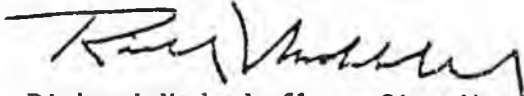
(The definition of a "qualified utility" is recommended for revision to enable the Thomas Bay Power Commission to own, manage, operate and maintain the project.)

In summary, the City of Petersburg wishes to go on record in support of Senate Bill No. 168. We likewise hope that you will favorably consider suggested amendments to the Alaska Power Authority Act as described in this letter.

Thanks for your consideration. Should you require additional information or personal testimony on these subjects, please don't hesitate to call me at (907) 772-4511. Best wishes for a successful legislative session.

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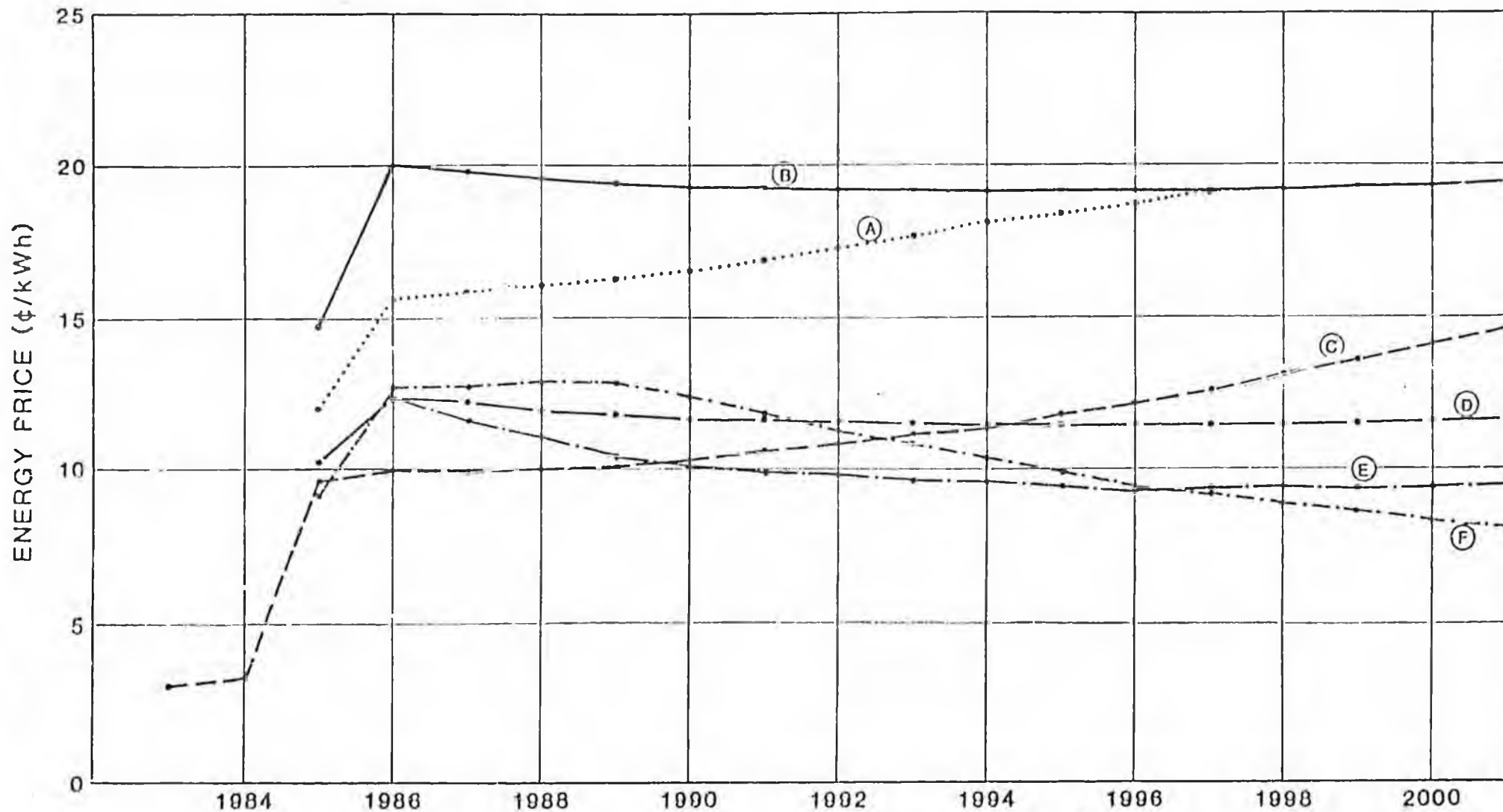
Respectfully submitted,



Richard Underkofler, City Manager
City of Petersburg

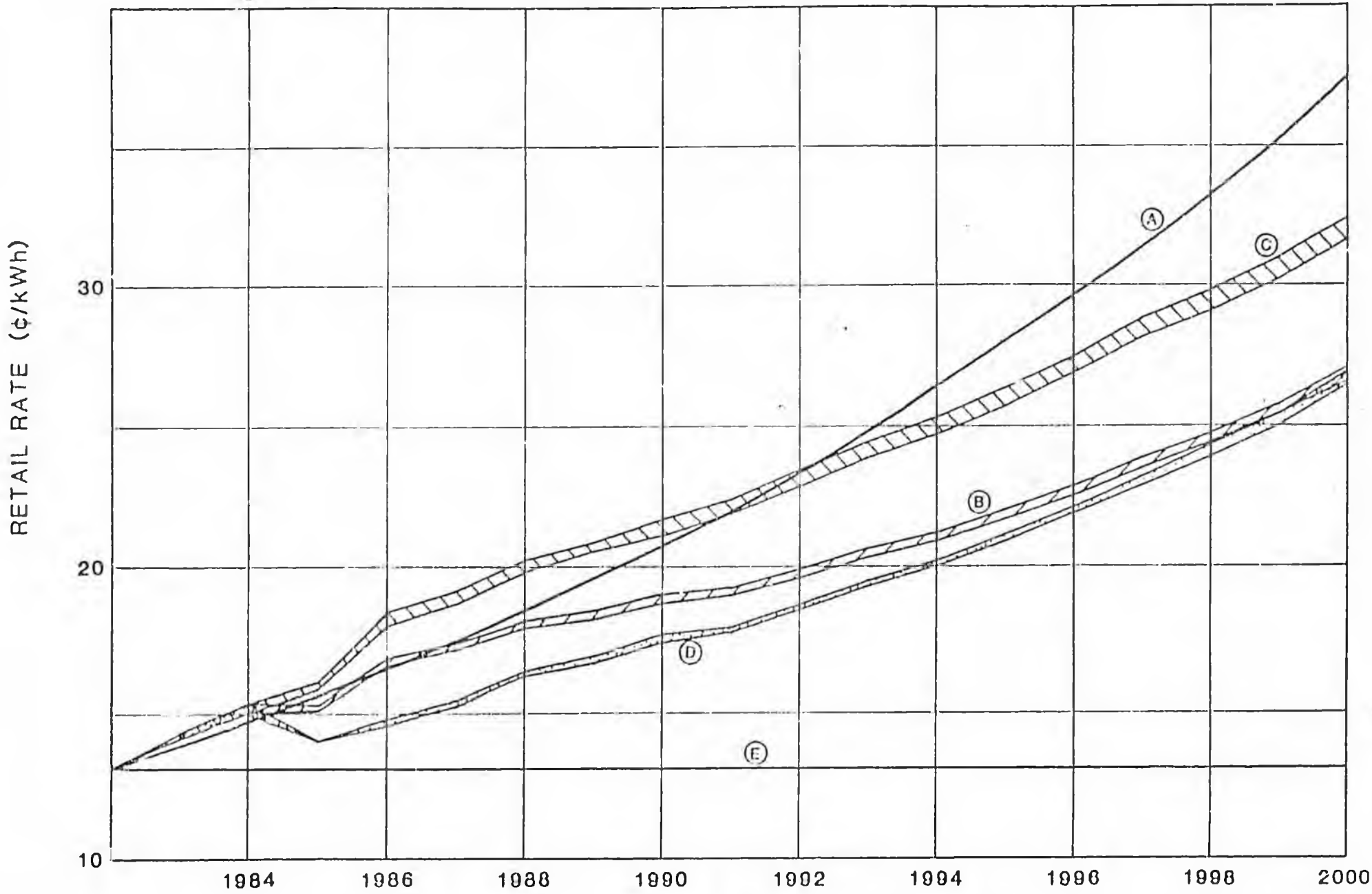
cc: Petersburg City Council
Governor Bill Sheffield
Senator Robert H. Ziegler
Representative Ron Wendt
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Manager, City of Ketchikan
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Manager, City of Valdez
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- LEGEND
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| (A) | TYEE LAKE | (D) | 'POSTAGE STAMP' RATE (WITHOUT HB 9) |
| (B) | TYEE LAKE W/O D/S CAP | (E) | TERROR LAKE |
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APA WHOLESALe ENERGY PRICES
WITH AND WITHOUT HB 9 PROVISIONS

- LEGEND
- (A) 13.1 ¢ (FY 82) ESCALATED AT 8% P.A.
 - (B) TYEE POWER AT 'POSTAGE STAMP' RATE (PRE 110 0)
 - (C) TYEE POWER AT RATE ESTIMATED BY APA (MARCH 1983)
 - (D) TYEE POWER AT 8¢/kWh ESCALATED AT 2.00%/YEAR
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EFFECT OF TYEE POWER PRICES ON PETERSBURG RETAIL RATES



