

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8384 SENATE LABOR & COMMERCE

Kelly
if no sen. found appropriate,
no limit to what AEA can
commit to build.

SENATE BILL NO. 124

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/19/93
Referred: L&C, JUD, FIN

Hutchins
authorize Cooper
Valley his subed
to approval of
feasibility study
by OMB

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the powers and finances of the Alaska Energy Authority,
2 and providing for an effective date."

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

4 * Section 1. AS 36.30.850(b) is amended by adding a new paragraph to read:

5 (30) contracts between the Alaska Energy Authority and one or more
6 utilities for the construction of electric transmission lines in which the utilities agree
7 to (A) pay for the design and construction costs of the lines and provide for the
8 repayment of any loans or bonded indebtedness related to the project, regardless of
9 final completion costs and unforeseen expenses; and (B) pay for all operation and
10 maintenance costs of the project.

11 * Sec. 2. AS 37.05.146 is amended to read:

12 Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS. In AS 37.05.142 -
13 37.05.146 and AS 37.07.080, "program receipts" means fees, charges, income earned
14 on assets, and other state money received by a state agency in connection with the

1 performance of its functions; all program receipts except the following are general fund
2 program receipts:

- 3 (1) federal receipts;
- 4 (2) University of Alaska receipts (AS 14.40.491);
- 5 (3) individual, foundation, or corporation gifts, grants, or bequests that
6 by their terms are restricted to a specific purpose;
- 7 (4) receipts of the following funds:
- 8 (A) highway working capital fund (AS 44.68.210);
- 9 (B) correctional industries fund (AS 33.32.020);
- 10 (C) loan funds;
- 11 (D) international airport revenue fund (AS 37.15.430);
- 12 (E) funds managed by the Alaska Housing Finance Corporation
13 (AS 18.56.020), the Alaska Railroad Corporation (AS 42.40.010), the Alaska
14 Energy Authority (AS 44.83.020), the Municipal Bond Bank Authority
15 (AS 44.85.020), the Alaska Aerospace Development Corporation
16 (AS 14.40.821), or the Alaska Industrial Development and Export Authority
17 (AS 44.88.020);
- 18 (F) fish and game fund (AS 16.05.100);
- 19 (G) school fund (AS 43.50.140);
- 20 (H) training and building fund (AS 23.00.130);
- 21 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222,
22 AS 39.35, and former AS 39.37);
- 23 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);
- 24 (K) public school fund (AS 37.14.110);
- 25 (L) second injury fund (AS 23.30.040);
- 26 (M) fishermen's fund (AS 23.35.060);
- 27 (N) FICA administration fund (AS 39.30.050);
- 28 (O) receipts of the employee benefits program established under
29 AS 39.30.150 - 39.30.180;
- 30 (P) receipts of the deferred compensation program established
31 under AS 39.45; [.]

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(Q) mental health trust fund (AS 37.14.031); [.]

(5) receipts of or from the trust established by AS 37.14.400 - 37.14.450, except reimbursements described in AS 37.14.410.

* Sec. 3. AS 39.25.110 is amended to read:

Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provide by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

(1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

(2) justices, judges, magistrates, and employees of the judicial branch including employees of the judicial council;

(3) employees of the state legislature and its agencies;

(4) the head of each principal department in the executive branch;

(5) officers and employees of the University of Alaska;

(6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 - 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;

(7) certificated teachers employed by the Department of Education as correspondence teachers, teachers in skill centers operated by the Department of Education, or in Mt. Edgecumbe School;

(8) patients and inmates employed in state institutions;

(9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor;

(10) members of boards, commissions, or authorities;

(11) the officers and employees of the following boards, commissions, and authorities:

(A) Alaska Gas Pipeline Financing Authority;

(B) Alaska Permanent Fund Corporation;

(C) Alaska Industrial Development and Export Authority;

(D) Alaska Commercial Fisheries Entry Commission;

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- (E) Alaska Commission on Postsecondary Education;
- (F) Alaska Aerospace Development Corporation;
- (G) Alaska Energy Authority;

(12) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(13) physicians licensed to practice in this state and employed by the division of mental health and developmental disabilities in the Department of Health and Social Services or by the Department of Corrections;

(14) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources and by the Oil and Gas Conservation Commission, except for those employed in the division of geological and geophysical surveys in the Department of Natural Resources;

(15) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic [ALCOHOL] Beverage Control Board under AS 04.06.110;

(16) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;

(17) officers and employees of the state who reside in foreign countries;

(18) employees of the Alaska Seafood Marketing Institute;

(19) fire fighters employed by the Department of Natural Resources for a fire emergency;

(20) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's mansion;

(21) employees of the Citizens' Advisory Commission on Federal Affairs in Alaska (AS 41.37.010);

(22) youth employed by the Department of Natural Resources under the Youth Employment and Student Intern programs;

(23) the executive director of the Medicaid Rate Advisory Commission;

(24) students employed by the state institutions in which the students are enrolled;

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(25) the executive director and staff of the Alaska Science and Technology Foundation (AS 37.17.010);

(26) investment officers in the Department of Revenue;

(27) the executive director and other staff of the Alaskan Tourism Marketing Council;

(28) persons engaged in employment or pre-employment training programs operated by the Department of Military and Veterans' Affairs;

(29) employees of the Alaska Amateur Sports Authority.

* Sec. 4. AS 44.25.020 is amended to read:

Sec. 44.25.020. DUTIES OF DEPARTMENT. The Department of Revenue shall

(1) enforce the tax laws of the state;

(2) collect, account for, have custody of, invest, and manage all state funds and all revenues of the state except revenues incidental to a program of licensing and regulation carried on by another state department and funds managed and invested by the Alaska State Pension Investment Board;

(3) register cattle brands;

(4) supply necessary clerical and administrative services for the Alcoholic Beverage Control Board;

(5) INVEST AND MANAGE THE BALANCE OF THE POWER DEVELOPMENT FUND IN ACCORDANCE WITH AS 44.83.386;

(6) in accordance with the policies established by the board of trustees of the Alaska State Pension Investment Board, collect, account for, have custody of, invest, and manage the state funds for which the board is responsible.

* Sec. 5. AS 44.83.010 is amended to read:

Sec. 44.83.010. LEGISLATIVE FINDING AND POLICY. (a) The legislature finds, determines and declares that

(1) there exist numerous potential hydroelectric and fossil fuel gathering sites in the state;

(2) the establishment of energy [POWER] projects at these sites is necessary to supply power at the lowest reasonable cost to the state's municipal

Dept of Rev. would strike to manage funds to AEA would like to contract out w/ Rev.

Revolving Loan Fund

1 electric, rural electric, cooperative electric, and private electric utilities, and regional
2 electric authorities, and thereby to the consumers of the state, as well as to supply
3 existing or future industrial needs;

4 (3) the achievement of the goals of lowest reasonable consumer power
5 costs and beneficial long-term economic growth and of establishing, operating and
6 developing energy [POWER] projects in the state will be accelerated and facilitated
7 by the creation of an instrumentality of the state with powers to construct, acquire,
8 finance, and operate energy [POWER] projects.

9 (b) It is declared to be the policy of the state, in the interests of promoting the
10 general welfare of all the people of the state, and public purposes, to reduce consumer
11 power costs and otherwise to encourage the long-term economic growth of the state,
12 including the development of its natural resources, through the establishment of energy
13 [POWER] projects by creating the public corporation with powers, duties and functions
14 as provided in this chapter.

15 * Sec. 6. AS 44.83.070 is amended to read:

16 Sec. 44.83.070. PURPOSE OF THE AUTHORITY. The purpose of the
17 authority is to promote, develop and advance the general prosperity and economic
18 welfare of the people of the state by providing a means of constructing, acquiring,
19 financing and operating energy [POWER] projects and facilities that recover and use
20 waste energy.

21 * Sec. 7. AS 44.83.080 is amended to read:

22 Sec. 44.83.080. POWERS OF THE AUTHORITY. In furtherance of its
23 corporate purposes, the authority has the following powers in addition to its other
24 powers:

25 (1) to sue and be sued;

26 (2) to have a seal and alter it at pleasure;

27 (3) to make and alter bylaws for its organization and internal
28 management;

29 (4) to adopt regulations governing the exercise of its corporate powers
30 and implementing this chapter;

31 (5) to acquire, whether by construction, purchase, gift or lease, and to

1 improve, equip, operate, and maintain energy [POWER] projects;

2 (6) to issue bonds to carry out any of its corporate purposes and
3 powers, including the acquisition or construction of a project to be owned or leased,
4 as lessor or lessee, by the authority, or by another person, or the acquisition of any
5 interest in a project or any right to capacity of a project, the establishment or increase
6 of reserves to secure or to pay the bonds or interest on them, and the payment of all
7 other costs or expenses of the authority incident to and necessary or convenient to
8 carry out its corporate purposes and powers;

9 (7) to sell, lease as lessor or lessee, exchange, donate, convey or
10 encumber in any manner by mortgage or by creation of any other security interest, real
11 or personal property owned by it, or in which it has an interest, when, in the judgment
12 of the authority, the action is in furtherance of its corporate purposes;

13 (8) to accept gifts, grants or loans from, and enter into contracts or
14 other transactions regarding them, with any person;

15 (9) to deposit or invest its funds, subject to agreements with
16 bondholders;

17 (10) to enter into contracts with the United States or any person and,
18 subject to the laws of the United States and subject to concurrence of the legislature,
19 with a foreign country or its agencies, for the financing, construction, acquisition,
20 operation and maintenance of all or any part of an energy [A POWER] project, either
21 inside or outside the state, and for the sale or transmission of power from a project or
22 any right to the capacity of it or for the security of any bonds of the authority issued
23 or to be issued for the project;

24 (11) to enter into contracts with any person and with the United States,
25 and, subject to the laws of the United States and subject to the concurrence of the
26 legislature, with a foreign country or its agencies for the purchase, sale, exchange,
27 transmission, or use of power from a project, or any right to the capacity of it;

28 (12) to apply to the appropriate agencies of the state, the United States
29 and to a foreign country and any other proper agency for the permits, licenses, or
30 approvals as may be necessary, and to construct, maintain and operate energy
31 [POWER] projects in accordance with the licenses or permits, and to obtain, hold and

1 use the licenses and permits in the same manner as any other person or operating unit;

2 (13) to perform reconnaissance studies, feasibility studies, and
3 engineering and design with respect to energy [POWER] projects;

4 (14) to enter into contracts or agreements with respect to the exercise
5 of any of its powers, including contracts for the administration of loan programs
6 under this chapter, and do all things necessary or convenient to carry out its
7 corporate purposes and exercise the powers granted in this chapter;

8 (15) to exercise the power of eminent domain in accordance with
9 AS 09.55.240 - 09.55.460;

10 (16) to recommend to the legislature

11 (A) the issuance of general obligation bonds of the state to
12 finance the construction of an energy [A POWER] project if the authority first
13 determines that the project cannot be financed by revenue bonds of the
14 authority at reasonable rates of interest;

15 (B) the pledge of the credit of the state to guarantee repayment
16 of all or any portion of revenue bonds issued to assist in construction of energy
17 [POWER] projects;

18 (C) an appropriation from the general fund

19 (i) for debt service on bonds or other project purposes;

20 or

21 (ii) to reduce the amount of debt financing for the
22 project;

23 (D) an appropriation to the energy [POWER] project loan
24 account [FUND] for an energy [A POWER] project;

25 (E) [REPEALED

26 (F)] development of a project under financing arrangements
27 with other entities using leveraged leases or other financing methods;

28 (F) [(G)] an appropriation for an energy [A POWER] project
29 acquired or constructed under AS 44.83.380 - 44.83.425 (energy program for
30 Alaska);

31 (17) in addition to any other power under this chapter, and in

1 accordance with regulations adopted under this section, to charge fees or other
2 forms of remuneration for services provided or for the recovery of equity
3 investments or capital costs for projects and activities described in this section in
4 accordance with (A) agreements described in this section, (B) other agreements
5 pertaining to the projects, or (C) covenants or representations made in bond
6 documents pertaining to the projects or loan programs; the authority may collect
7 the fees or other remuneration charged under this paragraph, and shall deposit
8 the money in the energy authority revolving fund (AS 44.83.107).

9 * Sec. 8. AS 44.83.090 is amended by adding a new subsection to read:

10 (c) Notwithstanding the provisions of (a) of this section, the authority may sell
11 waste heat directly to retail customers.

12 * Sec. 9. AS 44.83.105 is amended to read:

13 Sec. 44.83.105. BONDS FOR ENERGY [POWER] PROJECTS UNDER THE
14 ENERGY PROGRAM FOR ALASKA. The authority may borrow money and issue
15 its bonds for the acquisition or construction of energy [POWER] projects to be
16 acquired or constructed under the energy program for Alaska. The principal of and
17 interest on the bonds are payable from money derived from the sale of wholesale
18 power from energy [POWER] projects financed under AS 44.83.380 - 44.83.425 from
19 the energy [POWER] development account [FUND] or from a source referred to in
20 AS 44.83.100 as the authority determines. The bonds may be issued if

21 (1) appropriations to the energy [POWER] development account
22 [FUND] for the energy [POWER] project are insufficient to cover the cost of
23 acquiring or constructing the energy [POWER] project; and

24 (2) the authority determines that the amount of interest the authority
25 will pay on its bonds is not more than alternative costs of securing money from other
26 sources, except for the general fund, to pay for the acquisition or construction of the
27 energy [POWER] project.

28 * Sec. 10. AS 44.83 is amended by adding a new section to read:

29 Sec. 44.83.107. ENERGY AUTHORITY REVOLVING FUND. (a) The
30 energy authority revolving fund is established in the authority. The revolving fund
31 consists of

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Rally
if no sen. found appropriate,
no funds to what AEA can
commit to build.

