

26-LS1197\K
Kane
2/15/10

CS FOR SENATE BILL NO. 220(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act declaring a state energy policy; relating to energy efficiency and alternative
2 energy; relating to an emerging energy technology fund and a renewable energy
3 refundable tax credit; and relating to a fuel purchasing cooperative, to energy codes and
4 efficiency standards, to a state agency energy use reduction plan, to the alternative
5 energy revolving loan fund, and to the renewable energy grant fund."

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

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

9 SHORT TITLE. This Act may be known as the Alaska Sustainable Energy Act.

10 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 LEGISLATIVE POLICY. The legislature recognizes that the state's economic
13 prosperity is dependent on available, reliable, and affordable residential, commercial, and

1 industrial energy to supply the state's electric, heating, and transportation needs. The
2 legislature further recognizes that energy efficiency, renewable energy, fossil fuels, and
3 conservation will each play an important role in meeting the state's energy needs, which vary
4 widely across the state's diverse geographic regions. In establishing a state energy policy, the
5 legislature intends for the state to achieve a 10 percent increase in energy efficiency from
6 2010 levels by 2015 and a 15 percent increase in energy efficiency by 2020, after accounting
7 for growth in population and economy. Therefore, it is the policy of the state to

8 (1) institute a comprehensive and coordinated approach to supporting energy
9 efficiency and conservation by

10 (A) establishing statewide energy efficiency codes for new and
11 renovated public buildings and by assisting local communities interested in adopting
12 energy efficiency codes for new and renovated residential and commercial buildings;

13 (B) decreasing public building energy consumption through
14 conservation measures and energy-efficient technologies; and

15 (C) educating state residents on the benefits of energy efficiency and
16 conservation, including dissemination of information on state and federal programs
17 that reward energy efficiency;

18 (2) encourage economic development by

19 (A) promoting the development of renewable energy resources,
20 including geothermal, wind, solar, hydroelectric, hydrokinetic, tidal, and biomass
21 energy with a goal of generating 50 percent of the state's electricity using renewable
22 energy resources by 2020;

23 (B) promoting the development, transport, and efficient use of
24 nonrenewable energy resources, including natural gas, coal, oil, gas hydrates, and
25 heavy oil, for use by Alaskans, for export, and as feedstock for value-added
26 enterprises;

27 (C) working to identify and assist with development of the most cost-
28 effective, long-term sources of energy for each community statewide;

29 (D) creating and maintaining a state fiscal regime that encourages
30 private sector development of the state's energy resources;

31 (E) ensuring a reliable in-state gas supply for residents of the state;

(3) support energy research, education, and workforce development by investing in

(A) training and education programs that address energy conservation, efficiency, extraction, processing, and transportation, including programs that address workforce development and workforce transition; and

(B) applied energy research and development of emerging technologies, including university programs, to achieve reductions in state energy costs and stimulate industry investment in the state;

(4) coordinate governmental functions by

(A) actively collaborating with the private sector and local and federal agencies to achieve the state's energy goals and to meet emissions, renewable energy, and energy production targets; and

(B) reviewing and streamlining regulatory processes and balancing the economic costs of review with the level of review necessary to protect the public interest.

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

PURPOSE. The purpose of sec. 15 of this Act is to reduce the amount of energy consumed by public facilities in use in February 2010 by 15 percent by 2020, thereby reducing costs to the state and increasing jobs in energy efficiency industries.

* **Sec. 4.** AS 18.56.090 is amended by adding a new subsection to read:

(f) In furtherance of its corporate purpose, the corporation may, in cooperation with the Alaska Energy Authority, provide technical assistance to municipalities related to residential and commercial building energy codes and energy efficiency standards.

* **Sec. 5.** AS 35.10 is amended by adding a new section to article 1 to read:

Sec. 35.10.012. Alternative energy for public works. (a) For each public work subject to AS 35.10.010 - 35.10.080, the construction of which begins on or after January 1, 2011, the department shall consider using a nonfossil fuel fired alternative energy system for heat or electrical power if the department reasonably believes that an alternative energy system to supply heat or power is available that

(1) is comparably reliable to a fossil fuel fired system; and

(2) if used over the course of the life of the facility,

(A) will not cost more than a fossil fuel fired system to purchase, install, maintain, and operate; and

(B) will have less measurable adverse effect on the environment than a fossil fuel fired system.