*City of Petersburg
P. O. Box 529
Petersburg, Alaska 99833*

MAY 17 1983

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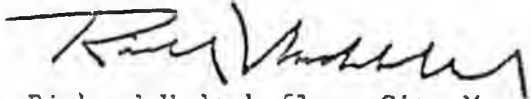
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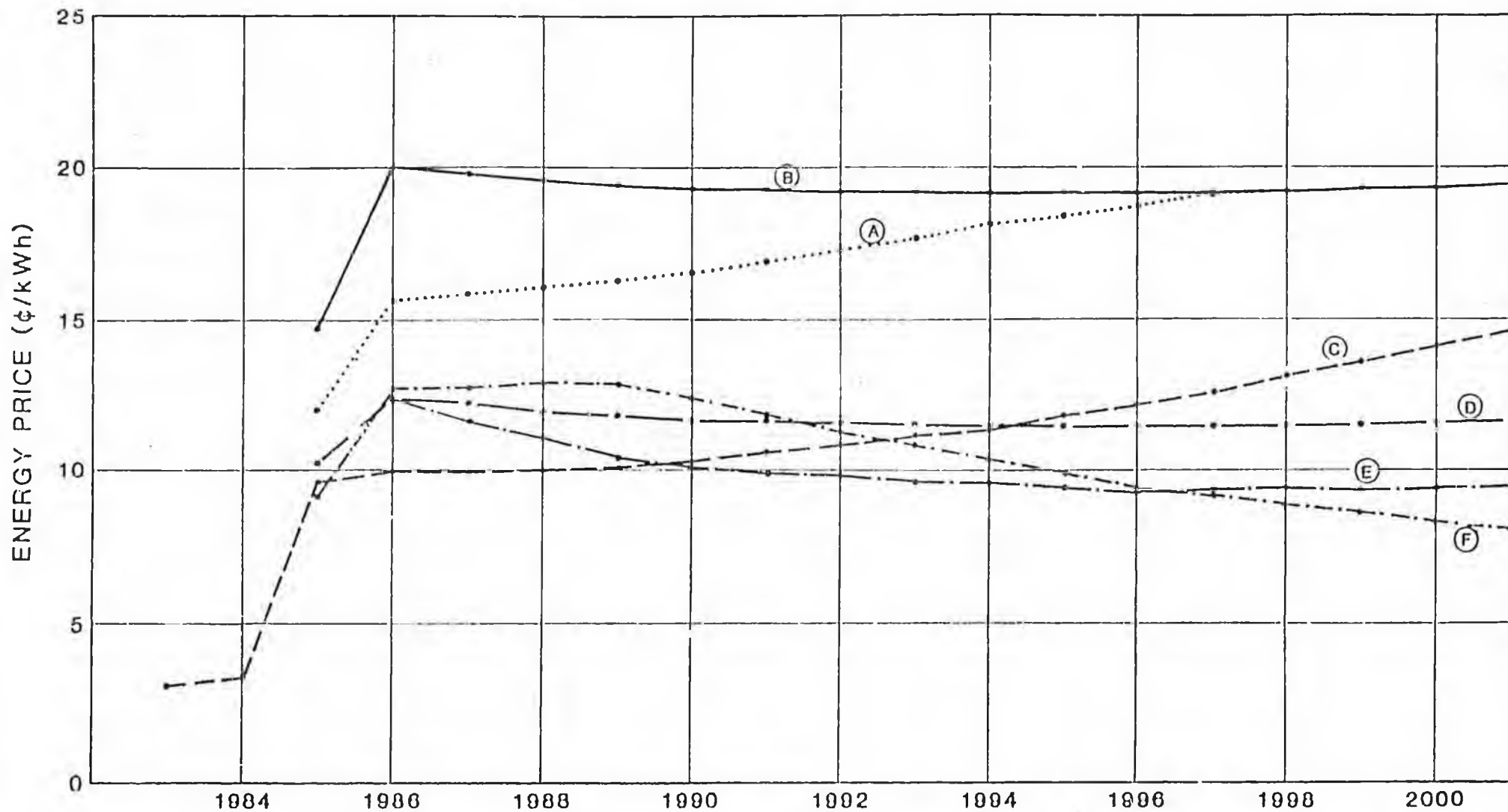
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Richard Underkofler, City Manager
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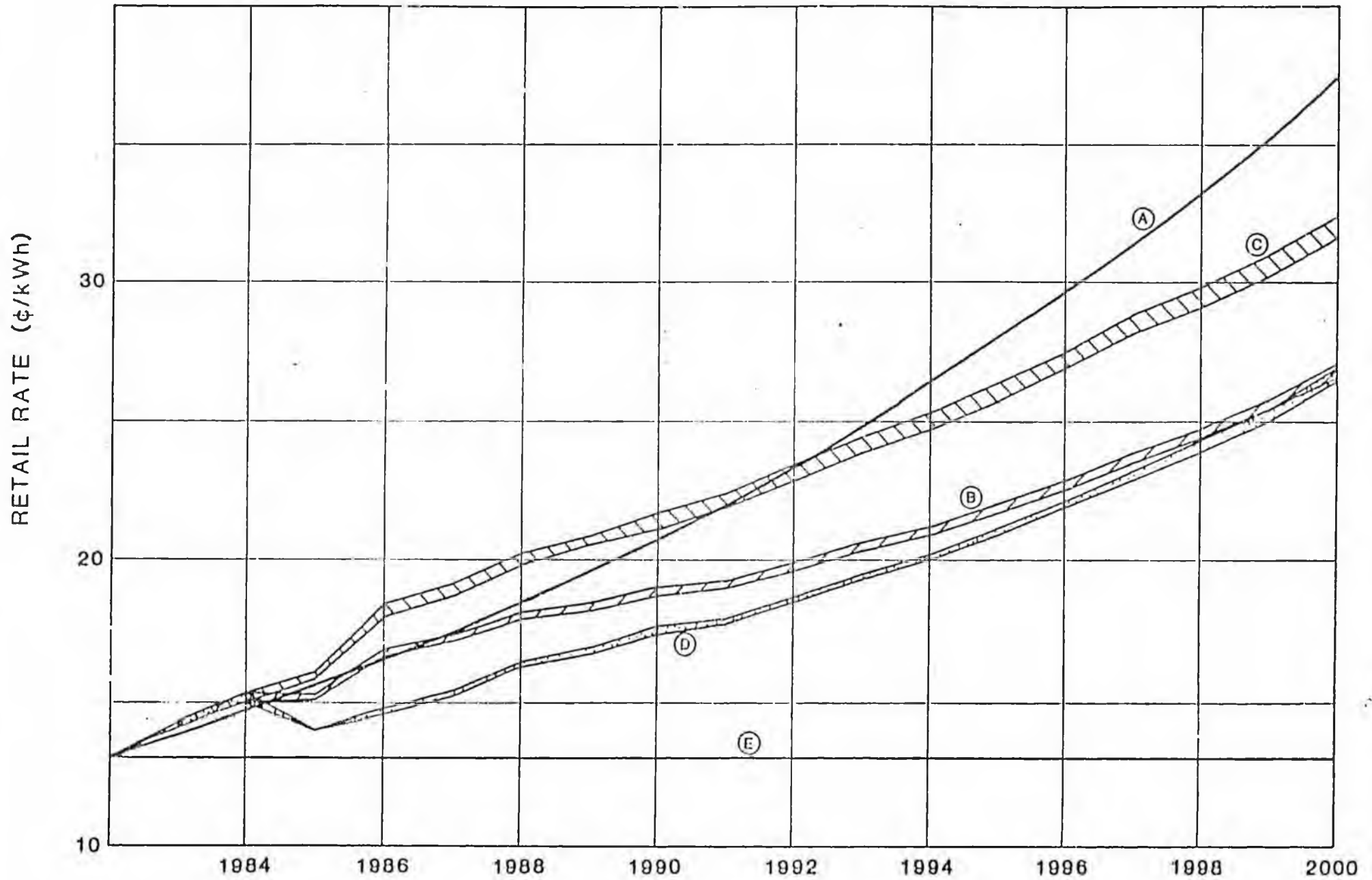
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EFFECT OF TYEE POWER PRICES ON PETERSBURG RETAIL RATES

COMMITTEE REPORT
SENATE

FURTHER:

4/20/83

Date: 4-20-83

Mr. President:

The Committee on FINANCE has had 100

Report on the Alaska Tax - Authority of the State.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

Offered: 4/27/83
Referred: State Affairs

Original sponsor: Rules/Governor

1 IN THE SENATE
2 CS FOR SENATE BILL NO. 168 ^{Finance} ~~(Resources)~~ BY THE RESOURCES COMMITTEE
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the Alaska Power Authority; and
7 providing for an effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 44.83.040 is amended to read:
10 Sec. 44.83.040. OFFICERS; MEETINGS; [AND] QUORUM. The directors
11 shall elect one of their number as chairman and may elect other offi-
12 cers they determine desirable. The powers of the authority are vested
13 in the directors, and four directors of the authority constitute a
14 quorum. Action may be taken and motions and resolutions adopted by
15 the authority at a meeting by the affirmative vote of a majority of
16 the [AT LEAST THREE] directors present. The directors of the authori-
17 ty serve without compensation, but they shall receive the same travel
18 pay and per diem as provided by law for board members.
19 * Sec. 2. AS 44.83.040 is amended by adding new subsections to read:
20 (b) The board may meet and transact business by an electronic
21 medium if
22 (1) public notice of the time and locations where the meet-
23 ing will be held by an electronic medium has been given in the same
24 manner as if the meeting were held in a single location;
25 (2) participants and members of the public in attendance
26 can hear and have the same right to participate in the meeting as if
27 the meeting were conducted in person; and
28 (3) copies of pertinent reference materials, statutes, reg-
29 ulations, and audio-visual materials are reasonably available to

1 participants and to the public.

2 (c) A meeting by an electronic medium as provided in this sec-
3 tion has the same legal effect as a meeting in person.

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

18 * Sec. 3. AS 44.83.105 is amended to read:

19 Sec. 44.83.105. BONDS FOR POWER PROJECTS UNDER THE ENERGY PRO-
20 GRAM FOR ALASKA. The authority may [SHALL] borrow money and [SHALL]
21 issue its bonds for the acquisition or construction of power projects
22 to be acquired or constructed under the energy program for Alaska.
23 The [ON WHICH THE] principal of and interest on the bonds are payable
24 from money derived from the sale of wholesale power from power proj-
25 ects financed under AS 44.83.380 - 44.83.425 from the power develop-
26 ment fund or from a source referred to in AS 44.83.100 as the author-
27 ity determines. The bonds may be issued if

28 (1) appropriations to the power development fund for the
29 power project are insufficient to cover the cost of acquiring or

1 constructing the power project; and

2 (2) the authority determines that the amount of interest
3 the authority will pay on its bonds is not more than alternative costs
4 of securing money from other sources, except for the general fund, to
5 pay for the acquisition or construction of the power project.

6 * Sec. 4. AS 44.83.110(b) is amended to read:

7 (b) Notwithstanding any other provisions of this chapter, the
8 trust indenture, trust agreement, secured loan agreement, or other
9 instrument or the resolution constituting a contract with bondholders
10 shall contain a covenant by the authority that it will at all times
11 maintain rates, fees or charges sufficient to pay, and that a contract
12 entered into by the authority for the sale, transmission or distribu-
13 tion of power shall contain rates, fees or charges sufficient to pay
14 the costs of operation and maintenance of the project, the principal
15 of and interest on bonds issued under the trust agreement as the same
16 severally become due and payable, to provide for debt service coverage
17 as considered necessary by the authority for the marketing of its
18 bonds and to provide for renewals, replacements and improvements of
19 the project, and to maintain reserves required by the terms of the
20 trust agreement. This subsection does not require a covenant that
21 varies from a covenant entered into in accordance with the provisions
22 of AS 44.83.380 - 44.83.425.

23 * Sec. 5. AS 44.83.120 is amended to read:

24 Sec. 44.83.120. VALIDITY OF PLEDGE. It is the intention of the
25 legislature that a pledge made in respect of bonds is considered
26 perfected and is [SHALL BE] valid and binding from the time the pledge
27 is made; that the money or property so pledged and thereafter received
28 by the authority shall immediately be subject to the lien of the
29 pledge without physical delivery or further act; and that the lien of

1 the pledge shall be valid and binding as against all parties having
2 claims of any kind in tort, contract or otherwise against the authori-
3 ty irrespective of whether the parties have notice. Neither the
4 resolution, trust agreement nor any other instrument by which a pledge
5 is created need be recorded or filed under the provisions of the
6 Uniform Commercial Code to be perfected or to be valid, binding or
7 effective against the parties.

8 * Sec. 6. AS 44.83.185(a) is amended to read:

9 (a) The authority shall submit a feasibility study and plan of
10 finance, including a cost estimate from an independent source, for a
11 proposed new project to the legislature. When the report of the divi-
12 sion of budget and management examining the feasibility study and plan
13 of finance is completed as required by AS 44.83.183, it shall be sub-
14 mitted to the legislature.

15 * Sec. 7. AS 44.83.195(a) is amended to read:

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

22 * Sec. 8. AS 44.83.361(a)(2) is amended to read:

23 (2) principal [AND INTEREST] payments on loans made under
24 this section.

25 * Sec. 9. AS 44.83.361(c) is amended to read:

26 (c) A loan from the rural electrification revolving loan fund
27 shall bear an annual rate of interest of two percent of the unpaid
28 balance of the loan. Interest received on a loan made under this sec-
29 tion must be transferred monthly to the commissioner of revenue for

1 deposit in the general fund.

2 * Sec. 10. AS 44.83.361(d)(2)(B) is amended to read:

3 (B) payments on the unpaid balance of the principal of
4 the loan for each consumer served by the electric service
5 extended with the loan proceeds [DURING THE PRECEDING YEAR FOR
6 WHICH THE LOAN WAS MADE]; payments on the unpaid balance of the
7 principal of the loan shall be made at a rate equal to the dif-
8 ference between the actual cost of making the service connection
9 to the consumers and the minimum investment per consumer required
10 of the utility before a loan is made under (b) of this section.

11 * Sec. 11. AS 44.83.361 is amended by adding new subsections to read:

12 (f) In this section,

13 (1) "consumer" means a person, as defined in AS 01.10.-
14 060(7), or a governmental agency, if the person or governmental agency
15 requests and offers to pay for electrical service to a facility or
16 part of a facility; the authority shall consider a person who, or a
17 governmental agency that, offers to pay for electrical service to
18 several facilities to be a separate consumer for each facility, if
19 each facility is physically separate from another facility, other than
20 through electric service lines, and if the person or governmental
21 agency requests and offers to pay for electrical service to each
22 facility;

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

25 (3) "governmental agency" includes, with respect to the
26 state or federal government or a municipal government, a legislative
27 body, board of regents, administrative body, board, commission, com-
28 mittee, subcommittee, authority, council, agency, public corporation,
29 school board, department, division, bureau, or other subordinate unit,

1 whether advisory or otherwise, of the state, federal, or municipal
2 government.