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EIGHTEENTH LEGISLATURE - FIRST SESSION

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(6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 - 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;

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(10) members of boards, commissions, or authorities;

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(E) Alaska Commission on Postsecondary Education;

(F) Alaska Aerospace Development Corporation;

(G) Alaska Energy Authority;

(12) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(13) physicians licensed to practice in this state and employed by the division of mental health and developmental disabilities in the Department of Health and Social Services or by the Department of Corrections;

(14) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources and by the Oil and Gas Conservation Commission, except for those employed in the division of geological and geophysical surveys in the Department of Natural Resources;

(15) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic [ALCOHOL] Beverage Control Board under AS 04.06.110;

(16) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;

(17) officers and employees of the state who reside in foreign countries;

(18) employees of the Alaska Seafood Marketing Institute;

(19) fire fighters employed by the Department of Natural Resources for a fire emergency;

(20) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's mansion;

(21) employees of the Citizens' Advisory Commission on Federal Areas in Alaska (AS 41.37.010);

(22) youth employed by the Department of Natural Resources under the Youth Employment and Student Intern programs;

(23) the executive director of the Medicaid Rate Advisory Commission;

(24) students employed by the state institutions in which the students are enrolled;

- 1 (25) the executive director and staff of the Alaska Science and
- 2 Technology Foundation (AS 37.17.010);
- 3 (26) investment officers in the Department of Revenue;
- 4 (27) the executive director and other staff of the Alaskan Tourism
- 5 Marketing Council;
- 6 (28) persons engaged in employment or pre-employment training
- 7 programs operated by the Department of Military and Veterans' Affairs;
- 8 (29) employees of the Alaska Amateur Sports Authority.

9 * Sec. 4. AS 44.25.020 is amended to read:

10 Sec. 44.25.020. DUTIES OF DEPARTMENT. The Department of Revenue
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- 12 (1) enforce the tax laws of the state;
- 13 (2) collect, account for, have custody of, invest, and manage all state
- 14 funds and all revenues of the state except revenues incidental to a program of licensing
- 15 and regulation carried on by another state department and funds managed and invested
- 16 by the Alaska State Pension Investment Board;
- 17 (3) register cattle brands;
- 18 (4) supply necessary clerical and administrative services for the
- 19 Alcoholic Beverage Control Board;
- 20 (5) INVEST AND MANAGE THE BALANCE OF THE POWER ^{Revolving}
~~DEVELOPMENT FUND~~ ^{Loan} _{FUND} IN ACCORDANCE WITH AS 44.83.386;
- 21 (6) ^{MEA} in accordance with the policies established by the board of trustees
- 22 of the Alaska State Pension Investment Board, collect, account for, have custody of,
- 23 invest, and manage the state funds for which the board is responsible.

*Dept of
Rev. would like to
manage fund
would like to
contract out w/ Rev.*

25 * Sec. 5. AS 44.83.010 is amended to read:

26 Sec. 44.83.010. LEGISLATIVE FINDING AND POLICY. (a) The legislature
27 finds, determines and declares that

- 28 (1) there exist numerous potential hydroelectric and fossil fuel gathering
- 29 sites in the state;
- 30 (2) the establishment of energy [POWER] projects at these sites is
- 31 necessary to supply power at the lowest reasonable cost to the state's municipal

1 electric, rural electric, cooperative electric, and private electric utilities, and regional
2 electric authorities, and thereby to the consumers of the state, as well as to supply
3 existing or future industrial needs;

4 (3) the achievement of the goals of lowest reasonable consumer power
5 costs and beneficial long-term economic growth and of establishing, operating and
6 developing energy [POWER] projects in the state will be accelerated and facilitated
7 by the creation of an instrumentality of the state with powers to construct, acquire,
8 finance, and operate energy [POWER] projects.

9 (b) It is declared to be the policy of the state, in the interests of promoting the
10 general welfare of all the people of the state, and public purposes, to reduce consumer
11 power costs and otherwise to encourage the long-term economic growth of the state,
12 including the development of its natural resources, through the establishment of energy
13 [POWER] projects by creating the public corporation with powers, duties and functions
14 as provided in this chapter.

15 * Sec. 6. AS 44.83.070 is amended to read:

16 Sec. 44.83.070. PURPOSE OF THE AUTHORITY. The purpose of the
17 authority is to promote, develop and advance the general prosperity and economic
18 welfare of the people of the state by providing a means of constructing, acquiring,
19 financing and operating energy [POWER] projects and facilities that recover and use
20 waste energy.

21 * Sec. 7. AS 44.83.080 is amended to read:

22 Sec. 44.83.080. POWERS OF THE AUTHORITY. In furtherance of its
23 corporate purposes, the authority has the following powers in addition to its other
24 powers:

25 (1) to sue and be sued;

26 (2) to have a seal and alter it at pleasure;

27 (3) to make and alter bylaws for its organization and internal
28 management;

29 (4) to adopt regulations governing the exercise of its corporate powers
30 and implementing this chapter;

31 (5) to acquire, whether by construction, purchase, gift or lease, and to

1 improve, equip, operate, and maintain energy [POWER] projects;

2 (6) to issue bonds to carry out any of its corporate purposes and
3 powers, including the acquisition or construction of a project to be owned or leased,
4 as lessor or lessee, by the authority, or by another person, or the acquisition of any
5 interest in a project or any right to capacity of a project, the establishment or increase
6 of reserves to secure or to pay the bonds or interest on them, and the payment of all
7 other costs or expenses of the authority incident to and necessary or convenient to
8 carry out its corporate purposes and powers;

9 (7) to sell, lease as lessor or lessee, exchange, donate, convey or
10 encumber in any manner by mortgage or by creation of any other security interest, real
11 or personal property owned by it, or in which it has an interest, when, in the judgment
12 of the authority, the action is in furtherance of its corporate purposes;

13 (8) to accept gifts, grants or loans from, and enter into contracts or
14 other transactions regarding them, with any person:

15 (9) to deposit or invest its funds, subject to agreements with
16 bondholders;

17 (10) to enter into contracts with the United States or any person and,
18 subject to the laws of the United States and subject to concurrence of the legislature,
19 with a foreign country or its agencies, for the financing, construction, acquisition,
20 operation and maintenance of all or any part of an energy [A POWER] project, either
21 in tide or outside the state, and for the sale or transmission of power from a project or
22 any right to the capacity of it or for the security of any bonds of the authority issued
23 or to be issued for the project;

24 (11) to enter into contracts with any person and with the United States,
25 and, subject to the laws of the United States and subject to the concurrence of the
26 legislature, with a foreign country or its agencies for the purchase, sale, exchange,
27 transmission, or use of power from a project, or any right to the capacity of it;

28 (12) to apply to the appropriate agencies of the state, the United States
29 and to a foreign country and any other proper agency for the permits, licenses, or
30 approvals as may be necessary, and to construct, maintain and operate energy
31 [POWER] projects in accordance with the licenses or permits, and to obtain, hold and

1 use the licenses and permits in the same manner as any other person or operating unit;

2 (13) to perform reconnaissance studies, feasibility studies, and
3 engineering and design with respect to energy [POWER] projects;

4 (14) to enter into contracts or agreements with respect to the exercise
5 of any of its powers, including contracts for the administration of loan programs
6 under this chapter, and do all things necessary or convenient to carry out its
7 corporate purposes and exercise the powers granted in this chapter;

8 (15) to exercise the power of eminent domain in accordance with
9 AS 09.55.240 - 09.55.460;

10 (16) to recommend to the legislature

11 (A) the issuance of general obligation bonds of the state to
12 finance the construction of an energy [A POWER] project if the authority first
13 determines that the project cannot be financed by revenue bonds of the
14 authority at reasonable rates of interest;

15 (B) the pledge of the credit of the state to guarantee repayment
16 of all or any portion of revenue bonds issued to assist in construction of energy
17 [POWER] projects;

18 (C) an appropriation from the general fund

19 (i) for debt service on bonds or other project purposes;

20 or

21 (ii) to reduce the amount of debt financing for the
22 project;

23 (D) an appropriation to the energy [POWER] project loan
24 account [FUND] for an energy [A POWER] project;

25 (E) [REPEALED

26 (F)] development of a project under financing arrangements
27 with other entities using leveraged leases or other financing methods;

28 (F) [(G)] an appropriation for an energy [A POWER] project
29 acquired or constructed under AS 44.83.380 - 44.83.425 (energy program for
30 Alaska);

31 (17) in addition to any other power under this chapter, and in

1 accordance with regulations adopted under this section, to charge fees or other
2 forms of remuneration for services provided or for the recovery of equity
3 investments or capital costs for projects and activities described in this section in
4 accordance with (A) agreements described in this section, (B) other agreements
5 pertaining to the projects, or (C) covenants or representations made in bond
6 documents pertaining to the projects or loan programs; the authority may collect
7 the fees or other remuneration charged under this paragraph, and shall deposit
8 the money in the energy authority revolving fund (AS 44.83.107).

9 * Sec. 8. AS 44.83.090 is amended by adding a new subsection to read:

10 (c) Notwithstanding the provisions of (a) of this section, the authority may sell
11 waste heat directly to retail customers.

12 * Sec. 9. AS 44.83.105 is amended to read:

13 Sec. 44.83.105. BONDS FOR ENERGY [POWER] PROJECTS UNDER THE
14 ENERGY PROGRAM FOR ALASKA. The authority may borrow money and issue
15 its bonds for the acquisition or construction of energy [POWER] projects to be
16 acquired or constructed under the energy program for Alaska. The principal of and
17 interest on the bonds are payable from money derived from the sale of wholesale
18 power from energy [POWER] projects financed under AS 44.83.380 - 44.83.425 from
19 the energy [POWER] development account [FUND] or from a source referred to in
20 AS 44.83.100 as the authority determines. The bonds may be issued if

21 (1) appropriations to the energy [POWER] development account
22 [FUND] for the energy [POWER] project are insufficient to cover the cost of
23 acquiring or constructing the energy [POWER] project; and

24 (2) the authority determines that the amount of interest the authority
25 will pay on its bonds is not more than alternative costs of securing money from other
26 sources, except for the general fund, to pay for the acquisition or construction of the
27 energy [POWER] project.

28 * Sec. 10. AS 44.83 is amended by adding a new section to read:

29 Sec. 44.83.107. ENERGY AUTHORITY REVOLVING FUND. (a) The
30 energy authority revolving fund is established in the authority. The revolving fund
31 consists of

- 1 (1) appropriations made to it by the legislature;
- 2 (2) money or other assets transferred to it by the authority;
- 3 (3) unrestricted payments on loans made or purchased by the authority;
- 4 (4) income and interest on amounts in the fund; and
- 5 (5) all revenue of the authority not otherwise required to pay the
- 6 expenses of authority projects.

7 (b) The board of directors of the authority may establish operations, renewal
8 and replacement, capitalization, and self-insurance reserve accounts within the
9 revolving fund.

10 (c) Unless otherwise expressly stated, the accounts created in this chapter,
11 including the energy project loan account (AS 44.83.170), the energy development
12 account (AS 44.83.382), and the energy development loan account (AS 44.83.500), are
13 accounts of the energy authority revolving fund. The electrical service extension fund
14 (AS 44.83.370) and the power cost equalization fund (AS 44.83.162) are not accounts
15 of the energy authority revolving fund established under this section. The authority
16 may create additional funds or accounts either within the revolving fund or outside the
17 fund. Subject to agreements made with the holders of the authority's bonds or with
18 other persons and subject to any restrictions placed upon legislative appropriations, the
19 authority may transfer amounts in a fund or account in the revolving fund to another
20 fund or account within the revolving fund.

21 (d) The foreclosure expense account is established as a special account in the
22 energy authority revolving fund, as a reserve from fund equity. The authority may
23 spend money credited to the foreclosure expense account when necessary to protect the
24 state's security interest in collateral on loans made under this chapter or to defray
25 expenses incurred during foreclosure proceedings after a default by an obligor.

26 (e) The authority has the powers and responsibilities established in
27 AS 37.10.071 with respect to the investment of amounts held in the energy authority
28 revolving fund and may enter into agreements with the holders of bonds with respect
29 to investment of these amounts.

30 (f) The authority may

- 31 (1) pledge amounts in the revolving fund to secure bonds of the

1 authority; or

2 (2) enter into agreements with respect to the revolving fund that it
3 considers necessary to secure its bonds.

4 (g) The authority may spend amounts from the revolving fund for any purpose
5 authorized by this chapter. However, each fiscal year not more than 10 percent of the
6 balance in the revolving fund, determined as of the end of the preceding fiscal year,
7 may be spent for equity investment in projects or programs, excluding equity
8 investment in those projects or programs that are expressly authorized by the
9 legislature under AS 44.83.185 and excluding amounts the legislature has appropriated
10 to the fund for the purpose of specified projects or programs.

11 (h) The legislature may appropriate amounts in the revolving fund to the
12 authority for the cost of administering the fund.

13 * Sec. 11. AS 44.83.162(c) is amended to read:

14 (c) An eligible electric utility is entitled to receive power cost equalization for

15 (1) sales of power to local community facilities, calculated in the
16 aggregate for each community served by the electric utility, for actual consumption of
17 not more than 70 kilowatt-hours per month for each resident of the community; and

18 (2) actual consumption of not more than 750 kilowatt-hours per month
19 sold to each customer in all classes served by the electric utility except to

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

21 (B) offices and facilities of the state and federal
22 governments; and

23 (C) a public school, as defined in AS 14.25.220, that is an
24 elementary, junior high, or secondary school as those terms are described
25 in AS 14.03.060; the University of Alaska (AS 14.40) and community
26 colleges as defined in AS 14.40.630; and any other facilities owned,
27 operated, or leased by the public school, the university, or a community
28 college.