(b) If the department determines that an alternative energy system described in (a) of this section is available and can be used as a primary or secondary source of heat or electrical power, as to a public work the construction of which under this chapter begins on or after January 1, 2011, the department shall construct the public work to accommodate or be compatible with the alternative energy system.

(c) In this section, "construction" does not include reconstruction, alteration, improvement, or major repair.

* **Sec. 6.** AS 36.30 is amended by adding a new section to read:

Sec. 36.30.323. Consideration of energy efficient equipment. When the Department of Administration enters into contracts to purchase equipment that uses energy, it shall give substantial consideration to the energy efficiency of the equipment where credible and objective information on efficiency levels is readily available.

* **Sec. 7.** AS 42.45.045(d) is amended to read:

(d) The authority shall, in consultation with the advisory committee established under (i) of this section and the Department of Natural Resources,

(1) develop a methodology for determining the order of projects that may receive assistance, including separate requirements for grant eligibility, and adopt regulations identifying criteria to evaluate the benefit and feasibility of projects for which an applicant applies for support from the legislature, with the most weight being given to projects that serve any area in which the average cost of energy to each resident of the area exceeds the average cost to each resident of other areas of the state, and significant weight being given to a statewide balance of grant funds, [AND] to the amount of matching funds an applicant is able to make available for a project, and to projects that are likely to have a financial benefit that exceeds the amount of grant funds received;

(2) make recommendations to the legislature for renewable power production reimbursement grants; [AND]

(3) not later than 10 days after the first day of each regular legislative session, submit to the legislature a report summarizing and reviewing each grant application submitted under this section and a recommended priority for awarding grants; and

(4) require activity reports for each project funded at intervals determined by the authority.

* **Sec. 8.** AS 42.45.045 is amended by adding a new subsection to read:

(m) The authority shall enter into contracts or agreements with experts to assist in conducting an independent economic or financial analysis for each recommended application. The information shall be included in the report to the legislature required by (d) of this section.

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

Sec. 42.45.260. Fuel purchasing cooperative. The authority shall facilitate the organization of a statewide fuel purchasing cooperative by contacting and providing technical assistance to potential participants in the cooperative, including local governments, utilities, school districts, state agencies, tribal governments, housing authorities, and other interested nonprofit entities.

* **Sec. 10.** AS 42.45 is amended by adding a new section to read:

Article 7A. Emerging Energy Technology Fund.

Sec. 42.45.375. Emerging energy technology fund. (a) The emerging energy technology fund is established. The fund consists of

(1) money appropriated to the fund by the legislature to provide grants for energy projects; and

(2) gifts, bequests, contributions from other sources, and federal money appropriated to the fund.

(b) The fund is not a dedicated fund.

(c) The fund shall be administered by the authority, but the authority may contract for the investment of money appropriated to the fund but not disbursed for a grant. The authority, in consultation with the advisory committee established under (f)

of this section, may make grants from the fund to eligible applicants for

(1) research, development, or demonstration projects designed to

(A) test new energy technologies or methods of conserving energy; or

(B) improve an existing energy technology; and

(2) applied research projects that employ energy technology with a reasonable expectation that the technology will be commercially viable in not more than five years.

(d) In making grants under this section, the authority, in consultation with the advisory committee established under (f) of this section, shall give priority to

(1) Alaska residents, associations, organizations, or institutions;

(2) projects that demonstrate partnership with the University of Alaska or another Alaska postsecondary institution; and

(3) projects supported by matching funds or in-kind partnerships.

(e) In administering the fund, the authority may enter into a contract or agreement with the Alaska Center for Energy and Power and the Institute for Social and Economic Research to provide technical and economic analysis for the advisory committee established under (f) of this section and a review of the projects awarded grants.