3 * Sec. 12. AS 44.83.384(b)(1) is amended to read:

4 (1) is economically feasible [MEETS THE REVENUE REQUIRE-
5 MENTS OF AS 44.83.394]; and

6 * Sec. 13. AS 44.83.384(c) is amended to read:

7 (c) Notwithstanding (b)(1) of this section and AS 44.83.396 -
8 44.83.398 [AS 44.83.394 - 44.83.398], the fund may be used by the
9 authority to provide money for the cost of a power project that is or
10 was either constructed or [AND] owned by the United States government
11 if the requirements of this subsection are met. The provisions of
12 AS 44.83.177 - 44.83.187 do not apply to a power project financed
13 under this subsection. The authority may use money in the fund for
14 the cost of a power project under this subsection if

15 (1) the legislature enacts a law approving the project;

16 (2) the division of budget and management in the Office of
17 the Governor reviews a feasibility study and a plan of finance for the
18 project and determines that the feasibility study complies with the
19 requirements for a feasibility study submitted under AS 44.83.181(b)
20 and that the plan of finance complies with the requirements for a plan
21 of finance submitted under AS 44.83.181(c); and

22 (3) the project meets the other requirements of this chap-
23 ter.

24 * Sec. 14. AS 44.83.386 is amended to read:

25 Sec. 44.83.386. INVESTMENT OF FUND. The Department of Revenue
26 shall invest the money in the fund in accordance with AS 37.10.070 and
27 37.10.075. The Department of Revenue shall provide money in the fund
28 to the authority only after costs have been [A COST FOR A PROJECT IS]
29 incurred or amounts in the fund have been otherwise obligated under

1 contracts for the acquisition and construction of a project. Amounts
2 that have been obligated, but for which costs have not yet been incur-
3 red, may be segregated by the Department of Revenue or transferred to
4 the authority only with the prior approval or agreement of the commis-
5 sioner of revenue. Interest received on money that is segregated or
6 transferred under this section must be deposited in the general fund.

7 * Sec. 15. AS 44.83.396(a) is amended to read:

8 (a) A power project that is acquired or constructed as part of
9 the energy program for Alaska is owned, [BY THE STATE] and shall be
10 administered, by the authority.

11 * Sec. 16. AS 44.83.396(c) is amended to read:

12 (c) The authority shall enter into a contract or lease under
13 reasonable terms and conditions to permit the applicant utility to
14 operate the power project when the applicant utility is the only
15 wholesale power customer to be served directly by the power project
16 unless the authority determines a utility making application for a
17 contract or lease to operate a power project is not a qualified util-
18 ity or is not capable of operating that power project efficiently and
19 in a manner that is consistent with national standards for the indus-
20 try and with agreements with bondholders.

21 * Sec. 17. AS 44.83.396(e) is amended to read:

22 (e) When the authority permits a power project to be operated by
23 a qualified utility under a contract or lease, the authority shall

24 (1) review and approve the annual budget for the operation
25 and maintenance of the power project; and

26 (2) assure that the project is being operated efficiently
27 and in a manner that is consistent with national standards for the
28 industry and agreements with bondholders.

29 * Sec. 18. AS 44.83.398(c) is amended to read:

1 (c) The authority shall transmit all the money that it receives
2 under (a) of this section to the commissioner of revenue for deposit
3 in the state general fund except for money it has pledged or otherwise
4 covenanted to secure bonds [IN ACCORDANCE WITH CONTRACTS WITH BOND-
5 HOLDERS].

6 * Sec. 19. AS 44.83.398(e) is repealed and reenacted to read:

7 (e) After determining the wholesale power rate for a power proj-
8 ect under the provisions of this section, the authority may adjust the
9 rate or change the rate provisions to insure that the revenue derived
10 from that power project and the aggregate revenues of the authority
11 will be adequate to comply with rate covenants and other agreements
12 contained in any trust indenture or trust agreement entered into by
13 the authority for the security of the holders of bonds issued to
14 finance the power project.

15 * Sec. 20. AS 44.83.398(g) is amended to read: *delete & add Amend #1*
that is attached

16 (g) For the purposes of (b)(1)(B) [AND (b)(2)(B)(ii)] of this
17 section, a power project's proportionate share of debt service on
18 state loans and bonds for all power projects in the energy program for
19 Alaska is equal to the state's investment in the power project divided
20 by the state's investment in all power projects in the energy program
21 for Alaska and multiplied by the debt service on state loans and bonds
22 for all power projects in the energy program for Alaska. In this
23 subsection

24 (1) "state's investment in the power project" includes all
25 state money invested in a power project, including loans, grants, and
26 proceeds from bonds, less the principal repayments on the project's
27 proportionate share of debt service on state loans and bonds;

28 (2) "state's investment in all power projects in the energy
29 program for Alaska" includes all state money invested in the power

1 projects, other than interties, in the energy program for Alaska,
2 including loans, grants, and proceeds from bonds, less the principal
3 repayments on bonds and state loans issued for the power projects.

4 * Sec. 21. AS 44.83.398(h) is amended to read:

5 (h) Notwithstanding (g) of this section, in the 1983 state fis-
6 cal year the proportionate share of debt service under (b) of this
7 section, expressed as a rate, for a power project for which a con-
8 struction contract has been awarded before the effective date of this
9 Act may not exceed the average debt service component of the wholesale
10 power rate for all power projects in the energy program for Alaska.
11 The limit imposed by this subsection shall be increased in the 1984
12 state fiscal year to four percent above the average debt service com-
13 ponent of the wholesale power rate for all power projects in the
14 energy program for Alaska and by an additional four percent above that
15 average in each succeeding state fiscal year. If application of this
16 subsection results in the production of insufficient revenue to pay
17 the total debt service for all projects in the energy program for
18 Alaska, a project that does not have its share of debt service limited
19 under this subsection shall be subject to a rate in addition to the
20 rate established under (b) of this section. The additional rate is
21 the rate that the authority estimates is necessary to produce revenue
22 that is sufficient to pay the difference between the total debt ser-
23 vice for all projects in the energy program for Alaska and the revenue
24 actually produced to pay that debt service, multiplied by a fraction
25 whose numerator is the total cost of the project and whose denominator
26 is the total cost of all of the projects that are subject to the
27 additional rate. In this subsection, "projects in the energy program
28 for Alaska" does not include an intertie that is authorized as a
29 separate project as described in (f) of this section.

1 * Sec. 22. AS 44.83.425(2) is amended to read:
2 (2) "debt service" means the amounts covenanted with re-
3 spec to, or pledged to pay, bonds under a trust agreement securing
4 [CASH FLOW NECESSARY TO SECURE] bonds;
5 * Sec. 23. AS 44.83.186, 44.83.195(b), 44.83.382(b)(2), ^{44.83.394} 44.83.394 and
6 ~~44.83.398(b)(2)~~ are repealed.
7 * Sec. 24. This Act takes effect immediately in accordance with AS 01.-
8 10.070(c).

Proposed Amendments to CSSB168 (Resources)

Amendment No. 1

Sec. 20 is repealed and reenacted to read:

New Sec. 20 —

AS44.83.398(b)(2) is amended to read:

(2) If, by July, (1986), ¹⁹⁹⁰~~1993~~, the legislature has not appropriated at least (\$5,000,000,000) \$3,500,000,000 to the fund, in addition to appropriations to the fund of interest earned on money in the fund, the authority shall, beginning on that date, establish and maintain a separate wholesale power rate applicable to each power project that is acquired or constructed under the energy program for Alaska. The wholesale power rate shall be computed by the authority annually, or more frequently as may be necessary, and shall be the greater of

(A) 10 percent of the amount the authority has invested in the power project, including loans and grants made by the state; or

(B) the rate that the authority estimates is necessary to produce revenue sufficient to pay

(i) operation, maintenance, and equipment replacement costs of the power project;

(ii) the power project's proportionate share of debt service on state loans and bonds for all power projects in the energy program for Alaska, determined in accordance with (g) of this section; and

(iii) safety inspections and investigations of the power project by the authority.

CS SB 168 (Finance)
Letter of Intent

The Legislature, in enacting legislation establishing the Energy Program for Alaska, expressed its desire to provide the lowest reasonable power costs to consumers. To further achieve that end, it is the intent of the Legislature to take appropriate action to enhance the Alaska Power Authority's ability to obtain long-term bond financing at the lowest possible cost.

The Legislature requests the Power Authority to fully explore and study the desirability and implications of allowing the Alaska Power Authority to sell a power project to a qualified utility and report its findings and recommendations to the Second Session of the Thirteenth Legislature. The study should address both short-term and long-term impacts of the proposal on the individual projects, as well as on the overall Energy Program for Alaska.

To facilitate consummation of the power sale agreements and to preclude new project service area energy rates from exceeding the existing energy rates in the early years of the new project(s), the Legislature requests the Power Authority to study the problem expeditiously and recommend solutions to the Second Session of the Thirteenth Legislature. The solutions proposed should consider the use of state equalization grants or loans.

The Legislature also requests the Power Authority to examine the impact of the current restriction which prohibits utilities that purchase power from a Power Authority project to set lower rates for industrial consumers than the rates charged residential consumers.

It is the further intent of the Legislature that the Power Authority consider extending its short term debt which is currently outstanding until the Legislature has had an opportunity to address all of these issues next year.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 9, 1983

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Power Authority. This bill contains several amendments to AS 44.83 which would facilitate the issuance of long term revenue bonds by the authority. It also includes several amendments intended to resolve existing ambiguities in the law. It does not alter the role of the Alaska Power Authority in state government. The effect of each section of the bill is as follows:

Section 1 -- Amends AS 44.83.040(a) to require an affirmative vote of a majority of the members present to approve board action.

Section 2 -- This section permits meetings by electronic media under carefully prescribed conditions. This permission has been given to the Alaska Industrial Development Authority and the Alaska Housing Finance Corporation and has been found to be very valuable given the distance and weather problems for meetings in Alaska. Subsection (d) requires that a director must abstain from voting and disclose the reason for abstention if a conflict of interests exists.

Section 3 -- This section makes it permissive rather than mandatory that the authority issue bonds for the energy program and provides that those bonds may be paid off from the general sources specified. Paragraph (2) already requires that the authority determine as a precondition to issuing bonds that alternative sources of money would be more expensive. Clarifying amendments are also included in this section.



Section 4 -- This amendment would ensure that the rate covenant required for bonding is not inconsistent with the rate required under the energy program for Alaska. AS 44.83.380 -- 44.83.425.

Section 5 -- This is a technical amendment to conform to Uniform Commercial Code language. (AS 45.09)

Section 6 -- This amendment ensures that a feasibility study of a proposed project will include an independent cost estimate.

Section 7 -- This amendment makes clear which sections of the statutes govern power sales agreements, and requires the power authority to enter into power sales contracts for energy transmission as well as (under existing law) production.

Sections 8 and 9 -- These amendments provide that interest received by the APA on loans for rural electrification will be deposited in the general fund. This will settle the claim in a pending lawsuit (Trustees for Alaska v. State, 3AN-82-492 CIV) that the present statute authorizing deposit of that interest in the rural electrification fund violates the constitutional prohibition of dedicated funds. Alaska Const. art. IX, sec. 7.

Sections 10 and 11 -- These sections clarify unclear or ambiguous provisions of the rural electrification revolving loan fund program.

Section 12 -- This amendment will ensure that a power project owned by the United States on which the corporation spends money need not continue to be owned by the United States in order for the expenditures to be valid.

Section 13 -- This amendment will enable the authority to ensure bondholders that money which has been appropriated to supplement bond proceeds financing a project may be segregated by the commissioner of revenue or transferred to the authority before costs are incurred. Interest earned on this money would accrue to the general fund. This provision is critical to the marketability of APA revenue bonds.

Section 14 -- This amendment deletes an ambiguous rate-of-return analysis for project feasibility, and retains "economic feasibility" as the test.

Section 15 -- This amendment makes clear that the authority, which is an entity of the state, owns projects which it acquires or constructs. This is necessary to assure the authority's ability to pledge its receipts from projects to secure bonds.

Section 16 -- This amendment gives standards for the authority's determination of whether a utility is qualified to operate a power project of the authority.

Sections 17 and 18 -- These amendments would ensure that the operation of projects and the handling of project revenues are consistent with agreements with bondholders.

Section 19 -- This amendment does not alter the wholesale power rate prescribed by law but permits the APA to make adjustments only as necessary in order to comply with bonding agreements.

Section 20 -- This is a technical clarification.

Section 21 -- This section amends the definition of "debt service" to include amounts covenanted or pledged to pay bonds. The present language, "the cash flow necessary to secure bonds," could be narrowly construed to prevent the retention of sufficient money to adequately secure bond obligations.

