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CS FOR HOUSE BILL NO. 369(ENE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON ENERGY

Offered:
Referred:

Sponsor(s): HOUSE SPECIAL COMMITTEE ON ENERGY

A BILL

FOR AN ACT ENTITLED

"An Act relating to energy; relating to liability of an electric utility for contact between vegetation and the utility's facilities; relating to electric utility wildland fire mitigation planning and prevention; relating to generation of electricity from diversified energy resources; relating to a diversified portfolio standard; relating to costs incurred by certain electric utilities for renewable energy and battery energy storage; relating to preapproval for large energy facilities; relating to the renewable energy grant fund; relating to the state energy policy; and providing for an effective date."

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

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

LEGISLATIVE INTENT. (a) It is the intent of the legislature that

(1) the state achieve a 15 percent increase in energy efficiency on a per capita basis between 2026 and 2036, including through improvements in building heating efficiency,

beneficial electrification, and electricity generation and transmission efficiency;

(2) the state work to ensure a reliable in-state gas supply for residents of the state;

(3) the state remain a leader in petroleum and natural gas production and become a global leader in carbon management, critical minerals exploration, detection, and production, and emerging clean energy technologies;

(4) the average cost of electricity in the state be equal to or less than the national average by 2040.

(b) It is the intent of the legislature that implementation of the diversified portfolio standard under AS 42.05.900 not result in undue economic harm to ratepayers or compromise energy reliability.

*** Sec. 2.** AS 09.65 is amended by adding a new section to read:

Sec. 09.65.086. Civil liability of electric utility for contact between vegetation and utility facilities. (a) Except as otherwise provided in this section, a utility offering electrical service to the public for compensation under a certificate of public convenience and necessity issued by the former Alaska Public Utilities Commission or the Regulatory Commission of Alaska under AS 42.05.221 may not be held liable for costs, property damage, death, or personal injury resulting from contact between vegetation in that service area and the utility's electrical service facilities, if the utility is developing or has adopted a wildland fire mitigation plan.

(b) This section does not preclude civil liability for property damage, death, or personal injury resulting from contact between vegetation and the utility's facilities if

(1) the vegetation is located or originated inside the boundaries of the utility's real property, lease, permit, easement, or right-of-way or of an area established by a wildland fire mitigation plan;

(2) the contact is caused by the utility while the utility is working outside the boundaries of the utility's real property, lease, permit, easement, or right-of-way or of an area established by a wildland fire mitigation plan; or

(3) the damage, death, or personal injury occurs at a residence and it is shown that the utility acted with negligence or engaged in reckless or intentional misconduct; in this paragraph, "residence" has the meaning given in AS 08.18.171.

(c) A utility is not liable for

(1) an injury to or removal of vegetation when the removal or injury is carried out in accordance with the terms of a wildland fire mitigation plan or inside the boundaries of the utility's real property, lease, permit, easement, or right-of-way, including vegetation rooted outside those boundaries;

(2) harm caused by vegetation located on an adjacent property, if the utility timely provides written notice to the owner of the property that the vegetation poses a high risk of causing harm; or

(3) harm caused by vegetation that, during the utility's most recent wildland fire mitigation assessment, was not a reasonably foreseeable cause of a wildland fire.

(d) An owner of property located outside the boundaries of a utility's real property, lease, permit, easement, or right-of-way or, if applicable, the boundaries of an area established by a utility's wildland fire mitigation plan may not be held liable for costs, property damage, death, or personal injury resulting from the utility working outside those boundaries.

(e) This section does not preclude civil liability if, by a physical act, a utility causes vegetation to contact the utility's electrical service facilities.

(f) The owner of a property adjacent to a utility's real property, lease, permit, easement, or right-of-way may enter into an agreement with the utility to be bound by the terms of the utility's wildland fire mitigation plan. The property owner may enter into a separate agreement with the utility providing that the utility will manage vegetation located on the owner's real property.

(g) A utility that causes or fails to prevent a wildland fire is presumed not to have acted with negligence if the utility has substantially complied with the utility's wildland fire mitigation plan under AS 42.05.352. The utility is not liable for punitive or noneconomic damages resulting from injury to a person or property resulting from the wildland fire unless it is shown that the utility acted with gross negligence or engaged in reckless or intentional misconduct.

(h) Notwithstanding (c)(1) of this section, if a utility unnecessarily removes vegetation rooted outside the boundaries of the utility's real property, lease, permit,

easement, or right-of-way, the utility may be liable for damages not to exceed the replacement value of the vegetation.