29 * Sec. 12. AS 44.83.162(d) is amended to read:

30 (d) The amount of power cost equalization provided per kilowatt-hour under
31 (c) of this section may not exceed 95 percent of the power costs, or the average rate

1 per eligible kilowatt-hour sold, whichever is less, as determined by the commission.
2 However,

3 (1) for [DURING] the state fiscal year that begins July 1, 1993 [1984]
4 the power costs for which power cost equalization may be paid to an electric utility
5 are limited to minimum power costs of more than 9.5 [8.5] cents per kilowatt-hour and
6 less than 52.5 cents per kilowatt-hour;

7 (2) for [DURING] each following state fiscal year, the minimum
8 power costs for which power cost equalization may be paid to an electric utility shall
9 be adjusted by the commission by an amount equal to the percentage change in the
10 Consumer Price Index, All Urban Consumers, U.S. City Average, published by
11 the U.S. Department of Labor, for the 12-month period ending April 30 of the
12 fiscal year preceding the fiscal year for which the adjustment is being made [,
13 CONSIDERING THE RATE OF CHANGE IN FUEL COST AND POWER
14 DEMAND]; and

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

18 * Sec. 13. AS 44.83.162(e) is amended to read:

19 (e) An electric utility whose customers receive power cost equalization under
20 this section shall set out in its tariff the rates without the power cost equalization and
21 the amount of power cost equalization per kilowatt-hour sold. The rate charged to the
22 customer shall be the difference between the two amounts. Power cost equalization
23 paid under this section shall be used to reduce the cost of all power sold to local
24 community facilities, in the aggregate, to the extent of 70 kilowatt-hours per month per
25 resident of the community, and to reduce the cost of the first 750 kilowatt-hours per
26 customer per month for all other classes served by the electric utility except for those
27 customers described in (c)(2) (B) and (C) of this section.

28 * Sec. 14. AS 44.83.170(a) is amended to read:

29 (a) There is established [AS A SEPARATE FUND] the energy [POWER]
30 project loan account in the energy authority revolving fund. The account consists
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- (1) appropriations to the energy project loan account:
- (2) unrestricted payments on loans made from or purchased by the account:
- (3) income and interest on amounts in the account: and
- (4) other money and other assets transferred to or deposited in the account as directed by resolution of the board of directors of the authority [FUND THAT SHALL BE DISTINCT FROM ANY OTHER MONEY OR FUNDS OF THE AUTHORITY, AND THAT INCLUDES ONLY MONEY APPROPRIATED BY THE LEGISLATURE].

* Sec. 15. AS 44.83.170(b) is amended to read:

(b) The authority may make loans from the energy [POWER] project loan account [FUND]

(1) to electric utilities, gas utilities, regional electric authorities, municipalities, [CITIES, BOROUGHES,] regional and village corporations, village councils, regional housing authorities. business enterprises, and nonprofit marketing cooperatives to pay the costs of

(A) reconnaissance studies, feasibility studies, license and permit applications, preconstruction engineering, and design of energy [POWER] projects;

(B) constructing, acquiring, equipping, modifying, improving, and expanding energy projects [SMALL-SCALE POWER PRODUCTION FACILITIES], conservation facilities, bulk fuel storage facilities, and electric or gas transmission and distribution facilities, including energy production, transmission and distribution, and waste energy conservation facilities that depend on fossil fuel, wind power, tidal, geothermal, biomass, hydroelectric, solar, or other non-nuclear energy sources; [AND]

(C) reconnaissance studies, preconstruction engineering, design, construction, equipping, modification, and expansion of potable water supply including surface storage and groundwater sources and transmission of water from surface storage to existing distribution systems;

(D) acquisition of bulk fuel and bulk fuel reserves:

1 (E) acquisition of proven reserves of gas, oil, coal,
2 geothermal, or other energy resources; and

3 (F) consumer end-use improvements to reduce demand for
4 energy;

5 (2) to a borrower for an energy [A POWER] project if

6 (A) the loan is entered into under a [LEVERAGED LEASE]
7 financing arrangement that the authority considers provides satisfactory
8 assurance of repayment;

9 (B) the party that will be responsible for the energy [POWER]
10 project is an electric utility, gas utility, regional electric authority, municipality,
11 [CITY, BOROUGH,] regional or village corporation, village council, regional
12 housing authority, business enterprise, or nonprofit marketing cooperative;
13 and

14 (C) the borrower seeking the loan demonstrates to the authority
15 that the financing arrangement for the energy [POWER] project will reduce
16 project financing costs below costs of comparable public energy [POWER]
17 projects; however, no loan shall be made to a regional housing authority or
18 a business enterprise for power generation facilities unless those facilities
19 provide wholesale power or emergency reserve power for a community and
20 the utility, if any, certificated to serve that community formally
21 recommends approval of the loan application.

22 * Sec. 16. AS 44.83.170(c) is amended to read:

23 (c) Before making a loan from the energy [POWER] project loan account
24 [FUND], the authority shall, by regulation, specify

25 (1) standards for the eligibility of borrowers and the types of projects
26 to be financed with loans;

27 (2) standards regarding the technical and economic viability and
28 revenue self-sufficiency of eligible projects;

29 (3) collateral or other security required for loans;

30 (4) the terms and conditions of loans;

31 (5) criteria to establish financial feasibility and to measure the amount

1 of state assistance necessary for particular projects to meet the financial feasibility
2 criteria; and

3 (6) other relevant criteria, standards, or procedures.

4 * Sec. 17. AS 44.83.170(e) is amended to read:

5 (e) Repayment of the loans shall be secured in any manner that the authority
6 determines is feasible to assure prompt repayment under a loan agreement entered into
7 with the borrower. The authority may make an unsecured loan from the energy
8 [POWER] project loan account [FUND] to a borrower regulated by the Alaska Public
9 Utilities Commission under AS 42.05 if the borrower has a substantial history of
10 repaying long-term loans and the capacity to repay the loan. Under a loan agreement,
11 repayment may be deferred for 10 years or until the project for which the loan is made
12 has achieved earnings from its operations sufficient to pay the loan, whichever is
13 earlier.

14 * Sec. 18. AS 44.83.170(f) is amended to read:

15 (f) Energy [POWER] projects are subject to the following limitations on
16 interest and specific restrictions:

17 (1) energy [POWER] projects for which loans are outstanding from the
18 former water resources revolving loan fund under former AS 45.86 on July 13, 1978,
19 may receive additional financing from the energy [POWER] project loan account
20 [FUND]; the additional financing, if granted, must be

21 (A) granted for a term not exceeding 50 years;

22 (B) granted at an interest rate of not less than three or more
23 than five percent a year on the unpaid balance;

24 (C) conditioned on the repayment of loan principal and interest
25 to begin on the earlier of

26 (i) the date of the start of commercial operation of the
27 project; or

28 (ii) 10 years from the date the loan is granted;

29 (2) loans for energy [POWER] projects [SHALL BE GRANTED]

30 (A) shall be for a term not to exceed 50 years; [AND]

31 (B) except as provided in (C) of this paragraph, shall have

1 [AT] an interest rate that is not less than five percent and that is the lesser of
2 (i) a rate equal to the percentage that is the average
3 weekly yield of municipal bonds for the 12 months preceding the date
4 of the loan, as determined by the authority from municipal bond
5 yield rates reported in the 30-year revenue index of the Weekly Bond
6 Buyer, or

7 (ii) a rate determined by the authority that allows the
8 project to meet criteria of financial feasibility established under (c) of
9 this section;

10 (C) for which the legislature specifically authorizes no-
11 interest loans, and loans for transmission intertie projects that connect two
12 or more utility systems not previously connected or that provide a second
13 circuit to improve the reliability and transfer capability of an existing
14 system, may have an interest rate that is as low as zero percent.

15 * Sec. 19. AS 44.83.170(i) is amended to read:

16 (i) Money in the energy [POWER] project loan account [FUND] may be used
17 by the legislature to make appropriations for costs of administering the energy
18 authority revolving fund (AS 44.83.107).

19 * Sec. 20. AS 44.83.177(a) is amended to read:

20 (a) To define and compare energy alternatives [IDENTIFY POWER
21 PROJECT ALTERNATIVES AND ENERGY CONSUMPTION PATTERNS AND
22 NEEDS] for a community or region on a preliminary basis, the authority shall [,
23 AFTER CONSULTATION WITH OTHER STATE AGENCIES AND AFTER
24 REVIEW OF INFORMATION ON ALTERNATIVE SOURCES OF ENERGY,]
25 complete a reconnaissance study for each proposed new energy [POWER] project [OR
26 COMBINATION OF PROJECTS].

27 * Sec. 21. AS 44.83.177(b) is amended to read:

28 (b) A reconnaissance study must

29 (1) identify the present and anticipated [ELECTRICAL AND
30 THERMAL] energy requirements that may be served or affected by the proposed
31 project [OF A COMMUNITY OR REGION];

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1 (2) survey all reasonable alternatives to the proposed project
2 including energy conservation, [ELECTRICAL AND THERMAL ENERGY
3 SOURCES AND COMBINATIONS OF SOURCES AVAILABLE TO THE
4 COMMUNITY OR REGION] and evaluate their [THE] relative economic merits [OF
5 ALTERNATIVE SOURCES OF POWER AND HEAT, INCLUDING ENERGY
6 CONSERVATION];

7 (3) assess the effect of development of the proposed project and all
8 reasonable alternatives to the proposed project [ALTERNATIVE SOURCES OF
9 POWER AND HEAT] on the environment; and

10 (4) include public comment from residents of the affected
11 [COMMUNITY AND ADJACENT] area.

12 * Sec. 22. AS 44.83.177(c) is amended to read:

13 (c) The authority [, IN CONSULTATION WITH THE OFFICE OF
14 MANAGEMENT AND BUDGET,] shall adopt regulations defining

15 (1) the methods that it shall apply to determine that the information
16 required by (b) of this section is obtained; and

17 (2) standard criteria and measures for comparative analysis of
18 alternative energy sources.

19 * Sec. 23. AS 44.83.179 is repealed and reenacted to read:

20 Sec. 44.83.179. REVIEW OF RECONNAISSANCE STUDY BY BOARD OF
21 DIRECTORS. The board of directors of the authority shall review reconnaissance
22 studies of proposed projects of the authority. Authority staff shall make a written
23 report to the board of directors that includes findings and recommendations on whether
24 to start, terminate, delay, modify, or continue a project and considers the costs of those
25 actions. The board of directors of the authority shall maintain a record of approval
26 and disapproval decisions made with respect to reconnaissance studies as part of its
27 formal archives of board actions.

28 * Sec. 24. AS 44.83.181(a) is amended to read:

29 (a) The [UNLESS THE RECONNAISSANCE STUDY HAS BEEN
30 DISAPPROVED BY THE OFFICE OF MANAGEMENT AND BUDGET UNDER
31 AS 44.83.179, THE] authority shall complete a feasibility study and plan of finance

1 for each [PROPOSED] project approved under AS 44.83.179.

2 * Sec. 25. AS 44.83.181(b) is amended to read:

3 (b) A feasibility study must include

4 (1) information about the proposed project, including but not limited
5 to estimates of total project construction costs, total project operating costs, the costs
6 of transmission systems, a comparison of the economic costs and benefits affecting
7 project feasibility and [RESERVE POWER REQUIREMENTS, THE TIMING AND
8 AMOUNT OF ANTICIPATED RETURNS FROM THE COMPLETED PROJECT, A
9 BENEFIT-TO-COST RATIO,] the potential effect of the project on the environment
10 of the area that will be served by the project when completed [, AND THE
11 AVAILABILITY OF ALTERNATIVE GOVERNMENT FINANCING];

12 (2) a statement of all assumptions that affect the economic feasibility
13 of the project, including but not limited to the discount rate used for project
14 evaluation [AND INTEREST RATE OF AMOUNTS OF MONEY TO BE USED
15 FOR THE PROJECT], anticipated fuel prices, anticipated energy requirements in
16 the affected project area [AN ESCALATION RATE, STATE AND LOCAL
17 ELECTRIC LOAD GROWTH], and estimates of indirect costs and benefits; and

18 (3) a comparative analysis of all reasonable alternatives to construction
19 of the proposed project [; AND

20 (4) INFORMATION BASED ON ENGINEERING AND DESIGN
21 WORK THAT MEETS THE REQUIREMENTS FOR SUBMISSION OF A LICENSE
22 APPLICATION FOR THE PROJECT TO THE FEDERAL ENERGY REGULATORY
23 COMMISSION].

24 * Sec. 26. AS 44.83.181(c) is repealed and reenacted to read:

25 (c) The plan of finance must include

26 (1) an estimate of the total cost of the project;

27 (2) a description of the sources of money that will be used to finance
28 the total cost of the project, including the estimated amount from each source;

29 (3) an estimate of the operating and maintenance costs of the project
30 and a description of the sources of money that will be used to pay the operating and
31 maintenance costs, including the estimated amount from each source.

1 * Sec. 27. AS 44.83.181(d) is amended to read:

2 (d) When financial assistance from the state is necessary for a project to meet
3 financial feasibility criteria, the plan of finance must include an estimate of the
4 minimum amount of financial assistance required from the state based on an analysis
5 of financing alternatives. The plan of finance must include an estimate of the present
6 value of the financial assistance from the state [, COMPUTED AS THE DIFFERENCE
7 BETWEEN

8 (1) A MARKET RATE OF INTEREST, WHICH IS

9 (A) THE RATE DETERMINED UNDER
10 AS 44.83.170(f)(2)(B)(i); OR

11 (B) THE ESTIMATED INTEREST RATE FOR REVENUE
12 BONDS TO BE ISSUED BY THE AUTHORITY FOR THE PROJECT; AND

13 (2) THE EFFECTIVE RATE OF INTEREST BECAUSE OF STATE
14 FINANCIAL ASSISTANCE PROVIDED].