Section 22 -- This section repeals the following sections:

(1) AS 44.83.195(b), requiring rate reduction at the expiration of contracts, is repealed because such a reduction would conflict with the pooling-of-costs concept embodied in the energy program for Alaska.

(2) AS 44.83.382(b)(2), stating what the power development fund includes, is repealed because power sales receipts must initially go into the general fund (and only then be appropriated) unless those receipts are pledged to a particular debt service fund.

(3) AS 44.83.398(b)(2), the portion of the wholesale power rate provision which makes future rates contingent on the appropriation of \$5,000,000,000 to the power development fund before July 1, 1986, is repealed because it injects into rate making an uncertainty which impedes both the APA and local utilities in planning for the cost of power to be generated by APA projects. Repeal of this

section will moot the claim in a pending lawsuit that AS 44.83.398(b)(2) is unconstitutional. Trustees of Alaska v. State, No. 3AN-82-492 CIV.

Section ~~23~~²⁴ -- This section provides for an immediate effective date.

Sincerely,



Bill Sheffield
Governor

STATE OF ALASKA
FINAL STATEMENT OF FISCAL IMPACT

Bill No: _____ Date on Bill: _____
 Title: "An Act relating to the Alaska Power Authority; and providing for
 Sponsor: Rules Committee by request of the Governor
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			0	0	0			

b. Revenues:

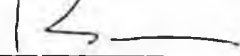
Revenue								
---------	--	--	--	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. This statement has been reviewed by the OMB in the Office of the Governor. It may be considered to represent the policy of the Sheffield Administration and the final estimate of fiscal impact.

Prepared By: Eric Yo'ld, Executive Director Phone: 277-7641
 Division: Alaska Power Authority Date: _____

Approved by Commissioner: Richard A. Lyon  Date: _____
 Department: Commerce and Economic Development

Reviewed by OMB:  Date: 3/3/82
 Phone: 465-3568

5. Distribution:
- Original to Legislative Finance
 - Copy to Department
 - Copy to Sponsor
 - Copy to Requestor

COMMITTEE REPORT
SENATE

*File
SB 168*

FURTHER:

4/27/83

Date: _____

Mr. President:

The Committee on STATE AFFAIRS has had SB 168

Relating to the Alaska Power Authority; eff. date.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 9, 1983

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Power Authority. This bill contains several amendments to AS 44.83 which would facilitate the issuance of long term revenue bonds by the authority. It also includes several amendments intended to resolve existing ambiguities in the law. It does not alter the role of the Alaska Power Authority in state government. The effect of each section of the bill is as follows:

Section 1 -- Amends AS 44.83.040(a) to require an affirmative vote of a majority of the members present to approve board action.

Section 2 -- This section permits meetings by electronic media under carefully prescribed conditions. This permission has been given to the Alaska Industrial Development Authority and the Alaska Housing Finance Corporation and has been found to be very valuable given the distance and weather problems for meetings in Alaska. Subsection (d) requires that a director must abstain from voting and disclose the reason for abstention if a conflict of interests exists.

Section 3 -- This section makes it permissive rather than mandatory that the authority issue bonds for the energy program and provides that those bonds may be paid off from the general sources specified. Paragraph (2) already requires that the authority determine as a precondition to issuing bonds that alternative sources of money would be more expensive. Clarifying amendments are also included in this section.

Section 4 -- This amendment would ensure that the rate covenant required for bonding is not inconsistent with the rate required under the energy program for Alaska. AS 44.83.380 -- 44.83.425.

Section 5 -- This is a technical amendment to conform to Uniform Commercial Code language. (AS 45.09)

Section 6 -- This amendment ensures that a feasibility study of a proposed project will include an independent cost estimate.

Section 7 -- This amendment makes clear which sections of the statutes govern power sales agreements, and requires the power authority to enter into power sales contracts for energy transmission as well as (under existing law) production.

Sections 8 and 9 -- These amendments provide that interest received by the APA on loans for rural electrification will be deposited in the general fund. This will settle the claim in a pending lawsuit (Trustees for Alaska v. State, 3AN-82-492 CIV) that the present statute authorizing deposit of that interest in the rural electrification fund violates the constitutional prohibition of dedicated funds. Alaska Const. art. IX, sec. 7.

Sections 10 and 11 -- These sections clarify unclear or ambiguous provisions of the rural electrification revolving loan fund program.

Section 12 -- This amendment will ensure that a power project owned by the United States on which the corporation spends money need not continue to be owned by the United States in order for the expenditures to be valid.

Section 13 -- This amendment will enable the authority to ensure bondholders that money which has been appropriated to supplement bond proceeds financing a project may be segregated by the commissioner of revenue or transferred to the authority before costs are incurred. Interest earned on this money would accrue to the general fund. This provision is critical to the marketability of APA revenue bonds.

Section 14 -- This amendment deletes an ambiguous rate-of-return analysis for project feasibility, and retains "economic feasibility" as the test.

Section 15 -- This amendment makes clear that the authority, which is an entity of the state, owns projects which it acquires or constructs. This is necessary to assure the authority's ability to pledge its receipts from projects to secure bonds.

Section 16 -- This amendment gives standards for the authority's determination of whether a utility is qualified to operate a power project of the authority.

Sections 17 and 18 -- These amendments would ensure that the operation of projects and the handling of project revenues are consistent with agreements with bondholders.

Section 19 -- This amendment does not alter the wholesale power rate prescribed by law but permits the APA to make adjustments only as necessary in order to comply with bonding agreements.

Section 20 -- This is a technical clarification.

Section 21 -- This section amends the definition of "debt service" to include amounts covenanted or pledged to pay bonds. The present language, "the cash flow necessary to secure bonds," could be narrowly construed to prevent the retention of sufficient money to adequately secure bond obligations.

Section 22 -- This section repeals the following sections:

(1) AS 44.83.195(b), requiring rate reduction at the expiration of contracts, is repealed because such a reduction would conflict with the pooling-of-costs concept embodied in the energy program for Alaska.

(2) AS 44.83.382(b)(2), stating what the power development fund includes, is repealed because power sales receipts must initially go into the general fund (and only then be appropriated) unless those receipts are pledged to a particular debt service fund.

(3) AS 44.83.398(b)(2), the portion of the wholesale power rate provision which makes future rates contingent on the appropriation of \$5,000,000,000 to the power development fund before July 1, 1986, is repealed because it injects into rate making an uncertainty which impedes both the APA and local utilities in planning for the cost of power to be generated by APA projects. Repeal of this

section will moot the claim in a pending lawsuit that AS 44.83.398(b)(2) is unconstitutional. Trustees of Alaska v. State, No. 3AN-82-492 CIV.

Section 23 -- This section provides for an immediate effective date.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield
Governor

Introduced: 3/9/83
Referred: Resources, State Affairs
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 168

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the Alaska Power Authority; and
7 providing for an effective date."

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

9 * Section 1. AS 44.83.040 is amended to read:

10 Sec. 44.83.040. OFFICERS; MEETINGS; [AND] QUORUM. The directors
11 shall elect one of their number as chairman and may elect other offi-
12 cers they determine desirable. The powers of the authority are vested
13 in the directors, and four directors of the authority constitute a
14 quorum. Action may be taken and motions and resolutions adopted by
15 the authority at a meeting by the affirmative vote of a majority of
16 the [AT LEAST THREE] directors present. The directors of the authori-
17 ty serve without compensation, but they shall receive the same travel
18 pay and per diem as provided by law for board members.

19 * Sec. 2. AS 44.83.040 is amended by adding new subsections to read:

20 (b) The board may meet and transact business by an electronic
21 medium if

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

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

28 (3) copies of pertinent reference materials, statutes, reg-
29 ulations, and audio-visual materials are reasonably available to

1 participants and to the public.

2 (c) A meeting by an electronic medium as provided in this sec-
3 tion has the same legal effect as a meeting in person.

4 (d) A director of the authority may not vote on a resolution of
5 the authority relating to a lease or contract to be entered into by
6 the authority under this chapter if the director is a party to the
7 lease or contract or has a direct ownership or equity interest in a
8 firm, partnership, corporation, or association that is a party to the
9 contract or lease. When abstaining from voting, the director must
10 disclose the reason for the abstention. A resolution of the authority
11 that is approved by a majority of the directors present who are not
12 barred from voting under this subsection is a valid action of the
13 authority for all purposes.

14 * Sec. 3. AS 44.83.105 is amended to read:

15 Sec. 44.83.105. BONDS FOR POWER PROJECTS UNDER THE ENERGY PRO-
16 GRAM FOR ALASKA. The authority may [SHALL] borrow money and [SHALL]
17 issue its bonds for the acquisition or construction of power projects
18 to be acquired or constructed under the energy program for Alaska.
19 The [ON WHICH THE] principal of and interest on the bonds are payable
20 from money derived from the sale of wholesale power from power proj-
21 ects financed under AS 44.83.380 -- 44.83.425 from the power develop-
22 ment fund or from a source referred to in AS 44.83.100 as the author-
23 ity determines. The bonds may be issued if

24 (1) appropriations to the power development fund for the
25 power project are insufficient to cover the cost of acquiring or con-
26 structing the power project; and

27 (2) the authority determines that the amount of interest
28 the authority will pay on its bonds is not more than alternative costs
29 of securing money from other sources, except for the general fund, to

1 pay for the acquisition or construction of the power project.

2 * Sec. 4. AS 44.83.110(b) is amended to read:

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

19 * Sec. 5. AS 44.83.120 is amended to read:

20 Sec. 44.83.120. VALIDITY OF PLEDGE. It is the intention of the
21 legislature that a pledge made in respect of bonds is considered
22 perfected and is [SHALL BE] valid and binding from the time the pledge
23 is made; that the money or property so pledged and thereafter received
24 by the authority shall immediately be subject to the lien of the
25 pledge without physical delivery or further act; and that the lien of
26 the pledge shall be valid and binding as against all parties having
27 claims of any kind in tort, contract or otherwise against the authori-
28 ty irrespective of whether the parties have notice. Neither the
29 resolution, trust agreement nor any other instrument by which a pledge

1 is created need be recorded or filed under the provisions of the
2 Uniform Commercial Code to be perfected or to be valid, binding or
3 effective against the parties.

4 * Sec. 6. AS 44.83.185(a) is amended to read:

5 (a) The authority shall submit a feasibility study and plan of
6 finance, including a cost estimate from an independent source, for a
7 proposed new project to the legislature. When the report of the divi-
8 sion of budget and management examining the feasibility study and plan
9 of finance is completed as required by AS 44.83.183, it shall be sub-
10 mitted to the legislature.

11 * Sec. 7. AS 44.83.195(a) is amended to read:

12 (a) When a project is operated by the authority, the authority
13 shall enter into one or more contracts for the sale of electrical
14 power or energy or transmission capacity or service from the project.
15 Unless the contract is entered into under AS 44.83.380 -- 44.83.425, a
16 [A] contract entered into under this section shall meet all require-
17 ments of AS 44.83.090.

18 * Sec. 8. AS 44.83.361(a)(2) is amended to read:

19 (2) principal [AND INTEREST] payments on loans made under
20 this section.

21 * Sec. 9. AS 44.83.361(c) is amended to read:

22 (c) A loan from the rural electrification revolving loan fund
23 shall bear an annual rate of interest of two percent of the unpaid
24 balance of the loan. Interest received on a loan made under this sec-
25 tion must be transferred monthly to the commissioner of revenue for
26 deposit in the general fund.

27 * Sec. 10. AS 44.83.361(d)(2)(B) is amended to read:

28 (B) payments on the unpaid balance of the principal of
29 the loan for each new consumer served by the electric service

1 extended with the loan proceeds [DURING THE PRECEDING YEAR FOR
2 WHICH THE LOAN WAS MADE]; payments on the unpaid balance of the
3 principal of the loan shall be made at a rate equal to the dif-
4 ference between the actual cost of making the service connection
5 to the consumers and the minimum investment per consumer required
6 of the utility before a loan is made under (b) of this section.

7 * Sec. 11. AS 44.83.361 is amended by adding new subsections to read:

8 (f) In this section, "consumer" means a person, as defined in
9 AS 01.10.060(7), or a governmental agency if the person or government-
10 al agency requests and offers to pay for electrical service to a fa-
11 cility or part of a facility. The authority shall consider a person
12 or governmental agency which offers to pay for electrical service to
13 several facilities to be a separate consumer, as defined in this sec-
14 tion, for each facility if each facility is physically separate from
15 another facility, other than through electric service lines, and if
16 the person or governmental agency requests and offers to pay for elec-
17 trical service to each facility.