(f) An advisory committee is established and consists of seven members. Each member of the committee shall have a degree in science or engineering and at least two years of experience working in the state. Members of the committee shall be appointed by the governor to staggered three-year terms. The committee consists of one representative of each of the following groups:

(1) a business or organization engaged in the renewable energy sector;

(2) a business or organization engaged in the fossil fuel energy sector;

(3) the Alaska Power Association or an Alaska electric utility;

(4) the Denali Commission established under P.L. 105-277 and mentioned in a note at 42 U.S.C. 3121;

(5) the National Renewable Energy Laboratory;

(6) the Arctic Energy Office of the National Energy Technology

Laboratory;

(7) the Alaska Energy Authority.

(g) A member of the advisory committee appointed under (f) of this section serves without compensation but is entitled to per diem and travel expenses as provided in AS 39.20.180.

(h) If a member of the advisory committee appointed under (f)(4), (f)(5), or (f)(6) is not available to serve as a member of the committee, the governor shall appoint a representative from a federal agency or department with a comparable mission or purpose to the agency listed in (f)(4), (f)(5), or (f)(6) to fill the position on the committee. If a representative from a federal agency or department is not available to fill the position, the governor may appoint a member from a state agency or department.

(i) In this section,

(1) "eligible applicant" means

(A) an electric utility holding a certificate of public convenience and necessity under AS 42.05;

(B) an independent power producer;

(C) a local government, quasi-governmental entity, or other governmental entity, including a tribal council or housing authority;

(D) a business holding an Alaska business license; or

(E) a nonprofit organization.

(2) "energy technology" means technology that promotes, enhances, or expands the diversity of available energy supply sources or means of transmission, increases energy efficiency, or reduces negative energy-related environmental effects; "energy technology" includes technology related to renewable sources of energy, conservation of energy, enabling technologies, efficient and effective use of hydrocarbons, and integrated energy systems;

(3) "fund" means the emerging energy technology fund.

* **Sec. 11.** AS 43.20 is amended by adding a new section to read:

Sec. 43.20.046. Renewable energy credit. For purposes of calculating the tax payable under this chapter, a taxpayer may apply as a credit against tax liability any

renewable energy refundable tax credits earned under AS 43.98.040.

* **Sec. 12.** AS 43.98 is amended by adding a new section to read:

Sec. 43.98.040. Renewable energy refundable tax credit. (a) A person that produces renewable energy may claim a renewable energy refundable tax credit in the amount of 15 percent of the retail rate charged by the person, as determined by the Regulatory Commission of Alaska for each kilowatt-hour of electricity produced from renewable energy.

(b) A person may claim a credit under this section in the first year the capital investment used to produce electricity from renewable energy is placed into service and for the four years following that year.

(c) A person may claim a credit under this section only for a capital investment

(1) to produce electricity from renewable energy that is placed into service on or after July 1, 2009; or

(2) to expand production of electricity from renewable energy if the investment for production expansion is made on or after July 1, 2009.

(d) A person

(1) may use a credit under this section to offset taxes imposed under AS 43.20 (Alaska Net Income Tax Act); and

(2) may not calculate and apply the credit against the alternative minimum tax levied under the authority of AS 43.20.021(f).

(e) The department shall provide a form and adopt procedures to allow a person who is not required to make a filing under AS 43.20 to claim a refundable credit under this section. The commissioner shall pay the amount of a tax credit under this section to a person who submits a form and follows procedures adopted under this subsection. A credit under this section shall be paid in the manner provided in AS 43.20.030(e) for the payment of refunds. Payments may not be made under the authority of this subsection without an appropriation for that purpose.

(f) A credit claimed under this section may not exceed 10 percent of the person's capital investment for the production of electricity from renewable energy. In calculating a person's capital investment, a person may not include any state or federal

grant the person received for the capital investment.

(g) In this section,

(1) "capital investment" means an expenditure made

(A) as a cash expenditure or binding payment agreement for real property or tangible personal property used in this state in the production of electricity from renewable energy; and

(B) for an asset first placed in service for the production of electricity from renewable energy in the state during or before the tax year in which the credit is claimed; in this subparagraph, "placed in service for the production of electricity from renewable energy in the state" means that the first use of the capital investment is in this state; if the property on which the claim of the credit is based has been used outside the state in the tax year of acquisition and is brought to this state during that year or a subsequent year, the property does not qualify as a capital investment;

(2) "credit" means the renewable energy refundable tax credit authorized by this section;

(3) "renewable energy" means geothermal, solar, hydroelectric, wind, biomass, hydrokinetic or tidal, and wave energy.