15 * Sec. 28. AS 44.83.181(e) is amended to read:

16 (e) The authority [, IN CONSULTATION WITH THE OFFICE OF
17 MANAGEMENT AND BUDGET,] shall adopt regulations defining

18 (1) the techniques that it shall apply to determine that the information
19 required by (b) - (d) of this section is obtained; and

20 (2) standard criteria and measures for comparative analysis of
21 alternative financing arrangements.

22 * Sec. 29. AS 44.83.183(c) is amended to read:

23 (c) When the office of management and budget has completed a review of the
24 feasibility study and plan of finance for a project under this section, it shall submit a
25 report to the governor. The report must examine the feasibility study and plan of
26 finance for compliance with the requirements of AS 44.83.181(b) - (d). [THE
27 REPORT OF THE OFFICE OF MANAGEMENT AND BUDGET MUST INCLUDE
28 A RECOMMENDATION TO THE GOVERNOR AND LEGISLATURE FOR
29 APPROVAL OR DISAPPROVAL OF THE PROJECT BASED ON THE OFFICE'S
30 REVIEW OF THE FEASIBILITY STUDY AND PLAN OF FINANCE FOR
31 COMPLIANCE WITH THE REQUIREMENTS OF AS 44.83.181(b) - (d).]

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1 * Sec. 30. AS 44.83.185(c) is amended to read:

2 (c) The legislature shall consider and must approve all proposed new projects
3 except proposed new projects that are exempt under AS 44.83.187. The legislature
4 may approve a proposed new project only by enacting law that authorizes the project
5 and approves a construction cost for that project. If the actual construction cost of
6 a project exceeds the construction cost approved by the legislature, project
7 authorization under this subsection remains in effect so long as no additional costs
8 are payable by the state.

9 * Sec. 31. AS 44.83.187(a) is amended to read:

10 (a) The provisions of AS 44.83.177 - 44.83.185 and 44.83.189 apply only to
11 a proposed new project that will generate more than 1.5 megawatts of power and

12 (1) requires an appropriation from the state general fund, or from the
13 energy [POWER] project loan account [FUND, OR FROM THE RENEWABLE
14 RESOURCES FUNDS]; or

15 (2) is based on a plan of finance that requires the issuance of general
16 obligation bonds or other pledge of the credit of the state not available under this
17 chapter.

18 * Sec. 32. AS 44.83.187(b) is amended to read:

19 (b) The provisions of AS 44.83.177 - 44.83.185 and 44.83.189 apply to a
20 project that generates more than 25 megawatts of power for which the authority will
21 issue its revenue bonds for costs of construction

22 * Sec. 33. AS 44.83.187(d) is amended to read:

23 (d) The provisions of AS 44.83.177 - 44.83.185 do not apply to

24 (1) an addition, modification, repair, reconstruction, design, acquisition,
25 or construction for the purpose of completing a project;

26 (2) the construction of a gas or [AN] electrical transmission line or
27 distribution facility that is estimated to cost \$10,000,000 or less;

28 (3) the construction of a gas or electrical transmission line or
29 distribution facility that does not require a general fund appropriation for
30 construction [THAN \$3,000,000].

31 * Sec. 34. AS 44.83.189 is amended to read:

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1 Sec. 44.83.189. PROJECT CONSTRUCTION. If a new project is to be
2 designed, acquired, and constructed by the authority, it shall be designed, acquired, and
3 constructed as a public work of the authority [STATE]. For the purpose of this
4 section and AS 44.83.187 a new project does not include

5 (1) an addition or modification to an existing project unless the total
6 estimated cost of the addition or modification exceeds \$10,000,000 [\$1,000,000];

7 (2) repair or reconstruction of a project; or

8 (3) design, acquisition, or construction necessary to complete a project
9 for which bonds have been issued.

10 * Sec. 35. AS 44.83.380(b) is amended to read:

11 (b) The energy program for Alaska is a program by which the authority may
12 acquire or construct energy [POWER] projects with money appropriated by the
13 legislature to the energy [POWER] development account [FUND] established in
14 AS 44.83.382. An energy [A POWER] project may be acquired or constructed as part
15 of the energy program for Alaska only if the project is submitted to and approved by
16 the legislature in accordance with procedures set out in AS 44.83.177 - 44.83.187.

17 * Sec. 36. AS 44.83.380(c) is amended to read:

18 (c) The provisions of AS 36.10 apply to energy [POWER] projects constructed
19 by the authority under AS 44.83.380 - 44.83.425.

20 * Sec. 37. AS 44.83.382 is amended to read:

21 Sec. 44.83.382. ENERGY [POWER] DEVELOPMENT ACCOUNT [FUND]
22 ESTABLISHED. (a) An energy [A POWER] development account [FUND] is
23 established in the Alaska Energy Authority to carry out the purposes of AS 44.83.380 -
24 44.83.425.

25 (b) The account [FUND] includes money appropriated to it by the legislature.

26 * Sec. 38. AS 44.83.384 is amended to read:

27 Sec. 44.83.384. USE OF ACCOUNT [FUND] BALANCE. (a) The account
28 [FUND] may be used by the authority to provide money for

29 (1) reconnaissance and feasibility studies and energy [POWER] project
30 finance plans prepared under AS 44.83.177 - 44.83.181;

31 (2) the cost of an energy [A POWER] project, including but not

1 limited to costs of acquiring necessary licenses, preparing engineering designs,
2 obtaining land, and constructing the energy [POWER] project;

3 (3) the defeasance of bonds, or the payment of debt service on loans
4 for or on an issue of bonds sold in connection with an energy [A POWER] project;

5 (4) the cost of operating and maintaining energy [POWER] projects;
6 and

7 (5) debt service on energy [POWER] projects.

8 (b) Money in the account [FUND] may be used under (a) of this section only
9 for an energy [A POWER] project that

10 (1) is economically feasible; and

11 (2) provides the lowest reasonable power cost to utility customers in
12 the market area for the estimated life of the [POWER] project, whether operated by
13 itself or in conjunction with other energy [POWER] projects in the market area, and
14 that operates or will operate on one or more of the following:

15 (A) renewable energy resources, including but not limited to
16 hydroelectric power, wind, biomass, geothermal, tidal or solar energy, or a
17 method that uses temperature differentials or other physical properties of the
18 ocean;

19 (B) coal or peat;

20 (C) energy derived from waste heat; or

21 (D) fossil fuel, including oil or natural gas.

22 (c) Notwithstanding (b)(1) of this section and AS 44.83.396 - 44.83.398, the
23 account [FUND] may be used by the authority to provide money for the cost of an
24 energy [A POWER] project that is or was either constructed or owned by the United
25 States government if the requirements of this subsection are met. The provisions of
26 AS 44.83.177 - 44.83.187 do not apply to a [POWER] project financed under this
27 subsection. The authority may use money in the account [FUND] for the cost of a
28 [POWER] project under this subsection if

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

30 (2) the office of management and budget in the Office of the Governor
31 reviews a feasibility study and a plan of finance for the project and determines that the

1 feasibility study complies with the requirements for a feasibility study submitted under
2 AS 44.83.181(b) and that the plan of finance complies with the requirements for a plan
3 of finance submitted under AS 44.83.181(c); and

4 (3) the project meets the other requirements of this chapter.

5 * Sec. 39. AS 44.83.388(a) is amended to read:

6 (a) The authority shall maintain records of energy [POWER] project
7 allocations from the account [FUND] for each energy [POWER] project

8 (1) approved in accordance with AS 44.83.185; and

9 (2) for which an allocation is made from an appropriation made by the
10 legislature without specifying an appropriation to a project.

11 * Sec. 40. AS 44.83.396 is amended to read:

12 Sec. 44.83.396. OPERATION OF ENERGY [POWER] PROJECT. (a) An
13 energy [A POWER] project that is acquired or constructed as part of the energy
14 program for Alaska is owned, and shall be administered, by the authority.

15 (b) When an energy [A POWER] project has been acquired or constructed by
16 the authority, the project may be operated for the authority under a contract or lease
17 entered into by a qualified utility and the authority.

18 (c) The authority shall enter into a contract or lease under reasonable terms
19 and conditions to permit the applicant utility to operate the energy [POWER] project
20 when the applicant utility is the only wholesale power customer to be served directly
21 by the energy [POWER] project unless the authority determines that a utility making
22 application for a contract or lease to operate an energy [A POWER] project is not a
23 qualified utility or is not capable of operating that [POWER] project efficiently and
24 in a manner that is consistent with national standards for the industry and with
25 agreements with bondholders.

26 (d) The authority shall adopt regulations to determine the manner of selecting
27 a qualified utility to operate an energy [A POWER] project under a contract or lease
28 when there is more than one wholesale power customer to be served directly by the
29 [POWER] project.

30 (e) When the authority permits an energy [A POWER] project to be operated
31 by a qualified utility under a contract or lease, the authority shall

1 (1) review and approve the annual budget for the operation and
2 maintenance of the [POWER] project; and

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

6 * Sec. 41. AS 44.83.398(a) is amended to read:

7 (a) The authority shall sell power produced from energy [POWER] projects
8 acquired or constructed under the energy program for Alaska. For purposes of this
9 section, Lake Tyee, Swan Lake, Solomon Gulch, and Terror Lake hydroelectric
10 facilities are considered to be one energy [POWER] project. This energy [POWER]
11 project is referred to as the initial project.

12 * Sec. 42. AS 44.83.398(b) is amended to read:

13 (b) The authority shall establish a wholesale power rate structure applicable
14 to sales of power to the customers of an energy [A POWER] project as follows:

15 (1) the authority shall establish and maintain a separate wholesale
16 power rate applicable to each energy [POWER] project that it has acquired or
17 constructed under the energy program for Alaska, other than a project described in (f)
18 of this section; the wholesale power rate established by the authority for the initial
19 project shall be a rate calculated under this paragraph except that the portion of the
20 rate applicable to (A) and (C) of this paragraph shall be adjusted for the hydroelectric
21 facilities in the initial project as set out in (3) of this subsection; the wholesale power
22 rate shall be computed by the authority annually, or more frequently as may be
23 necessary, and shall equal the rate that the authority estimates is necessary to produce
24 revenue that is sufficient to pay

25 (A) operation, maintenance, and equipment replacement costs
26 of the energy [POWER] project;

27 (B) the energy [POWER] project's proportionate share of the
28 debt service on state loans and bonds for all energy [POWER] projects in the
29 energy program for Alaska, determined in accordance with (g) of this section;

30 (C) safety inspections and investigations of the energy
31 [POWER] project by the authority;

1 (2) [REPEALED

2 (3)] for the purposes of determining amounts to be allocated to each
3 hydroelectric facility in the initial project under (1)(A) and (1)(C) of this subsection,
4 the authority shall determine for each hydroelectric facility its individual operation,
5 maintenance, equipment replacement, safety inspection, and investigation costs.

6 * Sec. 43. AS 44.83.398(e) is amended to read:

7 (e) After determining the wholesale power rate for an energy [A POWER]
8 project under the provisions of this section, the authority may adjust the rate or change
9 the rate provisions to insure that the revenue derived from that [POWER] project and
10 the aggregate revenues of the authority will be adequate to comply with the rate
11 covenants and other agreements contained in any trust indenture or trust agreement
12 entered into by the authority for the security of the holders of bonds issued to finance
13 energy [POWER] projects in the energy program for Alaska. The authority may agree
14 with a purchaser of power to limit rate increases caused by debt service payable by the
15 authority on subsequent projects.

16 * Sec. 44. AS 44.83.398(f) is amended to read:

17 (f) The provisions of (b) of this section do not apply to an intertie that is
18 authorized as a separate project under AS 44.83.380. The authority shall establish and
19 maintain separate power rate schedules applicable to each intertie that it has acquired
20 or constructed as a separate energy [POWER] project under the energy program for
21 Alaska. The power rate schedules shall produce sufficient revenue from utilities
22 connected by the intertie to pay (1) operation, maintenance, and equipment replacement
23 costs of the intertie; (2) debt service of the intertie; and (3) safety inspections and
24 investigations of the intertie by the authority. If the authority determines that an
25 intertie has ceased to function as a separate project and has become a part of one or
26 more other energy [POWER] projects as a transmission line, the power rate schedules
27 established under this subsection shall be terminated and a wholesale power rate
28 applicable to the former intertie shall be calculated under (b) of this section for the
29 project or projects of which it has become a part.

30 * Sec. 45. AS 44.83.398(g) is amended to read:

31 (g) For the purposes of (b)(1)(B) of this section, an energy [A POWER]

1 project's proportionate share of debt service on state loans and bonds for all energy
2 [POWER] projects in the energy program for Alaska is equal to the state's investment
3 in the energy [POWER] project divided by the state's investment in all energy
4 [POWER] projects in the energy program for Alaska and multiplied by the debt service
5 on state loans and bonds for all energy [POWER] projects in the energy program for
6 Alaska. In this subsection

7 (1) "state's investment in the energy [POWER] project" includes all
8 state money invested in an energy [A POWER] project, including loans, grants, and
9 proceeds from bonds, less the principal repayments on the project's proportionate share
10 of debt service on state loans and bonds;

11 (2) "state's investment in all energy [POWER] projects in the energy
12 program for Alaska" includes all state money invested in the energy [POWER]
13 projects, other than interties, in the energy program for Alaska, including loans, grants,
14 and proceeds from bonds, less the principal repayments on bonds and state loans
15 issued for the energy [POWER] projects.