18 (g) In (f) of this section,

19 (1) "facility" means a structure capable of receiving and
20 using electrical energy;

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

28 * Sec. 12. AS 44.83.384(c) is amended to read:

29 (c) Notwithstanding (b)(1) of this section and AS 44.83.394 --

1 44.83.398, the fund may be used by the authority to provide money for
2 the cost of a power project that is or was either constructed or [AND]
3 owned by the United States government if the requirements of this sub-
4 section are met. The provisions of AS 44.83.177 -- 44.83.187 do not
5 apply to a power project financed under this subsection. The author-
6 ity may use money in the fund for the cost of a power project under
7 this subsection if

8 (1) the legislature enacts a law approving the project;

9 (2) the division of budget and management in the Office of
10 the Governor reviews a feasibility study and a plan of finance for the
11 project and determines that the feasibility study complies with the
12 requirements for a feasibility study submitted under AS 44.83.181(b)
13 and that the plan of finance complies with the requirements for a plan
14 of finance submitted under AS 44.83.181(c); and

15 (3) the project meets the other requirements of this chap-
16 ter.

17 * Sec. 13. AS 44.83.386 is amended to read:

18 Sec. 44.83.386. INVESTMENT OF FUND. The Department of Revenue
19 shall invest the money in the fund in accordance with AS 37.10.070 and
20 37.10.075. The Department of Revenue shall provide money in the fund
21 to the authority only after costs have been [A COST FOR A PROJECT IS]
22 incurred or amounts in the fund have been otherwise obligated under
23 contracts for the acquisition and construction of a project. Amounts
24 which have been obligated, but for which costs have not yet been
25 incurred, may be segregated by the Department of Revenue or trans-
26 ferred to the authority only with prior approval or agreement of the
27 commissioner of revenue. Interest received on money which is segre-
28 gated or transferred under this section must be deposited in the
29 general fund.

1 * Sec. 14. AS 44.83.394 is amended to read:

2 Sec. 44.83.394. REVENUE REQUIREMENTS. The authority may not use
3 money in the fund for a power project except in compliance with
4 AS 44.83.177 -- 44.83.187, and unless the authority determines that
5 the power project is economically feasible [AND THAT, AFTER CONSTRUC-
6 TION, OPERATION OF THE POWER PROJECT WILL BE ABLE TO PROVIDE REVENUE
7 SUFFICIENT TO RETURN ANNUALLY TO THE STATE FIVE PERCENT OF THE AMOUNT
8 THAT THE AUTHORITY HAS SPENT FROM THE FUND FOR THE POWER PROJECT].

9 * Sec. 15. AS 44.83.396(a) is amended to read:

10 (a) A power project that is acquired or constructed as part of
11 the energy program for Alaska is owned, [BY THE STATE] and shall be
12 administered, by the authority.

13 * Sec. 16. AS 44.83.396(c) is amended to read:

14 (c) The authority shall enter into a contract or lease under
15 reasonable terms and conditions to permit the applicant utility to
16 operate the power project when the applicant utility is the only
17 wholesale power customer to be served directly by the power project
18 unless the authority determines a utility making application for a
19 contract or lease to operate a power project is not a qualified util-
20 ity or is not capable of operating that power project efficiently and
21 in a manner that is consistent with national standards for the indus-
22 try and agreements with bondholders.

23 * Sec. 17. AS 44.83.396(e) is amended to read:

24 (e) When the authority permits a power project to be operated by
25 a qualified utility under a contract or lease, the authority shall

26 (1) review and approve the annual budget for the operation
27 and maintenance of the power project; and

28 (2) assure that the project is being operated efficiently
29 an' in a manner that is consistent with national standards for the

1 industry and agreements with bondholders.

2 * Sec. 18. AS 44.83.398(c) is amended to read:

3 (c) The authority shall transmit all the money that it receives
4 under (a) of this section to the commissioner of revenue for deposit
5 in the state general fund except for money it has pledged to secure
6 bonds or covenanted otherwise in order to secure bonds [IN ACCORDANCE
7 WITH CONTRACTS WITH BONDHOLDERS].

8 * Sec. 19. AS 44.83.398(e) is repealed and reenacted to read:

9 (e) After determining the wholesale power rate for a power proj-
10 ect in the manner otherwise provided by this section, the authority
11 may adjust the rate or change the rate provisions if necessary so that
12 the revenue derived from that power project and the aggregate revenues
13 of the authority will at all times be adequate to comply with the rate
14 covenants and other agreements contained in any trust indenture or
15 trust agreement entered into by the authority for the security of the
16 holders of bonds issued to finance power projects under the energy
17 program for Alaska.

18 * Sec. 20. AS 44.83.398(h) is amended to read:

19 (h) Notwithstanding (g) of this section, in the 1983 state fis-
20 cal year the proportionate share of debt service under (b) of this
21 section, expressed as a rate, for a power project for which a con-
22 struction contract has been awarded before the effective date of this
23 Act may not exceed the average debt service component of the wholesale
24 power rate for all power projects in the energy program for Alaska.
25 The limit imposed by this subsection shall be increased in the 1984
26 state fiscal year to four percent above the average debt service com-
27 ponent of the wholesale power rate for all power projects in the
28 energy program for Alaska and by an additional four percent above that
29 average in each succeeding state fiscal year. If application of this

1 subsection results in the production of insufficient revenue to pay
2 the total debt service for all projects in the energy program for
3 Alaska, a project that does not have its share of debt service limited
4 under this subsection shall be subject to a rate in addition to the
5 rate established under (b) of this section. The additional rate is
6 the rate that the authority estimates is necessary to produce revenue
7 that is sufficient to pay the difference between the total debt ser-
8 vice for all projects in the energy program for Alaska and the revenue
9 actually produced to pay that debt service, multiplied by a fraction
10 whose numerator is the total cost of the project and whose denominator
11 is the total cost of all of the projects that are subject to the
12 additional rate. In this subsection, "projects in the energy program
13 for Alaska" does not include an intertie that is authorized as a
14 separate project as described in (f) of this section.

15 * Sec. 21. AS 44.83.425(2) is amended to read:

16 (2) "debt service" means the amounts covenanted with re-
17 spect to, or pledged to pay, bonds under a trust agreement securing
18 [CASH FLOW NECESSARY TO SECURE] bonds;

19 * Sec. 22. AS 44.83.195(b), 44.83.382(b)(2), and 44.83.398(b)(2) are
20 repealed.

21 * Sec. 23. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).

COMMITTEE REPORT

SENATE

3/9/83

FURTHER: State Affairs
Finance

Date: 4-23-83

Mr. President:

The Committee on Resources has had SB 168

Relating to the Alaska Power Authority; and eff. date.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 168 (Res) same title
 new title
- and recommends my do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

V. Fischer
Z. [unclear]
Bob [unclear]
[unclear]
Carl [unclear]

Dittus [unclear] Do Pass
 CHAIRMAN

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

6/20/83

Date: 6/20/83

Mr. Speaker:

The Committee on FINANCE has had CSSB 168(R1#)

"An Act relating to the Alaska Power Authority; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for CSSB 168 (R1#) same title
 new title
- and recommends No recommendation
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]
[Signature]

[Signature]
[Signature]

CHAIRMAN

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

June 21, 1983

SUBJECT: HCS CSSB 168 (Finance)

TO: Representative Albert P. Adams
Chair, House Finance Committee

FROM: LHA Linn H. Asper
Legislative Counsel

I have prepared a final draft of a Finance Committee substitute for the above bill, adding a section authorizing the Chester Lake project under AS 44.83.185(c) and amending the authorization for the Terror Lake project. These additions raise a problem with the title of the bill that you should be aware of. The title of the bill is "An Act relating to the Alaska Power Authority; and providing for an effective date." The state constitution (Article II, section 13) requires that

The subject of each bill shall be expressed in the title.

This rule is interpreted to mean that the title shall adequately describe the contents of the bill. I do not believe that an AS 44.83.185(c) authorization of a specific project or the amendment of a previous authorization is adequately described in the title, "An Act relating to the Alaska Power Authority". Normally I would suggest amending the title, but this is not possible under Rule 41(b) of the Uniform Rules of the Alaska State Legislature. In recent years the Alaska Supreme Court has interpreted Article II, section 13 very broadly in favor of the legislature. It may well be therefore, that the Finance Committee substitute would survive constitutional scrutiny, but I wanted you to be informed of the potential for a legal challenge to this version of the bill.

LHA:ljb
25/009

STATE OF ALASKA
FINAL STATEMENT OF FISCAL IMPACT

Bill No: SB 168 Date on Bill: _____
 Title: "An Act relating to the Alaska Power Authority; and providing for
 Sponsor: Rules Committee by request of the Governor
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			0	0	0			

b. Revenues:

Revenue								
---------	--	--	--	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. This statement has been reviewed by the OMB in the Office of the Governor. It may be considered to represent the policy of the Sheffield Administration and the final estimate of fiscal impact.

Prepared By: Eric Yould, Executive Director Phone: 277-7641
 Division: Alaska Power Authority Date: _____
 Approved by Commissioner: Richard A. Lyon R Date: _____
 Department: Commerce and Economic Development
 Reviewed by OMB: [Signature] Date: 3/3/82
 Phone: 465-3568

5. Distribution:
 Original to Legislative Finance
 Copy to Department
 Copy to Sponsor
 Copy to Requestor

HOUSE LETTER OF INTENT

House CS for CS for Senate Bill No. 168 (Resources)

The Legislature, in enacting the Energy Program for Alaska, expressed its desire to provide the lowest reasonable power costs to consumers. To further achieve that end, it is the intent of the Legislature to take appropriate action to enhance the Alaska Power Authority's ability to obtain long-term bond financing at the lowest possible cost. It is for this purpose that we have amended the "Susitna equity clause."

Substantial equity has been invested in the Energy Program by the State of Alaska and declining state revenues will have an impact on the development of energy projects for other regions of the state. It is the intent of the Legislature that the balance of the financing needed for those projects under construction in the Program be raised by debt financing - thus reserving future revenues for future energy projects throughout the rest of the state. We support the intent of the Alaska Power Authority to go to the bond market in early 1984 for the necessary funds. However, in order to further facilitate the bonding capability of the Power Authority, it is imperative that utilities who will receive wholesale power from Solomon Gulch, Terror Lake, Tyee Lake and Swan Lake sign power sales contracts as soon as possible and no later than January 1, 1984. By taking this action, the utilities served will ensure long-term benefits to their consumers through stable power rates.

The Governor is requested to prepare a plan for providing the necessary equity for future projects in the Energy Program for Alaska. This plan must be constitutionally sound and provide for the proper administrative and Legislative approval for the various projects. This plan shall be submitted to the Legislature no later than January 15, 1984.

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 168 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Power Authority; and
7 providing for an effective date."

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

9 * Section 1. AS 44.83.040 is amended to read:

10 Sec. 44.83.040. OFFICERS; MEETINGS; [AND] QUORUM. The directors
11 shall elect one of their number as chairman and may elect other offi-
12 cers they determine desirable. The powers of the authority are vested
13 in the directors, and four directors of the authority constitute a
14 quorum. Action may be taken and motions and resolutions adopted by
15 the authority at a meeting by the affirmative vote of a majority of
16 the [AT LEAST THREE] directors. The directors of the authority serve
17 without compensation, but they shall receive the same travel pay and
18 per diem as provided by law for board members.

19 * Sec. 2. AS 44.83.040 is amended by adding new subsections to read:

20 (b) The board may meet and transact business by an electronic
21 medium if

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

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

28 (3) copies of pertinent reference materials, statutes, reg-
29 ulations, and audio-visual materials are reasonably available to

1 participants and to the public.

2 (c) A meeting by an electronic medium as provided in this sec-
3 tion has the same legal effect as a meeting in person.

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

18 * Sec. 3. AS 44.83.105 is amended to read:

19 Sec. 44.83.105. BONDS FOR POWER PROJECTS UNDER THE ENERGY PRO-
20 GRAM FOR ALASKA. The authority may [SHALL] borrow money and [SHALL]
21 issue its bonds for the acquisition or construction of power projects
22 to be acquired or constructed under the energy program for Alaska.
23 The [ON WHICH THE] principal of and interest on the bonds are payable
24 from money derived from the sale of wholesale power from power proj-
25 ects financed under AS 44.83.380 - 44.83.425 from the power develop-
26 ment fund or from a source referred to in AS 44.83.100 as the author-
27 ity determines. The bonds may be issued if

28 (1) appropriations to the power development fund for the
29 power project are insufficient to cover the cost of acquiring or

1 constructing the power project; and

2 (2) the authority determines that the amount of interest
3 the authority will pay on its bonds is not more than alternative costs
4 of securing money from other sources, except for the general fund, to
5 pay for the acquisition or construction of the power project.