* **Sec. 13.** AS 44.21.020 is amended by adding a new subsection to read:

(b) In addition to the duties listed in (a) of this section, the department shall work with state agencies to develop a standardized methodology to collect and store energy consumption and expense data.

* **Sec. 14.** AS 44.42.020(a) is amended to read:

(a) The department shall

(1) plan, design, construct, and maintain all state modes of transportation and transportation facilities and all docks, floats, breakwaters, buildings, and similar facilities;

(2) study existing transportation modes and facilities in the state to determine how they might be improved or whether they should continue to be maintained;

(3) study alternative means of improving transportation in the state

1 with regard to the economic costs of each alternative and its environmental and social
2 effects;

3 (4) develop a comprehensive, long-range, intermodal transportation
4 plan for the state;

5 (5) study alternatives to existing modes of transportation in urban areas
6 and develop plans to improve urban transportation;

7 (6) cooperate and coordinate with and enter into agreements with
8 federal, state, and local government agencies and private organizations and persons in
9 exercising its powers and duties;

10 (7) manage, operate, and maintain state transportation facilities and all
11 docks, floats, breakwaters, and buildings, including all state highways, vessels,
12 railroads, pipelines, airports, and aviation facilities;

13 (8) study alternative means of transportation in the state, considering
14 the economic, social, and environmental effects of each alternative;

15 (9) coordinate and develop state and regional transportation systems,
16 considering deletions, additions, and the absence of alterations;

17 (10) develop facility program plans for transportation and state
18 buildings, docks, and breakwaters required to implement the duties set out in this
19 section, including but not limited to functional performance criteria and schedules for
20 completion;

21 (11) supervise and maintain all state automotive and mechanical
22 equipment, aircraft, and vessels, except vessels and aircraft used by the Department of
23 Fish and Game or the Department of Public Safety; for state vehicles maintained by
24 the department, the department shall every five years evaluate the cost, efficiency, and
25 commercial availability of alternative fuels for automotive purposes, and the purpose
26 for which the vehicles are intended to be used, and convert **vehicles to use alternative**
27 **fuels** or purchase **energy efficient** vehicles [TO USE ALTERNATIVE FUELS]
28 whenever practicable; the department may participate in joint ventures with public or
29 private partners that will foster the availability of alternative fuels for all automotive
30 fuel consumers;

31 (12) supervise aeronautics inside the state, under AS 02.10;

(13) implement the safety and financial responsibility requirements for air carriers under AS 02.40;

(14) inspect weights and measures;

(15) at least every four years study alternatives available to finance transportation systems in order to provide an adequate level of funding to sustain and improve the state's transportation system.

* **Sec. 15.** AS 44.42 is amended by adding a new section to read:

Sec. 44.42.067. Retrofits for energy efficiency and energy efficiency report.

(a) Not later than January 1, 2020, the department shall retrofit at least 25 percent of all public facilities, starting with those it determines are the least energy efficient, if the department determines that retrofitting the public facilities will result in a net savings in energy costs to the state within 15 years after completion of the retrofits for a public facility and if funding for the retrofits is available.

(b) A retrofit, new construction, or deferred maintenance of a public facility performed under this section, to the extent feasible, shall meet or exceed the most recently published edition of the ASHRAE/IESNA Standard 90.1, Energy Standard for Buildings Except for Low-Rise Residential Buildings, as published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

(c) Not later than January 1 of each year, the department, in consultation with the Department of Administration, shall submit a report to the legislature detailing the department's progress in meeting the requirements of this section to reduce state energy consumption and costs and carrying out the duties listed in AS 44.42.020 related to energy use. The department shall include in the report an analysis of the consumption and expense data recorded by the Department of Administration under AS 44.21.020(b), comparing energy consumption levels in each year with past years to determine if reductions are being achieved.