16 * Sec. 46. AS 44.83.398(h) is amended to read:

17 (h) Notwithstanding (g) of this section, in the 1983 state fiscal year the
18 proportionate share of debt service under (b) of this section, expressed as a rate, for
19 an energy [A POWER] project for which a construction contract has been awarded
20 before June 25, 1982 may not exceed the average debt service component of the
21 wholesale power rate for all energy [POWER] projects in the energy program for
22 Alaska. The limit imposed by this subsection shall be increased in the 1984 state
23 fiscal year to four percent above the average debt service component of the wholesale
24 power rate for all energy [POWER] projects in the energy program for Alaska and by
25 an additional four percent above that average in each succeeding state fiscal year. If
26 application of this subsection results in the production of insufficient revenue to pay
27 the total debt service for all projects in the energy program for Alaska, a project that
28 does not have its share of debt service limited under this subsection shall be subject
29 to a rate in addition to the rate established under (b) of this section. The additional
30 rate is the rate that the authority estimates is necessary to produce revenue that is
31 sufficient to pay the difference between the total debt service for all projects in the

1 energy program for Alaska and the revenue actually produced to pay that debt service,
2 multiplied by a fraction whose numerator is the total cost of the project and whose
3 denominator is the total cost of all of the projects that are subject to the additional rate.
4 In this subsection, "projects in the energy program for Alaska" does not include an
5 intertie that is authorized as a separate project as described in (f) of this section.

6 * Sec. 47. AS 44.83.425(5) is amended to read:

7 (5) "qualified utility" means an electric utility or an electric operating
8 entity established as an instrumentality of two or more electric utilities certified by the
9 Alaska Public Utilities Commission to serve all or part of a market area that is served
10 or will be served by the energy [POWER] project, that the authority determines is
11 capable of operating and maintaining the energy [POWER] project.

12 * Sec. 48. AS 44.83.425 is amended by adding a new paragraph to read:

13 (6) "account" means the energy development account established by
14 AS 44.83.382.

15 * Sec. 49. AS 44.83.500 is amended to read:

16 Sec. 44.83.500. CREATION OF ACCOUNT [FUND]. (a) There is
17 established in the Alaska Energy Authority the energy [POWER] development
18 [REVOLVING] loan account [FUND] to carry out the purpose of AS 44.83.500 -
19 44.83.530. [THE FUND MAY BE USED FOR NO OTHER PURPOSE.]

20 (b) The account [FUND] consists of

- 21 (1) appropriations to the account [FUND] by the legislature;
22 (2) repayments of principal to the account [FUND]; and
23 (3) income from investment of money in the account [FUND] and
24 from loans made from the account [FUND].

25 * Sec. 50. AS 44.83.510 is amended to read:

26 Sec. 44.83.510. POWERS AND DUTIES OF THE AUTHORITY IN
27 ADMINISTERING THE ACCOUNT [FUND]. (a) The authority may borrow from
28 the account [FUND] for the purpose of financing an energy [A POWER] project
29 acquired or constructed by the authority under the energy program for Alaska
30 (AS 44.83.380 - 44.83.425). Repayment of a loan from the account [FUND] must be
31 made with the proceeds from the sale of power from projects in the energy program

1 for Alaska. Except as provided in AS 44.83.398(i), the payments required to be made
2 by the authority on a loan from the account [FUND] constitute debt service for the
3 purpose of calculating the wholesale power rate in AS 44.83.398(b)(1).

4 (b) After completion of a final plan of finance and approval of a project under
5 AS 44.83.185(c), a loan may be made from the account [FUND] for

6 (1) the cost or a portion of the cost of final design, acquisition, and
7 construction of an energy [A POWER] project;

8 (2) defeasance or payment of bonds or notes of the authority issued for
9 an energy [A POWER] project;

10 (3) the establishment of a reserve fund for renewals and replacements
11 for the operation of a completed energy [POWER] project; and

12 (4) any other project-related expenses, including those described in
13 AS 44.83.398(i).

14 * Sec. 51. AS 44.83.520(a) is amended to read:

15 (a) A loan from the account [FUND] shall be repaid in accordance with the
16 terms that the authority's board of directors determines to be appropriate. In
17 establishing the terms, including provision for a return to the state of an amount in
18 excess of the principal amount of the loan, the board of directors shall consider the
19 revenue that the authority could reasonably derive from the sale of power from the
20 projects based upon

21 (1) the costs, at the time the power sales agreement is initially
22 negotiated or renegotiated, of alternative sources of energy generation for utilities
23 purchasing power from a project financed with a loan from the account [FUND];

24 (2) the effect of the loan terms on the wholesale power costs to all
25 utilities purchasing power from the initial project;

26 (3) the long-term benefits to consumers and communities of stable
27 wholesale power costs;

28 (4) the affordability of initial wholesale power costs that result from
29 the loan terms with utilities purchasing power from the initial project;

30 (5) increasing repayment, not to exceed five years, of debt service
31 payment per kilowatt hour gradually over the initial period of a loan repayment

1 schedule to the extent necessary to avoid significant rate increases to the consumer;
2 (6) the existing excess capacity of energy [POWER] projects; and
3 (7) the effects of increased capacity utilization, inflation, and alternative
4 energy production costs over the life of the initial project.

5 * Sec. 52. AS 44.83.520(c) is amended to read:

6 (c) A loan to the authority from the account [FUND] may not exceed 50
7 years.

8 * Sec. 53. AS 44.83.530 is amended to read:

9 Sec. 44.83.530. DEFINITIONS. In AS 44.83.500 - 44.83.530

10 (1) "account" ["FUND"] means the energy [POWER] development
11 [REVOLVING] loan account [FUND]; and

12 (2) "energy [POWER] project" means a project acquired or constructed
13 under the energy program for Alaska, AS 44.83.380 - 44.83.425.

14 * Sec. 54. AS 44.83.940 is amended to read:

15 Sec. 44.83.940. ANNUAL REPORT. Before March 1 of each year, the
16 authority shall submit to the governor and the legislature a comprehensive report for
17 the preceding fiscal year describing operations, income, and expenditures, including
18 a detailed accounting of the loans and investments made from, and the income
19 received by, the energy authority revolving fund (AS 44.83.107) [FOR THE
20 PRECEDING 12-MONTH PERIOD].

21 * Sec. 55. AS 44.83.950(a) is amended to read:

22 (a) Notwithstanding any other provision in this chapter, only the operating
23 budget of the authority is subject to the provisions of AS 37.07 (Executive Budget
24 Act).

25 * Sec. 56. AS 44.83.990(3) is amended to read:

26 (3) "feasibility study"

27 (A) means a study conducted for the purpose of establishing the
28 economic and environmental practicality of completing a proposed energy
29 [POWER] project under AS 44.83.181;

30 (B) includes engineering and design work to meet the
31 requirements for submission of a license application for a proposed new project

1 to the Federal Energy Regulatory Commission;

2 * Sec. 57. AS 44.83.990 is amended by adding new paragraphs to read:

3 (10) "business enterprise" means a single proprietorship, corporation,
4 firm, partnership, or other association of persons organized in any manner, for any
5 business purpose, other than on a nonprofit basis, that sells or transports electricity or
6 waste heat in compliance with all applicable federal and state statutes and regulations;

7 (11) "energy project" or "project" means a plant, works, system, or
8 facility, together with related or necessary facilities, fuel supplies, and appurtenances,
9 including a divided or undivided interest in or a right to the capacity of an energy
10 project or project, that is used or is useful for the purpose of

11 (A) electrical or thermal energy production other than nuclear
12 energy production;

13 (B) waste energy utilization and energy conservation; or

14 (C) transmission, purchase, sale, exchange, and interchange of
15 electrical or thermal energy, including district heating or interties.

16 * Sec. 58. AS 44.83.170(g), 44.83.170(h), 44.83.177(d), 44.83.189, 44.83.361, 44.83.363,
17 44.83.386, 44.83.388(b), 44.83.390, 44.83.392, 44.83.398(c), 44.83.425(3), 44.83.600,
18 44.83.605, 44.83.610, 44.83.615, 44.83.620, 44.83.625, 44.83.630, 44.83.650, 44.83.920,
19 44.83.990(6), and 44.83.990(9) are repealed.

20 * Sec. 59. In accordance with AS 44.83.185(c), and contingent on sec. 61 of this Act, the
21 Alaska Energy Authority is authorized to provide for the design and construction of a 138
22 kilovolt electric transmission line between Anchorage and the Kenai Peninsula at a cost of
23 \$89,000,000 in 1992 dollars.

24 * Sec. 60. In accordance with AS 44.83.185(c), and contingent on sec. 61 of this Act, the
25 Alaska Energy Authority is authorized to provide for the design and construction of a 138
26 kilovolt electric transmission line between Healy and Fairbanks at a cost of \$82,000,000 in
27 1992 dollars.

28 * Sec. 61. (a) The authorizations made in secs. 59 and 60 of this Act take effect upon the
29 execution of a written agreement, for the respective project, between the Alaska Energy
30 Authority and the participating electric utility or utilities that provides that the participating
31 utility or utilities agree to pay for, under terms acceptable to each party.

1 (1) the design and construction costs of the line; and

2 (2) the operation and maintenance costs of the line.

3 (b) The executive director of the authority shall notify the revisor of statutes when
4 each of the agreements is executed.

5 * Sec. 62. Sections 1 - 58 of this Act take effect July 1, 1993.

BILL NO. _____

IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

Introduced
Referred:

A BILL
FOR AN ACT ENTITLED

"An Act relating to the powers and finances of the Alaska Energy Authority; and providing for an effective date."

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

Section. 1. AS 44.83.080 is amended by adding a new subparagraph (a)(17):

(17) in addition to any other power under this chapter, and in accordance with regulations adopted under this section, to charge fees or other forms of remuneration for services provided or for the recovery of equity investments or capital costs for projects and activities described in this section in accordance with (A) agreements described in this section, (B) other agreements pertaining to the projects, or (C) covenants or representations made in bond documents pertaining to the projects or loan programs; the authority may collect the fees or other

APP00089

-1-
New Text Underlined [DELETED TEXT BRACKETED]

cc: Kris Letkin, Gov's ofc
Brent Petrie
Josh Funk, Senator Kelly's office

remuneration charged under this paragraph, and shall deposit the money in the energy authority revolving fund (AS 44.83.107).

* Sec. 2. AS 44.83.090 is amended by adding a new subsection to read:

(c) Notwithstanding the provisions of (a) of this section, the authority may sell waste heat directly to retail customers.

* Sec. 3. AS 44.83 is amended by adding a new section to read:

Sec. 44.83.107. ENERGY AUTHORITY REVOLVING FUND. (a) The energy authority revolving fund is established in the authority. The revolving fund consists of

- (1) appropriations made to it by the legislature;
- (2) money or other assets transferred to it by the authority;
- (3) unrestricted payments on loans made or purchased by the authority;
- (4) income and interest on amounts in the fund; and
- (5) all revenue of the authority not otherwise required to pay the expenses of authority projects.

(b) The board of directors of the authority may establish operations, renewal and replacement, capitalization, and self-insurance reserve accounts within the revolving fund.

(c) Unless otherwise expressly stated, the funds created in this chapter, including the power project fund (AS 44.83.170), the power development fund (AS 44.83.382), and the power development revolving fund (AS 44.83.500), are accounts of the energy authority revolving fund. The electrical service extension fund (AS

44.83.370) and the power cost equalization fund (AS 44.83.162) are not accounts of the energy authority revolving fund established under this section. The authority may create additional funds or accounts either within the revolving fund or outside the fund. Subject to agreements made with the holders of the authority's bonds or with other persons and subject to any restrictions placed upon legislative appropriations, the authority may transfer amounts in a fund or account in the revolving fund to another fund or account within the revolving fund.

(d) The authority has the powers and responsibilities established in AS 37.10.071 with respect to the investment of amounts held in the energy authority revolving fund and may enter into agreements with the holders of bonds with respect to investment of these amounts including agreements providing that the Department of Revenue invest amounts in the fund.

(e) The authority may

(1) pledge amounts in the revolving fund to secure bonds of the authority; or

(2) enter into agreements with respect to the revolving fund that it considers necessary to secure its bonds.

(g) The authority may spend amounts from the revolving fund for any purpose authorized by this chapter. However, each fiscal year not more than 10 percent of the balance in the revolving fund, determined as of the end of the preceding fiscal year, may be spent for equity investment in projects or programs, excluding equity investment in those projects or programs that are expressly authorized by the legislature under AS 44.83.185 and excluding amounts the

legislature has appropriated to the fund for the purpose of equity investment in specified projects or programs.

(h) The legislature may appropriate amounts in the revolving fund to the authority for the cost of administering the fund.

(i) Notwithstanding any other provision of law, to the extent that any department or agency of the state is the custodian of money payable to a municipality, at any time after written notice to the department or agency head from the authority that the municipality is in default on the payment of principal or interest on any loan from the authority, the department or agency shall withhold the payment of that money from that municipality and pay over the money to the authority for the purpose of paying the loan. The notice shall be given in each instance of default.

* Sec. 4. AS 44.83.162(c) is amended to read:

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

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

(2) actual consumption of not more than 750 kilowatt-hours per month sold to each customer in all classes served by the electric utility except to

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

(B) offices and facilities of the state and federal governments;

and

(C) a public school as defined in AS 14.25.220, that is an elementary, junior high, or secondary school as those terms are described in AS 14.03.060; the University of Alaska (AS 14.40) and community colleges as defined in AS 14.40.630; and any other facilities owned, operated, or leased by the public school, the university, or a community college.

* Sec. 5. AS 44.83.162(d) is amended to read:

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

(1) ~~for [DURING]~~ the state fiscal year that begins July 1, 1993 [1984] the power costs for which power cost equalization may be paid to an electric utility are limited to minimum power costs of more than 9.5 [8.5] cents per kilowatt-hour and less than 52.5 cents per kilowatt-hour;

(2) ~~for [DURING]~~ each following state fiscal year, the minimum power costs for which power cost equalization may be paid to an electric utility shall be adjusted by the commission by an amount equal to the percentage change in the Consumer Price Index, All Urban Consumers, U.S. City Average, published by the U.S. Department of Labor, for the 12-month period ending April 30 of the fiscal year preceding the fiscal year for which the adjustment is being made [CONSIDERING THE RATE OF CHANGE IN FUEL COST AND POWER DEMAND]; and

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

* Sec. 6. AS 44.83.162(e) is amended to read:

(e) An electric utility whose customers receive power cost equalization under this section shall set out in its tariff the rates without the power cost equalization and the amount of power cost equalization per kilowatt-hour sold. The rate charged to the customer shall be the difference between the two amounts. Power cost equalization paid under this section shall be used to reduce the cost of all power sold to local community facilities, in the aggregate, to the extent of 70 kilowatt-hours per month per resident of the community, and to reduce the cost of the first 750 kilowatt-hours per customer per month for all other classes served by the electric utility except for those customers described in (c)(2) (B) and (C) of this section.