6 * Sec. 4. AS 44.83.110(b) is amended to read:

7 (b) Notwithstanding any other provisions of this chapter, the
8 trust indenture, trust agreement, secured loan agreement, or other
9 instrument or the resolution constituting a contract with bondholders
10 shall contain a covenant by the authority that it will at all times
11 maintain rates, fees or charges sufficient to pay, and that a contract
12 entered into by the authority for the sale, transmission or distribu-
13 tion of power shall contain rates, fees or charges sufficient to pay
14 the costs of operation and maintenance of the project, the principal
15 of and interest on bonds issued under the trust agreement as the same
16 severally become due and payable, to provide for debt service coverage
17 as considered necessary by the authority for the marketing of its
18 bonds and to provide for renewals, replacements and improvements of
19 the project, and to maintain reserves required by the terms of the
20 trust agreement. This subsection does not require a covenant that
21 varies from a covenant entered into in accordance with the provisions
22 of AS 44.83.380 - 44.83.425.

23 * Sec. 5. AS 44.83.120 is amended to read:

24 Sec. 44.83.120. VALIDITY OF PLEDGE. It is the intention of the
25 legislature that a pledge made in respect of bonds is considered
26 perfected and is [SHALL BE] valid and binding from the time the pledge
27 is made; that the money or property so pledged and thereafter received
28 by the authority shall immediately be subject to the lien of the
29 pledge without physical delivery or further act; and that the lien of

1 the pledge shall be valid and binding as against all parties having
2 claims of any kind in tort, contract or otherwise against the authori-
3 ty irrespective of whether the parties have notice. Neither the
4 resolution, trust agreement nor any other instrument by which a pledge
5 is created need be recorded or filed under the provisions of the
6 Uniform Commercial Code to be perfected or to be valid, binding or
7 effective against the parties.

8 * Sec. 6. AS 44.83.185(a) is amended to read:

9 (a) The authority shall submit a feasibility study and plan of
10 finance, including a cost estimate from an independent source, for a
11 proposed new project to the legislature. When the report of the divi-
12 sion of budget and management examining the feasibility study and plan
13 of finance is completed as required by AS 44.83.183, it shall be sub-
14 mitted to the legislature.

15 * Sec. 7. AS 44.83 is amended by adding a new section to read:

16 Sec. 44.83.192. INSURANCE REQUIREMENTS IN CONSTRUCTION CON-
17 TRACTS. In requesting bids and awarding construction contracts under
18 this chapter the authority may not require a contractor to obtain
19 workers' compensation, general liability, or other required insurance
20 from a particular insurer, agent, or broker and may not agree to
21 provide insurance to a contractor who is awarded a construction con-
22 tract.

23 * Sec. 2. AS 44.83.195(a) is amended to read:

24 (a) When a project is operated by the authority, the authority
25 shall enter into one or more contracts for the sale of electrical
26 power, energy, transmission capacity, or service from the project.
27 Unless the contract is entered into under AS 44.83.380 - 44.83.425, a
28 [A] contract entered into under this section shall meet all require-
29 ments of AS 44.83.090.

1 * Sec. 9. AS 44.83.361(a)(2) is amended to read:

2 (2) principal [AND INTEREST] payments on loans made under
3 this section.

4 * Sec. 10. AS 44.83.361(c) is amended to read:

5 (c) A loan from the rural electrification revolving loan fund
6 shall bear an annual rate of interest of two percent of the unpaid
7 balance of the loan. Interest received on a loan made under this sec-
8 tion must be transferred monthly to the commissioner of revenue for
9 deposit in the general fund.

10 * Sec. 11. AS 44.83.361(d)(2)(B) is amended to read:

11 (B) payments on the unpaid balance of the principal of
12 the loan for each new consumer served by the electric service
13 extended with the loan proceeds [DURING THE PRECEDING YEAR FOR
14 WHICH THE LOAN WAS MADE]; payments on the unpaid balance of the
15 principal of the loan shall be made at a rate equal to the dif-
16 ference between the actual cost of making the service connection
17 to the consumers and the minimum investment per consumer required
18 of the utility before a loan is made under (b) of this section.

19 * Sec. 12. AS 44.83.361 is amended by adding a new subsection to read:

20 (f) In this section,

21 (1) "consumer" means a person, as defined in AS 01.10.-
22 060(7), or a governmental agency, if the person or governmental agency
23 requests and offers to pay for electrical service to a facility or
24 part of a facility; the authority shall consider a person who, or a
25 governmental agency that, offers to pay for electrical service to
26 several facilities to be a separate consumer for each facility, if
27 each facility is physically separate from another facility, other than
28 through electric service lines, and if the person or governmental
29 agency requests and offers to pay for electrical service to each

1 facility;

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

4 (3) "governmental agency" includes, with respect to the
5 state or federal government or a municipal government, a legislative
6 body, board of regents, administrative body, board, commission, com-
7 mittee, subcommittee, authority, council, agency, public corporation,
8 school board, department, division, bureau, or other subordinate unit,
9 whether advisory or otherwise, of the state, federal, or municipal
10 government.

11 * Sec. 13. AS 44.83.384(b)(1) is amended to read:

12 (1) is economically feasible [MEETS THE REVENUE REQUIRE-
13 MENTS OF AS 44.83.394]; and

14 * Sec. 14. AS 44.83.384(c) is amended to read:

15 (c) Notwithstanding (b)(1) of this section and AS 44.83.396 -
16 44.83.398 [AS 44.83.394 - 44.83.398], the fund may be used by the
17 authority to provide money for the cost of a power project that is or
18 was either constructed or [AND] owned by the United States government
19 if the requirements of this subsection are met. The provisions of
20 AS 44.83.177 - 44.83.187 do not apply to a power project financed
21 under this subsection. The authority may use money in the fund for
22 the cost of a power project under this subsection if

23 (1) the legislature enacts a law approving the project;

24 (2) the division of budget and management in the Office of
25 the Governor reviews a feasibility study and a plan of finance for the
26 project and determines that the feasibility study complies with the
27 requirements for a feasibility study submitted under AS 44.83.181(b)
28 and that the plan of finance complies with the requirements for a plan
29 of finance submitted under AS 44.83.181(c); and

1 (3) the project meets the other requirements of this chap-
2 ter.

3 * Sec. 15. AS 44.83.386 is amended to read:

4 Sec. 44.83.386. INVESTMENT OF FUND. The Department of Revenue
5 shall invest the money in the fund in accordance with AS 37.10.070 and
6 37.10.075. The Department of Revenue shall provide money in the fund
7 to the authority only after costs have been [A COST FOR A PROJECT IS]
8 incurred or amounts in the fund have been otherwise obligated under
9 contracts for the acquisition and construction of a project. Amounts
10 that have been obligated, but for which costs have not yet been incur-
11 red, may be segregated by the Department of Revenue or transferred to
12 the authority only with the prior approval or agreement of the commis-
13 sioner of revenue. Interest received on money that is segregated or
14 transferred under this section must be deposited in the general fund.

15 * Sec. 16. AS 44.83.396(a) is amended to read:

16 (a) A power project that is acquired or constructed as part of
17 the energy program for Alaska is owned, [BY THE STATE] and shall be
18 administered, by the authority.

19 * Sec. 17. AS 44.83.396(c) is amended to read:

20 (c) The authority shall enter into a contract or lease under
21 reasonable terms and conditions to permit the applicant utility to
22 operate the power project when the applicant utility is the only
23 wholesale power customer to be served directly by the power project
24 unless the authority determines a utility making application for a
25 contract or lease to operate a power project is not a qualified util-
26 ity or is not capable of operating that power project efficiently and
27 in a manner that is consistent with national standards for the indus-
28 try and with agreements with bondholders.

29 * Sec. 18. AS 44.83.396(e) is amended to read:

1 (e) When the authority permits a power project to be operated by
2 a qualified utility under a contract or lease, the authority shall

3 (1) review and approve the annual budget for the operation
4 and maintenance of the power project; and

5 (2) assure that the project is being operated efficiently
6 and in a manner that is consistent with national standards for the
7 industry and agreements with bondholders.

8 * Sec. 19. AS 44.83.398(b)(2) is amended to read:

9 (2) If, by July 1, 1990 [1986], the legislature has not
10 appropriated at least \$3,500,000,000 [\$5,000,000,000] to the fund, in
11 addition to appropriations to the fund of interest earned on money in
12 the fund, the authority shall, beginning on that date, establish and
13 maintain a separate wholesale power rate applicable to each power
14 project that is acquired or constructed under the energy program for
15 Alaska. The wholesale power rate shall be computed by the authority
16 annually, or more frequently as may be necessary, and shall be the
17 greater of

18 (A) 10 percent of the amount the authority has in-
19 vested in the power project, including loans and grants made by
20 the state; or

21 (B) the rate that the authority estimates is necessary
22 to produce revenue sufficient to pay

23 (i) operation, maintenance, and equipment re-
24 placement costs of the power project;

25 (ii) the power project's proportionate share of
26 debt service on state loans and bonds for all power projects
27 in the energy program for Alaska, determined in accordance
28 with (g) of this section; and

29 (iii) safety inspections and investigations of the

1 power project by the authority.

2 * Sec. 20. AS 44.83.398(c) is amended to read:

3 (c) The authority shall transmit all the money that it receives
4 under (a) of this section to the commissioner of revenue for deposit
5 in the state general fund except for money it has pledged or otherwise
6 covenanted to secure bonds [IN ACCORDANCE WITH CONTRACTS WITH BOND-
7 HOLDERS].

8 * Sec. 21. AS 44.83.398(d)(2) is amended to read:

9 (2) may not be less than the rate charged residential
10 consumers unless the utility demonstrates that a lower rate for in-
11 dustrial consumers will result in a rate for residential consumers
12 that is lower than it would be if the industrial rate were not al-
13 lowed; notwithstanding the provisions of this paragraph, if a utility
14 is regulated by the Alaska Public Utilities Commission the rates for
15 all classes of consumers of that utility shall be determined by the
16 Alaska Public Utilities Commission.

17 * Sec. 22. AS 44.83.398(e) is repealed and reenacted to read:

18 (e) After determining the wholesale power rate for a power proj-
19 ect under the provisions of this section, the authority may adjust the
20 rate or change the rate provisions to insure that the revenue derived
21 from that power project and the aggregate revenues of the authority
22 will be adequate to comply with the rate covenants and other agree-
23 ments contained in any trust indenture or trust agreement entered into
24 by the authority for the security of the holders of bonds issued to
25 finance power projects in the Energy Program for Alaska.

26 * Sec. 23. AS 44.83.398(h) is amended to read:

27 (h) Notwithstanding (g) of this section, in the 1983 state fis-
28 cal year the proportionate share of debt service under (b) of this
29 section, expressed as a rate, for a power project for which a

1 construction contract has been awarded before the effective date of
2 this Act may not exceed the average debt service component of the
3 wholesale power rate for all power projects in the energy program for
4 Alaska. The limit imposed by this subsection shall be increased in
5 the 1984 state fiscal year to four percent above the average debt
6 service component of the wholesale power rate for all power projects
7 in the energy program for Alaska and by an additional four percent
8 above that average in each succeeding state fiscal year. If
9 application of this subsection results in the production of
10 insufficient revenue to pay the total debt service for all projects in
11 the energy program for Alaska, a project that does not have its share
12 of debt service limited under this subsection shall be subject to a
13 rate in addition to the rate established under (b) of this section.
14 The additional rate is the rate that the authority estimates is
15 necessary to produce revenue that is sufficient to pay the difference
16 between the total debt service for all projects in the energy program
17 for Alaska and the revenue actually produced to pay that debt service,
18 multiplied by a fraction whose numerator is the total cost of the
19 project and whose denominator is the total cost of all of the projects
20 that are subject to the additional rate. In this subsection,
21 "projects in the energy program for Alaska" does not include an
22 intertie that is authorized as a separate project as described in (f)
23 of this section.

24 * Sec. 24. AS 44.83.425(2) is amended to read:

25 (2) "debt service" means the amounts covenanted with re-
26 spect to, or pledged to pay, bonds under a trust agreement securing
27 [CASH FLOW NECESSARY TO SECURE] bonds;

28 * Sec. 25. Section 48, ch. 83, SLA 1980 is amended by adding a new
29 subsection to read:

1 (e) The authorization made by this section for the Terror Lake
2 project includes authorization for the installation of a third
3 generating unit at the project.