(d) In this section, "public facility" means a facility owned and controlled by the state for government or public use that is 10,000 square feet or more and is not a legislative building or court building.

* **Sec. 16.** AS 44.83.080 is amended by adding a new subsection to read:

(b) In furtherance of its corporate purpose, the authority shall annually plan

and conduct, in cooperation with the Alaska Housing Finance Corporation, a public education campaign to promote energy efficiency and conservation.

* **Sec. 17.** AS 45.88.010 is amended by adding a new subsection to read:

(e) The fund consists of

- (1) money appropriated to the fund by the legislature;
- (2) gifts, bequests, or contributions from other sources; and
- (3) principal and interest payments or other income earned on loans or investments in the fund and appropriated to the fund.

* **Sec. 18.** AS 45.88.020(a) is amended to read:

(a) The department may

- (1) make loans for the purchase, construction, and installation of alternative energy systems that are located in the state;
- (2) adopt regulations necessary to carry out the provisions of AS 45.88.010 - 45.88.090, including regulations to establish reasonable fees for services provided and charges for collecting the fees;
- (3) collect the fees and collection charges established under this subsection.

* **Sec. 19.** AS 45.88.030 is amended by adding new subsections to read:

(f) A loan must be secured by a mortgage or other security instrument in the real property to be improved, and a lien on the improvements financed under AS 45.88.010.

(g) The interest rate

- (1) may not exceed the maximum rate of eight percent a year and may not be less than five percent a year;
- (2) shall be established by the department based on the bank prime rate listed in the Wall Street Journal during the previous quarter plus one percentage point, set to the nearest one-half point for loans made; and
- (3) set for a quarter remains in effect until the department changes the rate.

* **Sec. 20.** AS 45.88.090(a) is amended to read:

(a) In AS 45.88.010 - 45.88.090, "alternative energy system"

(1) means a source of thermal, mechanical, or electrical energy that [WHICH] is not dependent on oil or gas or a nuclear fuel for the supply of energy for space heating and cooling, refrigeration and cold storage, electrical power, mechanical power, or the heating of water;

(2) includes

(A) an alternative energy property as defined by 26 U.S.C. 48(a)(3)(A) (Sec. 301, P.L. 95-618, Internal Revenue Code);

(B) a method of architectural design and construction which provides for the collection, storage, and use of direct radiation from the sun;

(C) a woodstove with a catalytic converter or a catalytic converter for a wood stove; [AND]

(D) a steam, hot water, or ducted hot air central heating system that uses wood or coal for fuel; and

(E) a high efficiency wood pellet stove;

(3) does not include

(A) a stove that uses only [WOOD,] coal, [OR] oil, or unprocessed wood for fuel; or

(B) a fireplace or fireplace insert.

* **Sec. 21.** AS 45.88.010(c), 45.88.030(e), and 45.88.040(a) are repealed.

* **Sec. 22.** AS 44.42.067(c), enacted by sec. 15 of this Act, is repealed January 1, 2021.

* **Sec. 23.** AS 43.20.046, enacted by sec. 11 of this Act, and AS 43.98.040, enacted by sec. 12 of this Act, are repealed January 1, 2025.

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

DEPARTMENT OF ADMINISTRATION. Not later than November 1, 2010, the Department of Administration shall develop a standardized methodology to collect and store energy consumption and expense data as described in AS 44.21.020(b), as enacted by sec. 13 of this Act.

* **Sec. 25.** The uncoded law of the State of Alaska is amended by adding a new section to read:

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES. Not later

1 than one year after the effective date of this Act, the Department of Transportation and Public
2 Facilities, in consultation with the Alaska Energy Authority, shall adopt and implement a
3 systematic process for prioritizing the retrofitting of state facilities for a long-term increase in
4 energy efficiency and reduction of energy costs.

5 * **Sec. 26.** The uncoded law of the State of Alaska is amended by adding a new section to
6 read:

7 OFFICE OF THE GOVERNOR ENERGY REPORT. Not later than November 1,
8 2010, the governor shall submit a report to the legislature providing recommendations for
9 how best to structure state energy programs and offices to increase the coordination and
10 efficiency of the state's efforts.