* Sec. 7. AS 44.83.170(b) is amended to read:

(b) The authority may make loans from the energy [POWER] project loan account [FUND]

(1) to electric utilities, gas utilities, regional electric authorities, municipalities, [CITIES, BOROUGHS,] regional and village corporations, village councils, regional housing authorities, business enterprises, and nonprofit marketing cooperatives to pay the costs of

(A) reconnaissance studies, feasibility studies, license and permit applications, preconstruction engineering, and design of energy [POWER] projects;

(B) constructing, ~~acquiring~~, equipping, modifying, improving, and expanding energy projects [SMALL-SCALE POWER PRODUCTION FACILITIES], conservation facilities, bulk fuel storage facilities, and electric or gas transmission and distribution facilities, including energy production, transmission and distribution, and waste energy conservation facilities that depend on fossil fuel, wind power, tidal, geothermal, biomass, hydroelectric, solar, or other non-nuclear energy sources; [AND]

(C) reconnaissance studies, preconstruction engineering, design, construction, equipping, modification, and expansion of potable water supply including surface storage and groundwater sources and transmission of water from surface storage to existing distribution systems;

(D) acquisition of bulk fuel and bulk fuel reserves;

(E) acquisition of proven reserves of gas, oil, coal, geothermal, or other energy resources; and

(F) consumer end-use improvements to reduce demand for energy;

(2) to a borrower for an energy [A POWER] project if

(A) the loan is entered into under a [LEVERAGED LEASE] financing arrangement that the authority considers provides satisfactory assurance of repayment;

(B) the party that will be responsible for the energy [POWER] project is an electric utility, gas utility, regional electric authority, municipality, [CITY, BOROUGH,] regional or village corporation, village council,

regional housing authority, business enterprise, or nonprofit marketing cooperative; and

(C) the borrower seeking the loan demonstrates to the authority that the financing arrangement for the energy [POWER] project will reduce project financing costs below costs of comparable public energy [POWER] projects; however, no loan shall be made to a regional housing authority or a business enterprise for power generation facilities unless those facilities provide wholesale power or emergency reserve power for a community and the utility, if any, certificated to serve that community formally recommends approval of the loan application.

* Sec. 8. AS 44.83.187(d) is amended to read:

(d) The provisions of AS 44.83.177 - 44.83.185 do not apply to

(1) an addition, modification, repair, reconstruction, design, acquisition, or construction for the purpose of completing a project;

(2) the construction of a gas or [AN] electrical transmission line or distribution facility that is estimated to cost \$10,000,000 or less;

(3) the construction of a gas or electrical transmission line or distribution facility that the authority determines does not require a general fund appropriation for construction [THAN \$3,000,000].

* Sec. 9. AS 44.83.189 is amended to read:

Sec. 44.83.189. PROJECT CONSTRUCTION. If a new project is to be designed, acquired, and constructed by the authority, it shall be designed, acquired,

and constructed as a public work of the state. For the purpose of this section and AS 44.83.187 a new project does not include

- (1) an addition or modification to an existing project unless the total estimated cost of the addition or modification exceeds \$10,000,000 [\$1,000,000];
- (2) repair or reconstruction of a project; or
- (3) design, acquisition, or construction necessary to complete a project for which bonds have been issued.

* Sec. 10. AS 44.83.940 is amended to read:

Sec. 44.83.940. ANNUAL REPORT. Before March 1 of each year, the authority shall submit to the governor and the legislature a comprehensive report for the preceding fiscal year describing operations, income, and expenditures, including a detailed accounting of the loans and investments made from, and the income received by, the energy authority revolving fund (AS 44.83.107) [FOR THE PRECEDING 12-MONTH PERIOD].

* Sec. 11. AS 44.83.950(a) is amended to read:

(a) Notwithstanding any other provision in this chapter, only the operating budget of the authority is subject to the provisions of AS 37.07 (Executive Budget Act).

* Sec. 12. AS 44.83.990 is amended by adding a new paragraph to read:

(10) "business enterprise" means a single proprietorship, corporation, firm, partnership, or other association of persons organized in any manner, for any business purpose.

* Sec. 13. AS 44.83.170(g), 44.83.361, 44.83.363, 44.83.386, 44.83.388(b), 44.83.390, 44.83.392, 44.83.398(c), 44.83.425(3), 44.83.600, 44.83.605, 44.83.610, 44.83.615, 44.83.620, 44.83.625, 44.83.630, 44.83.650, 44.83.920, 44.83.990(6), and 44.83.990(9) are repealed.

* Sec. 14. In accordance with AS 44.83.185(c), and contingent on sec. 16 of this Act, the Alaska Energy Authority is authorized to provide for the design and construction of a 138 kilovolt electric transmission line between Anchorage and the Kenai Peninsula at a cost of \$89,000,000 in 1992 dollars.

* Sec. 15. In accordance with AS 44.83.185(c), and contingent on sec. 16 of this Act, the Alaska Energy Authority is authorized to provide for the design and construction of a 138 kilovolt electric transmission line between Healy and Fairbanks at a cost of \$82,000,000 in 1992 dollars.

* Sec. 16. (a) The authorizations made in secs. 14 and 15 of this Act take effect upon the execution of a written agreement, for the respective project, between the Alaska Energy Authority and the participating electric utility or utilities that provides that the participating utility or utilities agree to pay for, under terms acceptable to each party,

(1) the design and construction costs of the line; and

(2) the operation and maintenance costs of the line.

(b) The executive director of the authority shall notify the revisor of statutes when each of the agreements is executed.

* Sec. 17. Section 1 - 13 of this Act take effect July 1, 1993.

SB

134

SB-134

March 29, 1993

The Honorable Rick Halford
President of the Senate
State Capitol
Juneau, AK 99801-1182

Dear Mr. President:

SB-134, establishes investment credits in lieu of royalty arrearages for those who purchase state royalty oil, and it requires the purchaser to file a claim of credit with the Commissioner of the Department of Commerce and Economic Development.

In view of this requirement outlined in Sec. 1 of the proposed legislation, I am requesting a referral of SB-134 to the Senate Labor and Commerce Committee, in accordance with Rule 20 of the Uniform Rules.

Respectfully,

TIM KELLY
Chairman

Alaska State Legislature

SENATOR

MIKE MILLER

P.O. Box 55094

North Pole, Alaska 99705

(907) 488-0862

Senate District Q

White in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4976

Senate

To: Senator Tim Kelly, Chairman
Senate Labor & Commerce Committee

From: Senator Mike Miller *for Mike Miller*

Re: SB 134 Credits against purchase of royalty oil

Date: March 31, 1993

I would like to request that you schedule a hearing on Senate Bill 134 at your earliest convenience.

SB 134, which would allow certain purchasers of royalty oil to claim credit for capital investments against debts owed to the state, moved out of the Senate Oil & Gas Committee on Tuesday, March 30. Your assistance in scheduling SB 134 in the Labor & Commerce Committee as soon as possible is greatly appreciated. Thank you for your consideration.

8-LS0691NU
Chenoweth
3/31/93

CS FOR SENATE BILL NO. 134()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS MILLER, Pearce

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing credits for purchasers of state royalty oil for expenditures
2 made by those purchasers on qualifying capital investments to be applied against
3 liquidated purchase arrearages established in contracts, settlements, or final
4 judgments, and directing the deposit into the Alaska permanent fund and the
5 general fund of the portion of the liquidated purchase arrearage that must be
6 paid in cash in order to obtain the credit; and providing for an effective date."

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

8 * Section 1. AS 38.05.183 is amended by adding new subsections to read:

9 (i) The provisions of this subsection apply to oil taken by the state as its
10 royalty share that was thereafter sold by the state to a purchaser. The payment due the
11 state by the purchaser for the sale of the royalty oil is subject to the following:

12 (1) notwithstanding (f) of this section and the terms of any contract,
13 judgment, or settlement agreement disposing of a pricing or valuation controversy

1 arising out of additional or delinquent payments alleged by the state to be due on the
2 royalty oil purchase, the purchaser of the state royalty oil may claim as a credit against
3 any liquidated purchase arrearage a portion of the gross value of the purchaser's
4 investment in a capital project in the state; the purchaser shall file the claim of the
5 credit with the commissioner of commerce and economic development under
6 procedures the commissioner establishes; subject to the limitations of this subsection,
7 the credit authorized by this subsection shall be allowed

8 (A) if the purchaser's investment in the capital project is made
9 after the effective date of this subsection and the purchaser was not, on the
10 effective date of this subsection, already committed to the investment

11 (i) by a financing arrangement or other form of binding
12 contractual commitment entered into before the effective date of this
13 subsection; or

14 (ii) by law or by a lawful government order; and

15 (B) if the purchaser demonstrates to the commissioner, by clear
16 and convincing evidence, that the investment for which the credit is claimed
17 will yield benefits to the economy of the state that are greater than the amount
18 of the credit allowed on that investment;

19 (2) the credit authorized by this subsection

20 (A) may not exceed 75 percent of the liquidated purchase
21 arrearage, together with interest, if applicable; and

22 (B) may be approved only if the purchaser makes an investment
23 of twice the amount of the credit claimed;

24 (3) a purchaser of state royalty oil who is eligible for a credit
25 authorized by this subsection

26 (A) may, on written request to the commissioner, obtain from
27 the commissioner a determination of the eligibility of a proposed investment
28 in a capital project for the credit authorized by this subsection; the purchaser
29 may obtain the determination if the purchaser applies to the commissioner for
30 the determination before the purchaser commits to the investment by a
31 financing arrangement or other form of binding contractual commitment or

1 commences construction of the capital project; if the commissioner receives a
 2 written request under this subparagraph, the commissioner shall provide the
 3 purchaser with a determination of the investment's eligibility for a credit not
 4 later than 60 days after receipt of the request;

5 (B) may claim the credit only

6 (i) if, at the time a credit is claimed, and without regard
 7 to any payment previously made to the state under this subsection, the
 8 purchaser first pays the state an amount equal to one-third of the
 9 amount that the purchaser claims as the credit or if, under the contract,
 10 judgment, or settlement agreement disposing of the arrearage, the
 11 purchaser has committed to the payment of that amount not later than
 12 the last day that, under (C) of this paragraph, the purchaser may claim
 13 the credit; and

14 (ii) after construction of the capital project that is the
 15 basis of the credit is, in the judgment of the commissioner, substantially
 16 completed;

17 (C) must claim the credit within seven years of the effective
 18 date of this subsection;

19 (D) may not claim the credit authorized by this subsection for
 20 a capital project until entry of the final judgment or the effective date of the
 21 contract or settlement agreement that is the basis of the liquidated purchase
 22 arrearage;

23 (4) if a purchaser of state royalty oil claims the credit authorized by
 24 this subsection against a liquidated purchase arrearage based on an entry of a final
 25 judgment against the purchaser, except for the amount due the state under (3)(B)(i) of
 26 this subsection,

27 (A) payment due the state under the final judgment is deferred
 28 for the duration of the period set out in (3)(C) of this subsection during which
 29 the purchaser may claim the credit, and the state may not execute upon the
 30 final judgment during that time; and

31 (B) the balance of the judgment, less any credit allowed by the

1 commissioner under this subsection, plus interest as allowed by AS 09.30.070
2 is due and payable by the purchaser not later than 60 days after the last day on
3 which the purchaser may claim the credit under (3)(C) of this subsection;

4 (5) in this subsection,

5 (A) "commissioner" means the commissioner of commerce and
6 economic development;

7 (B) "liquidated purchase arrearage" means the amount
8 determined to be due the state based on additional or delinquent payments
9 alleged by the state to be due and payable by the purchaser of state royalty oil
10 on a royalty oil purchase agreement entered into after December 31, 1977, and
11 before January 1, 1993, as a result of any pricing or valuation controversy if
12 the controversy has been resolved between the state and the purchaser by
13 contract, settlement, or final judgment and the amount due the state has been
14 determined and is set out in the document resolving the controversy;

15 (C) "purchaser" means a person who acquired royalty oil under
16 a contract of sale in which the state expressly reserved the right to recalculate
17 the price of the oil based on the outcome of any then-pending litigation relating
18 to the determination of the oil's value.

19 (j) In accordance with AS 37.13.010(a)(3), all money received by the state
20 under (i)(3)(B)(i) of this section shall be deposited into the Alaska permanent fund.
21 The provisions of this subsection do not except from the deposit requirements of
22 AS 37.13.010(a) any other amounts received by the state as payment of liquidated
23 purchase arrearages for which a credit is not allowed under AS 38.05.183(i).

24 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 31, 1993

SUBJECT: CSSB 134 () (Work Orders 8LS-0691R and U)

TO: Senator Loren Leman, Chair
Senate Special Oil and Gas Committee
ATTN: Annette Kreitzer

FROM: Jack Chenoweth
Legislative Counsel

Two versions in draft accompany this memo. Both incorporate the amendments identified as #1, #3, and # 5 as approved by the committee.

Version "R" does not incorporate amendments 4 and 7.

Version "U" incorporates those amendments as submitted by Chairman Leman and adopted by the committee.

*

The differences between the two go to the manner of handling the amount due the permanent fund and the amount due the general fund. The particular differences in text between the versions are only in subsections (i)(3)(B)(i) and (j).