4 * Sec. 26. The Chester Lake hydroelectric project is authorized, and a
5 construction cost of \$13,200,000 is approved, under the provisions of
6 AS 44.83.185(c).

7 * Sec. 27. AS 44.83.186, 44.83.195(b), 44.83.382(b)(2), and 44.83.394
8 are repealed.

9 * Sec. 28. This Act takes effect immediately in accordance with AS 01.-
10 10.070(c).

The following individuals are expected to testify on SB 168:

Commissioner Lyons, Department of Commerce & Economic
Development, or his representative

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

BILL WHEFFIELD, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

June 17, 1983

Honorable Albert P. Adams
Chairman, House Finance Committee
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Adams:

The Administration would like to express its concern regarding two amendments to SB 168 made by the House Resources Committee. SB 168, as submitted, was technical in nature. Both the insurance requirements amendment (Sec. 7, page 4, lines 16-22) and the energy rates amendment (Sec. 21, page 9 lines 8-16) address policy issues and, as such, fall outside the technical intent of SB 168. Moreover, the amendments address issues about which considerable debate still exists.

The debate has not yet developed a consensus, and the debate should not be terminated or circumvented by hasty statutory change. The Alaska Power Authority is presently studying the implications of variable electricity rates and will report to the Legislature next session with its findings and recommendations. The insurance requirements issue, as addressed in the APA statutes, is but one part of a larger, on-going debate regarding the applicability of wrap-up insurance. The issue should not be addressed piecemeal, but should be resolved through continued discussion of the entire concept.

Furthermore, neither amendment is critical for this session. No large industrial user, that is not already planning to purchase energy from the existing projects, will require information regarding rates before the end of the next legislative session. Also, no new projects, of a size warranting wrap-up, are scheduled for the APA during FY '84.

In summary, while both amendments address issues which merit attention, we do not believe that now is the appropriate time nor do we believe that SB 168 is the proper vehicle for these subjects. We believe the interim should be used to gain consensus on both issues, and new legislation can be introduced early next session.

Sincerely,



Richard A. Lyon
Commissioner

RAL/wfsH11

08-H2LH 62083c

cc: House Finance Committee Members

FINANCE LETTER OF INTENT ON CS FOR CS SB 158 (Resources)

In this and other legislation, the Legislature has established the Energy Program for Alaska and expressed its desire to provide the lowest reasonable power costs to the consumers. Towards that end, it is the intent of the Legislature to take appropriate action as necessary to enhance the Alaska Power Authority's ability to obtain long-term bond financing at the lowest possible cost.

It is the intent of the Legislature that the Alaska Power Authority explore and study the desirability and implications of the Petersburg proposal and to report its findings and recommendations to the Second Session of the Thirteenth Legislature. The study should address both short-term and long-term impacts on the individual projects as well as on the overall Energy Program of Alaska.

In order to facilitate consummation of the power sale agreements, and in order to preclude new project service area energy rates from exceeding the existing energy rates in the early years of the new project(s), it is the intent of the Legislature that Alaska Power Authority study the problem and recommend a solution to the Second Session of the Thirteenth Legislature. The solution proposed should consider the use of State equalization grants or loans.

It is the further intent of this committee that the Alaska Power Authority should consider extending its short term debt currently outstanding until the legislature has had an opportunity to address all of these issues next year.

ERICKSON & ASSOCIATES

Consultants in Economics and Public Policy

526 Main Street, Juneau, Alaska 99801

Telephone 907/586-3118

MEMORANDUM

February 24, 1983

To: Senate State Affairs Committee
From: Thomas Singer and Gregg Erickson
Subject: Interim Financing of Power Projects

The Tye Loan

The Tye Lake Hydro Project illustrates the risks to the state inherent in the Alaska Power Authority's (APA's) present financial independence. While the state has appropriated \$82 million for Tye project, the APA has borrowed \$50 million more -- on its own. This loan comes due in 19 months. At present there is no clear indication of where the money will be found.

In its agreement with lenders, the APA agreed to refinance, by October 1, 1984, any portion of the loan then unpaid. The APA's stated intention is to sell revenue bonds secured through power sales contracts with the electric utilities in Petersburg and Wrangell.

So far, Petersburg and Wrangell have been reluctant to sign such power sales contracts. The price at which power from the project has been offered to them is much higher than the price they now pay -- or expect in the future to pay -- for power from fossil fuels, and their own small hydro facilities. Negotiations between the APA and local utilities continue. Without ironclad contracts committing the utilities to buy enough power at a price sufficient to meet annual debt payments, the bonds will be virtually impossible to sell.¹

If revenue bonds cannot be sold to refinance outstanding debt by October 1, 1984, the lenders, by terms of the loan agreement, have recourse to the "general assets" of the APA. Unfortunately, no one seems to know precisely what the term "general assets" encompasses. It may be that "general assets" include unexpended appropriations received by APA or being held in the state treasury for other projects. Or it may be that funds appropriated but not yet disbursed from the treasury are beyond the lenders reach, in which case the APA may have virtually no "general assets" apart from the uncompleted projects around the state. This is an important legal point, which the

Attorney General will undoubtedly investigate in due course.

Lenders, of course, are not likely to be very interested in taking over partially completed hydro projects, particularly in cases like these where the value of the power to be produced falls so far short of the revenue needed to service the debt. Their desire will doubtless be for the state to appropriate to the APA additional funds to repay the loan. The state is in no way legally obligated to do this, but it is clearly a possibility that the APA and the lenders had in mind from the outset: Despite the lack of legal claim on the state, the state is nevertheless prominently mentioned in the loan agreement as a possible source of repayment.²

If the legislature allows the APA to default on its Tyee loan, the ability of the state and all of its political subdivisions to borrow money would suffer. Alaska public sector credit ratings would undoubtedly fall, making loans both harder and more costly to obtain. Nevertheless, the option of allowing the APA to sink or swim on its own should not be dismissed without careful study.

A bailout of the APA by the legislature might be less painful than default, but it certainly wouldn't be painless. Increasingly scarce funds would be diverted from other uses. Worse, the legislature would be giving notice to bankers, contractors, and the APA that it is willing and able to come to the rescue, even when not legally bound to do so.

Implications for the Susitna Project

These facts raise questions about legislative intent and accountability. Did the legislature intend that the APA obligate its "general assets" (i.e. funds earmarked to other projects) to proceed with Tyee? Did the legislature intend that unforeseen problems with the project be solved by simply dipping deeper into the state treasury? We don't know, but one thing does seem beyond dispute: The legislature needs to understand and control large financial transactions of the sort illustrated by the Tyee example because it and the state as a whole ultimately may have to be responsible for them.

As legislators begin to consider the Susitna Project involving billions of dollars, it is even more essential that they understand and assume responsibility for the APA. While this independent public corporation does not yet have authority to indebted the state, as a practical matter its financial actions have tremendous impact on the state's financial condition.

Answers to the following questions should help the legislature in its effort to gain understanding and control:

1. When the \$50 million Tyee loan agreement was negotiated, what did the financial advisors and Bankers Trust Company understand the APA's "general assets" to be? How much of the APA's roughly \$200 million total outstanding debt³ is secured by their "general assets" and what is covered by that term?
2. Did the financial advisors, Bankers Trust Company, and the APA consider the state treasury to be the real security for the Tyee loan? If so, why?
3. What are the current prospects that long-term revenue bonds for the project can be sold before the October 1, 1984 deadline? What is the APA planning to do if bonds cannot be sold?

We may all hope that successful negotiation of contracts for Tyee power will resolve the APA's looming financial crisis. Unfortunately, that will not resolve the underlying problem. The APA continues to operate independently. If it is able to obtain substantial "general assets", we can expect such independence to increase.

The state can undoubtedly cover a \$50 million loan. It could probably even handle problems with the entire \$200 million debt without catastrophic consequences. But the Susitna project involves billions of dollars, and is financially much more risky. While the APA and its advisors may feel that the public interest and the APA's interests are the same, we do not believe that this is always the case. If the legislature is going to be aboard for the crash landing, perhaps it ought to have some say in the takeoff.

ENDNOTES

1. Revenue bonds to repay the loan could be sold, notwithstanding the lack of power sales contracts, if the state stepped forward to backstop them. Double-barrreled bonds (revenue bonds backed by the full faith and credit of the state) or even cash payments to consumers dedicated to their electric bills are examples of many possible ways the state could secure the bonds. (For a fuller discussion of the options see "Lake Tye Power Costs and Project History: Research Request 83-39," House Research Agency, February 11, 1983.)

A third party guarantee was used to secure the outstanding \$50 million loan. A major New York bank, the Bankers Trust Company, agreed to stand behind the APA (for a fee) with a \$50 million "Letter of Credit" to repay the loan if necessary.

2. The security, pledged equally to repay the loan, is (1) the project and its revenues, (2) any unspent portion of the short-term loan, (3) bond proceeds, (4) the full faith and credit of the APA, and (5) "...the proceeds of any appropriation by the State for the purpose of paying any Cost of the Project or repaying the loan or Letter of Credit."

The loan agreement releases the APA from its obligation to issue revenue bonds if it "...has deposited in the loan repayment Fund an amount at least equal to the principal of the Notes Outstanding...plus...interest."

3. The APA has borrowed additional funds - \$35 million for Swan Lake and \$115 million for Terror Lake. Our understanding is that power supply contracts which are not "take or pay" have been signed for these projects, allowing local consumers to choose not to buy power if the price is unattractive.

HCS CSSB 168 (Resources)

The effect of SB 168, by section, is as follows:

- Section 1. Clarifies the language of the statute by requiring that affirmative votes consist of the majority of the directors present.
- Section 2. Allows for meetings by electronic media. In the long run, this would decrease travel costs and time wasted while allowing the APA Board to meet on short notice and despite climatic travel constraints.
Prevents directors from voting on leases or contracts if they have a conflict of interest, but exempts directors who are customers of electric co-ops, and therefore, by definition, are part owners.
- Section 3. Essentially makes it permissive rather than mandatory for APA to issue bonds and further clarifies the language of the statute
- Section 4. Provides for consistency between statutes
- Section 5. Provides for conformity with other pertinent statutes
- Section 6. Provides for an independent cost estimate to be submitted with the feasibility study and a plan of finance. I believe that this section is redundant in view of 44.83.186, which requires an independent cost estimate after the legislature approves a project and allows for only a 7.5% increase before the project has to be recycled by the APA and reauthorized by the legislature. As a matter of policy, the APA has been obtaining independent cost estimates since last year and has hired an in-house estimator to provide further verification of cost estimates. The proposed procedure would further increase the cost of the studies especially since this section would apply to large and small projects equally.
- Section 7 Prohibits the use of wrap-up insurance requirements by the power authority. This provision was added in H. Resources.
- Section 8 Adds a requirement for sale contracts for transmission of electricity. The use of the term electrical power or energy is redundant. The section further clarifies that the contracts must be in compliance of AS 44.83.330 - 44.83.425 or AS 44.83.090.

- Sections 9, 10 Insure that AS 44.83.361 does not violate the Alaska Constitution as alleged in a pending lawsuit.
- Sections 11 & 12 Clarify the provisions of existing statutes on the Rural Electrification Revolving Loan Fund program without making substantial changes to it.
- Section 13 Makes a project's expenditures dependent on a finding that the project is economically feasible. This section removes the redundancy under current statute, preserving the intent to ensure economic feasibility while eliminating the criteria in two places in the statutes.
- Section 14 Clarifies the existing statute on the use of the fund for federally owned projects.
- Section 15 Modifies the existing statute to allow APA to market bonds.
- Section 16 Provides for ownership of projects by the authority rather than the state and should make it easier to market bonds.
- Section 17 Provides for use of national and industrial standards in the APA's determination of whether a utility is qualified to operate a power project owned by APA.
- Section 18 & 20 Assure that power projects are operated in a manner consistent with the bonding agreements.
- Section 19 Amends the Susitna "Equity" Clause from \$5 billion by July 1, 1986 to \$3.5 billion by July 1, 1990.
- Section 21 Allows the authority to sell power at an industrial rate. This provision was added in H.Resources.
- Section 22 Allows APA to adjust the wholesale power rates to meet bonding requirements while still complying with the statutes on rate setting.
- Section 23 Clarifies that interties are not covered under the energy program for Alaska in the rate setting subsection. This clarifies the intent desired by the legislature when it passed HB9 last year.
- Section 24 Clarifies the definition of debt service thereby making it easier to secure bonds.

Section 25

Repeal of AS 44.83.195(b) is necessary in order to align it with other rate making provisions of the statutes.

Repeal of AS 44.83.382(b) (2) is required because any unencumbered revenues must go into the general fund.

Repeal of AS 44.83.398(b) (2) is desirable for two reasons. First, in a pending lawsuit *Trustee of Alaska v. State*, the constitutionality of this section is being challenged. Second, this section could result in a substantial increase in APA wholesale rates if the legislature does not appropriate a total of \$5 billion by July 1, 1986, into the power development fund. Since it appears almost certain that this level of appropriation can not be achieved, APA is experiencing problems in negotiating power sales contracts. Since providing lowest reasonable cost energy is the mandated goal of the program, it makes sense to minimize uncertainty and maximize marketability.

Repeal of AS 44.83.186. An additional requirement of an independent cost estimate immediately following project approval would serve no useful purpose and would involve additional costs. (An independent cost estimate is already required prior to submittal to the legislature for approval.)

Section 26

Provides for an immediate effective date.

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 9, 1983

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Power Authority. This bill contains several amendments to AS 44.83 which would facilitate the issuance of long term revenue bonds by the authority. It also includes several amendments intended to resolve existing ambiguities in the law. It does not alter the role of the Alaska Power Authority in state government. The effect of each section of the bill is as follows:

Section 1 -- Amends AS 44.83.040(a) to require an affirmative vote of a majority of the members present to approve board action.

Section 2 -- This section permits meetings by electronic media under carefully prescribed conditions. This permission has been given to the Alaska Industrial Development Authority and the Alaska Housing Finance Corporation and has been found to be very valuable given the distance and weather problems for meetings in Alaska. Subsection (d) requires that a director must abstain from voting and disclose the reason for abstention if a conflict of interests exists.

Section 3 -- This section makes it permissive rather than mandatory that the authority issue bonds for the energy program and provides that those bonds may be paid off from the general sources specified. Paragraph (2) already requires that the authority determine as a precondition to issuing bonds that alternative sources of money would be more expensive. Clarifying amendments are also included in this section.

Section 4 -- This amendment would ensure that the rate covenant required for bonding is not inconsistent with the rate required under the energy program for Alaska. AS 44.83.380 -- 44.83.425.

Section 5 -- This is a technical amendment to conform to Uniform Commercial Code language. (AS 45.09)

Section 6 -- This amendment ensures that a feasibility study of a proposed project will include an independent cost estimate.

Section 7 -- This amendment makes clear which sections of the statutes govern power sales agreements, and requires the power authority to enter into power sales contracts for energy transmission as well as (under existing law) production.

Sections 8 and 9 -- These amendments provide that interest received by the APA on loans for rural electrification will be deposited in the general fund. This will settle the claim in a pending lawsuit (Trustees for Alaska v. State, 3AN-82-492 CIV) that the present statute authorizing deposit of that interest in the rural electrification fund violates the constitutional prohibition of dedicated funds. Alaska Const. art. IX, sec. 7.

Sections 10 and 11 -- These sections clarify unclear or ambiguous provisions of the rural electrification revolving loan fund program.

Section 12 -- This amendment will ensure that a power project owned by the United States on which the corporation spends money need not continue to be owned by the United States in order for the expenditures to be valid.

Section 13 -- This amendment will enable the authority to ensure bondholders that money which has been appropriated to supplement bond proceeds financing a project may be segregated by the commissioner of revenue or transferred to the authority before costs are incurred. Interest earned on this money would accrue to the general fund. This provision is critical to the marketability of APA revenue bonds.

Section 14 -- This amendment deletes an ambiguous rate-of-return analysis for project feasibility, and retains "economic feasibility" as the test.

Section 15 -- This amendment makes clear that the authority, which is an entity of the state, owns projects which it acquires or constructs. This is necessary to assure the authority's ability to pledge its receipts from projects to secure bonds.

Section 16 -- This amendment gives standards for the authority's determination of whether a utility is qualified to operate a power project of the authority.

Sections 17 and 18 -- These amendments would ensure that the operation of projects and the handling of project revenues are consistent with agreements with bondholders.

Section 19 -- This amendment does not alter the wholesale power rate prescribed by law but permits the APA to make adjustments only as necessary in order to comply with bonding agreements.

Section 20 -- This is a technical clarification.

Section 21 -- This section amends the definition of "debt service" to include amounts covenanted or pledged to pay bonds. The present language, "the cash flow necessary to secure bonds," could be narrowly construed to prevent the retention of sufficient money to adequately secure bond obligations.

Section 22 -- This section repeals the following sections:

(1) AS 44.83.195(b), requiring rate reduction at the expiration of contracts, is repealed because such a reduction would conflict with the pooling-of-costs concept embodied in the energy program for Alaska.

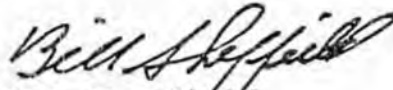
(2) AS 44.83.382(b)(2), stating what the power development fund includes, is repealed because power sales receipts must initially go into the general fund (and only then be appropriated) unless those receipts are pledged to a particular debt service fund.

(3) AS 44.83.398(b)(2), the portion of the wholesale power rate provision which makes future rates contingent on the appropriation of \$5,000,000,000 to the power development fund before July 1, 1986, is repealed because it injects into rate making an uncertainty which impedes both the APA and local utilities in planning for the cost of power to be generated by APA projects. Repeal of this

section will moot the claim in a pending lawsuit that AS 44.83.398(b)(2) is unconstitutional. Trustees of Alaska v. State, No. 3AN-82-492 CIV.

Section 23 -- This section provides for an immediate effective date.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

HOUSE LETTER OF INTENT

House CS for CS for Senate Bill No: 168 (Resources)

The Legislature, in enacting the Energy Program for Alaska, expressed its desire to provide the lowest reasonable power costs to consumers. To further achieve that end, it is the intent of the Legislature to take appropriate action to enhance the Alaska Power Authority's ability to obtain long-term bond financing at the lowest possible cost. It is for this purpose that we have amended the "Susitna equity clause."

Substantial equity has been invested in the Energy Program by the State of Alaska and declining state revenues will have an impact on the development of energy projects for other regions of the state. It is the intent of the Legislature that the balance of the financing needed for those projects under construction in the Program be raised by debt financing - thus reserving future revenues for future energy projects throughout the rest of the state. We support the intent of the Alaska Power Authority to go to the bond market in early 1984 for the necessary funds. However, in order to further facilitate the bonding capability of the Power Authority, it is imperative that utilities who will receive wholesale power from Solomon Gulch, Terror Lake, Tyee Lake and Swan Lake sign power sales contracts as soon as possible and no later than January 1, 1984. By taking this action, the utilities served will ensure long-term benefits to their consumers through stable power rates.

The Governor is requested to prepare a plan for providing the necessary equity for future projects in the Energy Program for Alaska. This plan must be constitutionally sound and provide for the proper administrative and Legislative approval for the various projects. This plan shall be submitted to the Legislature no later than January 15, 1984.

Senator Vic Fischer

Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954



June 20, 1983

TO: Rep. Bob Bettisworth
FROM: Sen. Vic Fischer *Vic*
RE: SB 168 (Alaska Power Authority)

I understand that this bill has been assigned to you in House Finance and will be heard later today.

I am concerned about one section of the bill that was added in House Resources. Section 21, allowing utilities to sell power at lower rates to industrial consumers, is a major, major policy change that makes the bill very controversial. I understand that it was added based on misinformation that it was supported by both the Senate and the APA.

* To set the record straight, this amendment was addressed by the Senate but rejected based on the fact that it was a major policy change that needed further consideration. The Senate letter of intent addresses the issue by directing the Alaska Power Authority to study the implications for all classes of consumers and for the entire energy program. The Senate decided that there was no need, other than that directive, to act on the issue this year. The APA has taken a similar position.

As you know, most of the rest of SB 168 deals with technical changes that will enable the APA to finish financing projects with revenue bonds. This allowance is critical to the success of the energy program. To that end, the Senate attempted to keep the bill as "clean" as possible, avoiding policy changes that might interfere with the bill's final passage.

It's my belief that the elimination of Sec. 21 would allow the Senate to concur with the House changes, avoiding a conference committee, and get the APA on the road to successful financing, something that we all desire. Failure to sell revenue bonds in the near future will, as you know, negatively affect the ability of the APA to finance the Susitna and other projects throughout the state.

To clarify Sec. 21, it's important to understand that the "notwithstanding" portion of it, for utilities regulated by the APUC, would override the provision that rates for residential consumers would have to be favorably impacted by the lower industrial rates, because of the APUC's mandate to provide for rates based on "cost of service." Moreover, the section contains no protection for residential users to have "first draw" on the power as demand grows, so that we could end up vastly subsidizing industry at the same time that we have to build new and more expensive facilities for residential users.
Thank you for your attention to this matter.

cc: Rep. Al Adams

Introduced: 3/9/83
Referred: Resources, State Affairs
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 168

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the Alaska Power Authority; and
7 providing for an effective date."

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

9 * Section 1. AS 44.83.040 is amended to read:

10 Sec. 44.83.040. OFFICERS; MEETINGS; [AND] QUORUM. The directors
11 shall elect one of their number as chairman and may elect other offi-
12 cers they determine desirable. The powers of the authority are vested
13 in the directors, and four directors of the authority constitute a
14 quorum. Action may be taken and motions and resolutions adopted by
15 the authority at a meeting by the affirmative vote of a majority of
16 the [AT LEAST THREE] directors present. The directors of the authori-
17 ty serve without compensation, but they shall receive the same travel
18 pay and per diem as provided by law for board members.

19 * Sec. 2. AS 44.83.040 is amended by adding new subsections to read:

20 (b) The board may meet and transact business by an electronic
21 medium if

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

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

28 (3) copies of pertinent reference materials, statutes, reg-
29 ulations, and audio-visual materials are reasonably available to

1 participants and to the public.

2 (c) A meeting by an electronic medium as provided in this sec-
3 tion has the same legal effect as a meeting in person.

4 (d) A director of the authority may not vote on a resolution of
5 the authority relating to a lease or contract to be entered into by
6 the authority under this chapter if the director is a party to the
7 lease or contract or has a direct ownership or equity interest in a
8 firm, partnership, corporation, or association that is a party to the
9 contract or lease. When abstaining from voting, the director must
10 disclose the reason for the abstention. A resolution of the authority
11 that is approved by a majority of the directors present who are not
12 barred from voting under this subsection is a valid action of the
13 authority for all purposes.

14 * Sec. 3. AS 44.83.105 is amended to read:

15 Sec. 44.83.105. BONDS FOR POWER PROJECTS UNDER THE ENERGY PRC-
16 GRAM FOR ALASKA. The authority may [SHALL] borrow money and [SHALL]
17 issue its bonds for the acquisition or construction of power projects
18 to be acquired or constructed under the energy program for Alaska.
19 The [ON WHICH THE] principal of and interest on the bonds are payable
20 from money derived from the sale of wholesale power from power proj-
21 ects financed under AS 44.83.380 -- 44.83.425 from the power develop-
22 ment fund or from a source referred to in AS 44.83.100 as the author-
23 ity determines. The bonds may be issued if

24 (1) appropriations to the power development fund for the
25 power project are insufficient to cover the cost of acquiring or con-
26 structing the power project; and

27 (2) the authority determines that the amount of interest
28 the authority will pay on its bonds is not more than alternative costs
29 of securing money from other sources, except for the general fund, to

1 pay for the acquisition or construction of the power project.

2 * Sec. 4. AS 44.83.110(b) is amended to read:

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

19 * Sec. 5. AS 44.83.120 is amended to read:

20 Sec. 44.83.120. VALIDITY OF PLEDGE. It is the intention of the
21 legislature that a pledge made in respect of bonds is considered
22 perfected and is [SHALL BE] valid and binding from the time the pledge
23 is made; that the money or property so pledged and thereafter received
24 by the authority shall immediately be subject to the lien of the
25 pledge without physical delivery or further act; and that the lien of
26 the pledge shall be valid and binding as against all parties having
27 claims of any kind in tort, contract or otherwise against the authori-
28 ty irrespective of whether the parties have notice. Neither the
29 resolution, trust agreement nor any other instrument by which a pledge