Under the "R" version, the approach taken is the one set out in Senator Mike Miller's draft committee substitute. Reading (i)(3)(B)(i) and (j) together, in order to obtain credit, the purchaser would have to commit to the payment to the state in cash of the same amount that would be due the permanent fund as if the no credit(s) were claimed and the purchaser opted to pay off the liquidated purchase arrearage in cash. The commitment to pay all of the money would be up front, so arguably there would be a higher degree of assurance that money due and payable to the permanent fund would be received before any portion of the credit was allowed. All of the money received under this approach would be paid, first, to the permanent fund (to the extent necessary to satisfy the obligation) and thereafter any additional amount would go to the general fund.

Senator Loren Leman

March 31, 1993

Page 2

Under the "U" version, the procedure differs. The "U" version is based on the amendment that I had prepared for Senator Leman. When I did that amendment, I did not assume that the purchasers would decide on whether or not to take the credit all at one time. Rather, I thought that their use or claim of the credits would follow from other business considerations. So, as this approach is drafted, reading (i)(3)(B)(i) and (j) together, in order to obtain any amount or portion of the credit, each time a purchaser wants to claim a credit, the purchaser would have to commit to the payment to the state in cash of an amount equal to one-third of the credit claimed. (The reference in (i)(3)(B)(i) to a cash obligation based on "one-third" of the credit represents no diminution or reduction in the credit otherwise available to the purchaser. The one-third reference merely reflects the ratio of the amount due the permanent fund. Under a normal payout of the liquidated purchase arrearage, one-quarter would be attributable to the permanent fund and three-quarters to the general fund, a ratio of 1:3 or 1/3.) As with the "R" version, as the "U" version is drafted, since the determination of the cash payment obligation is for the purposes of determining how much is due the permanent fund, all of that cash payment is to be deposited into the permanent fund.

The practical difference, then, is that the requirements under the "R" version mean that the full amount of money due the permanent fund is identified and committed up front as a condition of the purchaser's actual use of the credit. Under the "U" version, the money comes to the state piecemeal as the purchaser identifies projects that qualify for the credit.

The committee has adopted the "U" version. I concede that explaining the reference to "one-third" and how this version is intended to operate may be the toughest part of the bill. If you want to avoid that debate, reconsider the matter one last time and go with "R."

JBC:gc
93-292.glc

Enclosure

FISCAL NOTE

STATE OF ALASKA 1993 LEGISLATIVE SESSION

BILL NO. SB134

Revision Date Original Department Affected: Natural Resources
 Title: "An Act establishing credits for purchasers of state royalty oil..." BRU: Resource Development
 Components: Oil & Gas Development
 Sponsor: Senators Miller and Pearce
 Requestor: O&G, JUD, FIN Component Serial No. 439

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 94 | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 |
|------------------------|---|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND&STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | *****See attached fiscal note analysis***** | | | | | |

| | | | | | | |
|---------|-----|-----|-----|-----|-----|-----|
| CAPITAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|---------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|----------------------|-----|-----|-----|-----|-----|-----|
| REVENUE fund source: | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|----------------------|-----|-----|-----|-----|-----|-----|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|--------------------------|---|--|--|--|--|--|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| Other | | | | | | |
| TOTAL | *****See attached fiscal note analysis***** | | | | | |

POSITIONS:

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

Estimate of current year (FY93) impact: \$ (333,300.0)

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Jim Eason, Director Phone: 762-2547
 Division: Oil & Gas Development Date: 16-Mar-93
 Approved by Commissioner: Glenn A. Olds Date: 16-Mar-93
 Agency: Department of Natural Resources

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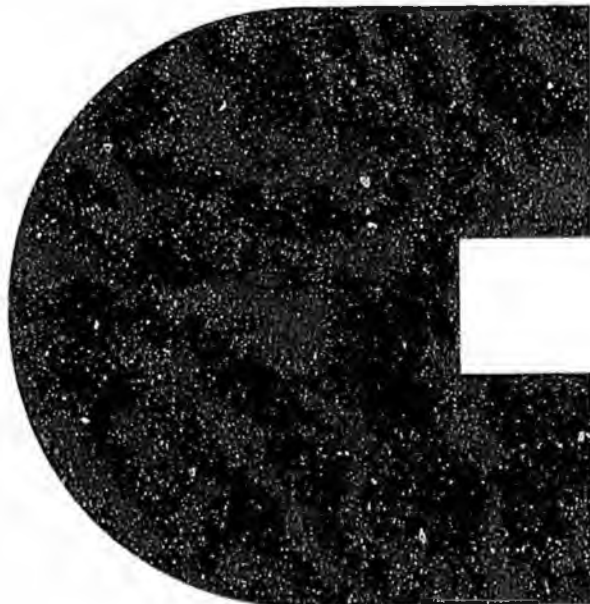
Fiscal Note Analysis
SB134
March 16, 1993

The full financial impact of this bill is difficult to quantify because, in addition to allowing "credits" for past liabilities, it would essentially present each of the in-state refiners with blank checks for "new" credits against any future royalty disputes that might arise. However, it is possible to estimate the minimum fiscal impacts based upon the current value of the principal and interest attributable to each debt related to past liabilities. As of March 31, 1993, that amount would equal slightly more than \$333.3 million, including the liquidated debt of Petro Star and the settled debt of Tesoro, which each would presumably prefer to avoid through reallocating those amounts to investments in their respective in-state operations under the provisions of the legislation.

In addition to these past liabilities, the purchasers would be able to "create" new credits at any time simply by withholding payment for their royalty in kind crude oil purchases, having the court certify their liability and then simply making new investments in their facilities to "repay" their obligations to the state. As royalty oil volumes decline over time, the volume of in-kind oil from which the state could conceivably receive no revenues under such circumstances would grow in relative terms.

DRC

DITTMAN RESEARCH CORPORATION
OF ALASKA



MARKET • PUBLIC • POLITICAL
OPINION RESEARCH

STATE-WIDE SURVEY
CONCERNING IN-STATE
REFINING

MARCH 1993

PREPARED FOR
MAPCO

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Crosstabulations

METHODOLOGY

METHODOLOGY

During the period March 4 through March 11, 515 Alaska residents over the age of 18, in 64 communities were personally contacted by telephone by professional interviewing employees of the Dittman Research Corporation of Alaska. The views and opinions of the Alaska residents were recorded on a strictly confidential basis.

Research Design

A random sample design was featured which provided that all adult residents of Alaska listed in the most recent directory for each community had essentially an equal chance of being interviewed.

Processing the Data

Dittman Research employees completed coding, editing, data entry and verification, while data processing was completed through the in-house Dittman Research Corporation computer system featuring the Statistical Package for the Social Sciences (SPSS/PC+) program. The SPSS program is one of the most sophisticated research-oriented data processing and analytical systems available, and is designed specifically for the processing and analysis of survey research data.

Measurement History

Citizen opinion measurements by the Dittman Research Corporation, utilizing the previously described methodology, analytical procedures and data processing systems, have proven to be perfect predictors of political election results in Alaska for the past twenty years.

Sample Selection

The sample was randomly selected from current telephone subscribers listed in the most current directory for each of the following communities:

Anchorage Region:

Anchorage
Eagle River
Chugiak
Peters Creek
Birchwood
Indian
Girdwood

Central Region:

Delta Junction
Fairbanks
North Pole
Healy
Nenana
Tok

S. Central Region:

Cordova
Kodiak
Seward
Homer
Seldovia
Soldotna
Sterling
Kenai
Anchor Point
Talkeetna
Glennallen
Valdez
Palmer
Wasilla

Rural Region:

Barrow
Bethel
McGrath
Nome
Unalakleet
Galena
Dillingham
King Salmon
Fort Yukon
King Cove
Unalaska
Dutch Harbor
Kotzebue
Kivalina
Kiana
Kaktovik
Nuiqsut
Pt. Hope
Pt. Lay
Wainwright

Southeast Region:

Juneau
Douglas
Ketchikan
Sitka
Mt. Edgecumbe
Petersburg
Wrangell
Haines
Metlakatla
Craig
Angoon
Hoonah
Kake
Klawock
Skagway
Thorne Bay
Yakutat

FINDINGS

FINDINGS

Overall, on a state-wide basis, **in-state processing and refining** of Alaskan oil is very strongly favored by Alaskans...

QUESTION:

"What is your opinion regarding in-state processing and refining of Alaskan oil -- do you favor or oppose processing and refining petroleum products in Alaska?"

RESPONSE:

| | | | |
|-----|--------------------------|-----|-----------------|
| 94% | <input type="checkbox"/> | 67% | Strongly favor |
| | <input type="checkbox"/> | 27% | Somewhat favor |
| 3% | <input type="checkbox"/> | 2% | Somewhat oppose |
| | <input type="checkbox"/> | 1% | Strongly oppose |

... and the concept of "**value-added**" also receives very strong support...

QUESTION:

"'Value-added' is a term which usually means taking a raw resource or product, and then improving or developing it further to increase its value before it's sold. Do you favor or oppose encouraging more value-added industries in Alaska?"

RESPONSE:

| | | | |
|-----|--------------------------|-----|-----------------|
| 92% | <input type="checkbox"/> | 66% | Strongly favor |
| | <input type="checkbox"/> | 26% | Somewhat favor |
| 4% | <input type="checkbox"/> | 3% | Somewhat oppose |
| | <input type="checkbox"/> | 1% | Strongly oppose |

So it's not too surprising that a plurality of Alaskans (42%) believe Alaska's in-state refiners should not be required to pay the state's claim for undercharges totalling approximately 300 million dollars...

QUESTION:

"The state of Alaska says it undercharged the companies which refine oil in-state for the royalty oil the state sold to them over a period of 10 years. The amount the state wants to collect from the in-state refiners is apparently over 300 million dollars. The in-state refiners say they set their prices for the fuel they sold based on what they paid the state for the oil, and that the lower charges were passed on to consumers in the form of lower prices. What is your opinion on this, do you think Alaska's in-state refiners should or should not be required to pay the state's claim?"

RESPONSE:

| | |
|-----|------------|
| 39% | Should |
| 42% | Should not |
| 19% | Unsure |

...and it's also consistent to find that three out of four Alaskans (76%) report they support the option of allowing the in-state refiners to **satisfy the state's claim by making investments** in new projects in Alaska...

QUESTION:

"Rather than paying the 300 million in cash to the state, another option would be for the state to provide an incentive for Alaska's in-state refiners to expand by allowing them to satisfy the state's claim with investments in new projects in Alaska. What is your opinion, if those new projects provided new jobs and taxes, would you favor or oppose the option of allowing Alaska's in-state refiners to satisfy the state's claim by making additional investments in Alaska?"

RESPONSE:

| | |
|-----|--------|
| 76% | Favor |
| 16% | Oppose |
| 8% | Unsure |

In summary, Alaskans clearly support in-state refining of Alaska's petroleum products, and they clearly support the concept of "**value-added**". On the other hand, Alaskans are nearly evenly split regarding whether the in-state refiners should pay the state's claim for approximately 300 million dollars in undercharges; however, there isn't much doubt that if the in-state refiners are to pay the state's claim, Alaskans support the option of allowing in-state refiners to satisfy the claim by making additional investments in Alaska.

CROSSTABULATIONS

WHAT IS YOUR OPINION REGARDING IN-STATE PROCESSING AND REFINING OF ALASKAN OIL -- DO YOU FAVOR OR OPPOSE PROCESSING AND REFINING PETROLEUM PRODUCTS IN ALASKA?

| DEMOGRAPHICS | UNSURE | STRONGLY FAVOR | SOMEWHAT FAVOR | SOMEWHAT OPPOSE | STRONGLY OPPOSE |
|---------------------|--------|----------------|----------------|-----------------|-----------------|
| TOTAL..... | 2% | 67% | 27% | 2% | 1% |
| LOCATION | | | | | |
| RURAL..... | 2% | 43% | 51% | 2% | 1% |
| CENTRAL..... | 1% | 81% | 15% | 2% | 2% |
| SOUTHCENTRAL.... | 3% | 69% | 26% | 2% | 0% |
| ANCHORAGE..... | 3% | 67% | 27% | 3% | 0% |
| SOUTHEAST..... | 2% | 70% | 20% | 3% | 4% |
| GENDER | | | | | |
| MALE..... | 0% | 77% | 19% | 3% | 1% |
| FEMALE..... | 4% | 57% | 36% | 2% | 1% |
| AGE | | | | | |
| 18-24 YRS OF AGE | 4% | 67% | 24% | 5% | 0% |
| 25-40 YRS..... | 3% | 64% | 29% | 4% | 1% |
| 41-55 YRS..... | 1% | 69% | 27% | 1% | 2% |
| 56+ YEARS OF AGE | 3% | 71% | 24% | 1% | 0% |
| EMPLOYER | | | | | |
| FEDERAL GOVT.... | 2% | 59% | 33% | 3% | 3% |
| STATE GOVT..... | 0% | 64% | 34% | 2% | 0% |
| LOCAL GOVT..... | 5% | 60% | 34% | 0% | 2% |
| PRIVATE SECTOR.. | 2% | 70% | 24% | 3% | 1% |
| NOT IN WORKFORCE | 4% | 67% | 26% | 2% | 1% |
| VOTER REGISTRATION | | | | | |
| DEMOCRAT..... | 4% | 59% | 32% | 3% | 3% |
| REPUBLICAN..... | 2% | 76% | 20% | 1% | 1% |
| NON-PARTISAN.... | 2% | 67% | 29% | 2% | 0% |
| NOT REGISTERED.. | 4% | 57% | 26% | 13% | 0% |
| RESIDENCE IN ALASKA | | | | | |
| UNDER 1 YEAR.... | 15% | 49% | 36% | 0% | 0% |
| 1-4 YEARS..... | 5% | 68% | 23% | 2% | 2% |
| 5-9 YEARS..... | 1% | 65% | 28% | 6% | 0% |
| 10-14 YEARS..... | 3% | 60% | 32% | 5% | 0% |
| 15+ YEARS..... | 2% | 70% | 26% | 1% | 1% |

"VALUE-ADDED" IS A TERM WHICH USUALLY MEANS TAKING A RAW RESOURCE OR PRODUCT, AND THEN IMPROVING OR DEVELOPING IT FURTHER TO INCREASE ITS VALUE BEFORE IT'S SOLD. DO YOU FAVOR OR OPPOSE ENCOURAGING MORE VALUE-ADDED INDUSTRIES IN ALASKA?

| DEMOGRAPHICS | UNSURE | STRONGLY FAVOR | SOMEWHAT FAVOR | SOMEWHAT OPPOSE | STRONGLY OPPOSE |
|---------------------|--------|----------------|----------------|-----------------|-----------------|
| TOTAL..... | 4% | 66% | 26% | 3% | 1% |
| LOCATION | | | | | |
| RURAL..... | 2% | 45% | 49% | 4% | 0% |
| CENTRAL..... | 1% | 72% | 19% | 4% | 4% |
| SOUTHCENTRAL.... | 6% | 69% | 21% | 2% | 2% |
| ANCHORAGE..... | 4% | 67% | 26% | 3% | 0% |
| SOUTHEAST..... | 5% | 70% | 21% | 2% | 2% |
| GENDER | | | | | |
| MALE..... | 2% | 77% | 17% | 2% | 2% |
| FEMALE..... | 6% | 54% | 35% | 4% | 1% |
| AGE | | | | | |
| 18-24 YRS OF AGE | 3% | 52% | 37% | 5% | 3% |
| 25-40 YRS..... | 2% | 65% | 30% | 2% | 1% |
| 41-55 YRS..... | 3% | 68% | 25% | 2% | 2% |
| 56+ YEARS OF AGE | 10% | 68% | 14% | 9% | 0% |
| EMPLOYER | | | | | |
| FEDERAL GOVT.... | 0% | 63% | 29% | 8% | 0% |
| STATE GOVT..... | 5% | 46% | 39% | 5% | 5% |
| LOCAL GOVT..... | 2% | 68% | 27% | 0% | 3% |
| PRIVATE SECTOR.. | 2% | 70% | 25% | 2% | 1% |
| NOT IN WORKFORCE | 8% | 65% | 23% | 4% | 1% |
| VOTER REGISTRATION | | | | | |
| DEMOCRAT..... | 5% | 61% | 27% | 4% | 3% |
| REPUBLICAN..... | 5% | 71% | 21% | 3% | 0% |
| NON-PARTISAN.... | 3% | 66% | 27% | 3% | 1% |
| NOT REGISTERED.. | 0% | 47% | 43% | 5% | 5% |
| RESIDENCE IN ALASKA | | | | | |
| UNDER 1 YEAR.... | 0% | 39% | 61% | 0% | 0% |
| 1-4 YEARS..... | 2% | 63% | 30% | 3% | 2% |
| 5-9 YEARS..... | 2% | 65% | 30% | 3% | 0% |
| 10-14 YEARS..... | 6% | 61% | 33% | 1% | 0% |
| 15+ YEARS..... | 4% | 68% | 22% | 4% | 2% |

THE STATE OF ALASKA SAYS IT UNDERCHARGED THE COMPANIES WHICH REFINE OIL IN-STATE FOR THE ROYALTY OIL THE STATE SOLD TO THEM OVER A PERIOD OF 10 YEARS. THE AMOUNT THE STATE WANTS TO COLLECT FROM THE IN-STATE REFINERS IS APPARENTLY OVER 300 MILLION DOLLARS. THE IN-STATE REFINERS SAY THEY SET THEIR PRICES FOR THE FUEL THEY SOLD BASED ON WHAT THEY PAID THE STATE FOR THE OIL, AND THAT THE LOWER CHARGES WERE PASSED ON TO CONSUMERS IN THE FORM OF LOWER PRICES. WHAT IS YOUR OPINION ON THIS, DO YOU THINK ALASKA'S IN-STATE REFINERS SHOULD OR SHOULD NOT BE REQUIRED TO PAY THE STATE'S CLAIM?

| DEMOGRAPHICS | UNSURE | SHOULD | SHOULD NOT |
|--------------------|--------|--------|------------|
| TOTAL..... | 19% | 39% | 42% |
| LOCATION | | | |
| RURAL..... | 21% | 40% | 39% |
| CENTRAL..... | 20% | 42% | 38% |
| SOUTHCENTRAL.... | 20% | 38% | 42% |
| ANCHORAGE..... | 17% | 37% | 46% |
| SOUTHEAST..... | 17% | 43% | 40% |
| GENDER | | | |
| MALE..... | 18% | 42% | 40% |
| FEMALE..... | 20% | 36% | 44% |
| AGE | | | |
| 18-24 YRS OF AGE | 15% | 60% | 25% |
| 25-40 YRS..... | 18% | 40% | 42% |
| 41-55 YRS..... | 20% | 33% | 47% |
| 56+ YEARS OF AGE | 21% | 41% | 38% |
| EMPLOYER | | | |
| FEDERAL GOVT.... | 16% | 37% | 47% |
| STATE GOVT..... | 23% | 47% | 29% |
| LOCAL GOVT..... | 25% | 41% | 34% |
| PRIVATE SECTOR.. | 18% | 37% | 45% |
| NOT IN WORKFORCE | 17% | 41% | 42% |
| VOTER REGISTRATION | | | |
| DEMOCRAT..... | 25% | 44% | 31% |
| REPUBLICAN..... | 13% | 35% | 52% |
| NON-PARTISAN.... | 19% | 38% | 43% |
| NOT REGISTERED.. | 23% | 56% | 22% |
| RESIDENCE | | | |
| UNDER 1 YEAR.... | 36% | 18% | 46% |
| 1-4 YEARS..... | 18% | 34% | 49% |
| 5-9 YEARS..... | 13% | 41% | 46% |
| 10-14 YEARS..... | 15% | 52% | 33% |
| 15+ YEARS..... | 21% | 37% | 42% |

RATHER THAN PAYING THE 300 MILLION IN CASH TO THE STATE, ANOTHER OPTION WOULD BE FOR THE STATE TO PROVIDE AN INCENTIVE FOR ALASKA'S IN-STATE REFINERS TO EXPAND BY ALLOWING THEM TO SATISFY THE STATE'S CLAIM WITH INVESTMENTS IN NEW PROJECTS IN ALASKA. WHAT IS YOUR OPINION, IF THOSE NEW PROJECTS PROVIDED NEW JOBS AND TAXES, WOULD YOU FAVOR OR OPPOSE THE OPTION OF ALLOWING ALASKA'S IN-STATE REFINERS TO SATISFY THE STATE'S CLAIM BY MAKING ADDITIONAL INVESTMENTS IN ALASKA?

| DEMOGRAPHICS | UNSURE | FAVOR | OPPOSE |
|---------------------|--------|-------|--------|
| TOTAL..... | 8% | 76% | 16% |
| LOCATION | | | |
| RURAL..... | 2% | 89% | 9% |
| CENTRAL..... | 15% | 62% | 23% |
| SOUTHCENTRAL.... | 5% | 82% | 14% |
| ANCHORAGE..... | 8% | 75% | 17% |
| SOUTHEAST..... | 9% | 75% | 16% |
| GENDER | | | |
| MALE..... | 6% | 72% | 21% |
| FEMALE..... | 10% | 80% | 11% |
| AGE | | | |
| 18-24 YRS OF AGE | 0% | 93% | 7% |
| 25-40 YRS..... | 7% | 78% | 16% |
| 41-55 YRS..... | 8% | 75% | 17% |
| 56+ YEARS OF AGE | 16% | 67% | 17% |
| EMPLOYER | | | |
| FEDERAL GOVT.... | 2% | 71% | 27% |
| STATE GOVT..... | 18% | 60% | 22% |
| LOCAL GOVT..... | 5% | 79% | 16% |
| PRIVATE SECTOR.. | 6% | 77% | 15% |
| NOT IN WORKFORCE | 8% | 81% | 11% |
| VOTER REGISTRATION | | | |
| DEMOCRAT..... | 8% | 72% | 20% |
| REPUBLICAN..... | 8% | 81% | 12% |
| NON-PARTISAN.... | 9% | 74% | 17% |
| NOT REGISTERED.. | 0% | 100% | 0% |
| RESIDENCE IN ALASKA | | | |
| UNDER 1 YEAR.... | 0% | 100% | 0% |
| 1-4 YEARS..... | 7% | 76% | 17% |
| 5-9 YEARS..... | 3% | 87% | 10% |
| 10-14 YEARS..... | 4% | 78% | 18% |
| 15+ YEARS..... | 10% | 73% | 17% |

B.J. Moon - Meese Note

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|-------|---------------------|---------|--------------------|
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A Response to Two Questions Regarding Capital Credit Legislation for Royalty Oil Purchasers

Legislation has been discussed that would allow purchasers of royalty oil who find themselves faced with delinquency assessments from the state (as a result of pricing or valuation controversies) to credit against those retroactive assessments the value of qualifying capital investments that the purchaser may make in Alaska in the future. The legislation, which would include a number of safeguards to ensure that the public receives benefits commensurate with the credit, is intended to further these public policy goals:

1.

Encourage job creation, increased tax revenues and economic stimulus by inducing Alaska's in-state refiners to expand their Alaska operations. The legislation proceeds on the premise that the stimulation of specific, long-term capital growth is a prudent investment for the one-time, extraordinary claims that the state has asserted against its in-state royalty oil purchasers. Indeed, a recent study prepared for Tesoro Alaska Petroleum by ECO Northwest indicates that a particular \$46.5 million refinery expansion would return to the state, in 1993 dollars, \$51.3 million in new tax revenues; \$126 million in new employee compensation; \$1.2 billion in increased industrial output; and \$632 million in property income increases. In addition, that investment would create 2,787 new person/years of employment. The report thus suggests that Alaska's return on investment from this legislation would be extraordinary;

2.

Assure the continued provision of reasonably priced refined products to the majority of Alaskans now served by those refiners. For nearly 20 years, the state has successfully pursued a policy of using royalty oil sales to generate

new in-state refining capacity, recognizing that stable and reasonably priced crude supplies were critical to providing Alaskans with reasonably priced refined products. To underscore that linkage between crude supplies and refined product prices, a recent Mapco study found a high correlation (approximately 80%) between crude prices and fluctuations in costs of gasoline and other fuels.

3.

Bring balance to the state's settlement of the Amerada Hess controversy. That litigation involved a dispute over the "value" of North Slope oil. That litigation was settled as a result of negotiations between the state and North Slope producers. The amount of that settlement was financially acceptable to those producers, and represented only 6 percent of the assessed value of their North Slope property. On the other hand, the state is now attempting to apply that settlement to its royalty oil purchasers, even though: (1) the State consistently maintained that these purchasers were precluded from participating in *Amerada Hess* negotiations; and therefore could not protect their interests through that process; and (2) the state's demands represent up to 100% of the assessed valuation of these purchasers' property in the entire state. Moreover, the amount the state would seek to claim from these purchasers--about \$300 million--is nearly half the \$700 million that the state accepted from North Slope producers. This despite the fact that in-state refineries have taken only about 4% of all crude oil from the North Slope since Prudhoe Bay came into production.

Particularly in light of the ECO Northwest report, it appears that the direct returns to the public from this proposal will substantially exceed any reduction in state revenues. And as an investment in the economy, it is consistent with a number of other state programs designed to stimulate the private economy through government activism. Two questions that have been asked about the

proposed legislation focus on private benefits that could accrue from the legislation; however, there are significant public benefits of the proposals.

I. Isn't this Legislation Just A Subsidy for In-State Refiners?

No. It is, in fact, a firmly engrained concept in both federal and state revenue policy. The federal government long ago enacted the investment tax credit, which foregoes tax revenues when taxpayers devote resources to new capital investment. Not only has Alaska followed suit with a general investment tax credit^{1/}, it has also enacted a special, more generous tax credit for new gas processing facilities and new mineral exploration. AS 43.20.042. Over the past six years, Alaska has also granted a tax credit from the fisheries tax--for new fisheries investment. AS 43.75.032.

The capital credit legislation now being discussed has a number of safeguards not present in other private-sector investment initiatives: (1) the credit cannot be granted if the particular investment will not yield benefits justifying the credit; (2) the time period for taking these credits is limited; and (3) credits cannot be taken for investments that pre-date passage of the law, or which are already compelled by law (such as mandatory pollution control equipment).

Whenever government proposes to invest in its economy, the issue can't be "is it a subsidy," because every government entry into the private sector will yield direct benefits to some identifiable businesses. The issue, rather, must be "*is it a good investment in terms of public benefits that will result.*" The ECO Northwest report prepared for Tesoro strongly suggests that more so than in many cases, the capital credit legislation is a very good investment indeed.

^{1/} AS 43.20.021(d).

II. Why Should Only Purchasers of Royalty Oil Have This Program, Rather than All Taxpayers?

No other "taxpayer" has purchased royalty oil, and then been asked to retroactively pay more than they were originally charged. The amount sought from the royalty purchasers covered over ten (10) years of purchases with the oil processed and sold many years ago with the benefits of the lower crude oil prices enjoyed by the Alaska Consumer.

• As we have seen, the royalty oil purchasers are being asked to bear a disproportionate share of the *Amerada Hess* controversy--with demands against them approaching 100% of the assessed value of their Alaska property. And, even though in-state refiners have received only 4% of the North Slope crude oil they are being asked to pay approximately 30% of the total that the state hopes to receive from its *Amerada Hess* claims. The legislation, in part, is therefore aimed not at creating disparity, but curing it.

The issue isn't whether one industrial sector might benefit from a particular legislation program, but whether the public benefits from that program outweigh the costs to the government. Every economic incentive program brought to the legislature must be judged under that yardstick, and we're confident that the capital recovery legislation will pass it.