(i) In this section,

(1) "utility" includes a person who injures or removes vegetation under (c) of this section while under contract with or acting under the authority of a utility;

(2) "wildland fire" has the meaning given in AS 42.05.352.

(3) "wildland fire mitigation plan" means an electric utility wildland fire mitigation plan under AS 42.05.352.

*** Sec. 3.** AS 42.05 is amended by adding a new section to article 3 to read:

Sec. 42.05.352. Electric utility wildland fire mitigation planning and prevention. (a) An electric utility that serves a community that is developing or has adopted a community wildfire protection plan and is subject to the standards of an electric reliability organization under AS 42.05.760 shall adopt a written wildland fire mitigation plan. An electric utility that serves a community that is developing or has adopted a community wildfire protection plan but is not subject to the standards of an electric reliability organization under AS 42.05.760 may adopt a written wildland fire mitigation plan. A utility that adopts a written wildland fire mitigation plan shall update the plan at least once every three years and submit a copy of the plan to the Department of Natural Resources.

(b) The plan must describe

(1) the boundaries of the utility's real property, including easements and rights-of-way;

(2) areas of adjacent property that are located within 300 feet of a boundary described under (1) of this subsection;

(3) the boundaries of adjacent real property in a designated wildland-urban interface area;

(4) how the utility will manage vegetation to preserve the reliability and safety of the utility's electric facilities, avoid causing a wildland fire, and prevent harm to adjacent properties and occupants of adjacent properties.

(c) The plan must assess the risk of a wildland fire igniting or spreading to or within the boundaries of the utility's real property, lease, permit, easement, and right-

of-way and the risk of a wildland fire spreading from within those boundaries to an adjacent property.

(d) The plan must include procedures and time frames for

(1) inspecting and maintaining real property assessed as having a high risk of igniting or spreading a wildland fire;

(2) identifying with reasonable specificity the geographic locations assessed as having a high risk of wildland fire;

(3) inspecting, maintaining, and upgrading facilities in areas assessed as having a high risk of wildland fire;

(4) determining whether power transmission during a wildland fire or a period of high risk of wildland fire should be interrupted;

(5) inspecting vegetation within applicable boundaries;

(6) identifying and removing trees and other vegetation, within applicable boundaries, that pose a high risk of falling into and damaging electric facilities;

(7) clearing and trimming vegetation within applicable boundaries;

(8) locating powerline faults and other powerline irregularities that may indicate a problem with vegetation or the presence of wildland fire near power equipment operated by a utility;

(9) notifying a local or state fire response agency of the threat of or presence of wildland fire, when appropriate; and

(10) coordinating vegetation and right-of-way maintenance with local and state fire response agencies to facilitate adequate ingress and egress at locations that are at high risk of wildland fire.

(e) If the outcome of a risk assessment for a wildland fire mitigation plan under this section shows a high risk that a wildland fire will ignite or spread, the electric utility shall report that outcome as an emergency to the owners and occupants of adjacent properties and the commissioner of natural resources as soon as practicable. The utility shall act to eliminate or limit the risk and may provide advice about how to mitigate the risk.

(f) If the utility identifies vegetation rooted outside of the boundaries of the

utility's real property, lease, permit, easement, or right-of-way that poses an imminent and high risk of making contact with the utility's real or personal property and causing a fire to ignite, the utility may remove the vegetation immediately and without notice.

(g) The Department of Natural Resources may review a wildland fire mitigation plan adopted or being developed under this section and offer advice. The department shall acknowledge receipt of the final plan and keep a copy of the plan on file for public inspection.

(h) At least 60 days before adopting a new or updated wildland fire mitigation plan, a utility shall publish a copy of the plan and a notice of a 30-day public comment period on the utility's Internet website. The utility shall notify each of the utility's customers, by electronic mail or United States mail with postage prepaid, of the proposed plan and the opportunity to comment. The notice must include the date and time of a public meeting where the utility's customers and residents of the utility's service area may comment on the plan and ask questions. The plan may be adopted not sooner than 10 days after the public meeting.

(i) In this section,

(1) "applicable boundaries" means the boundaries

(A) of real property owned or leased by the utility, including an easement or right-of-way;

(B) described in the plan; and

(C) described in a government permit obtained by the utility;

(2) "community wildfire protection plan" has the meaning given in 16 U.S.C. 6511;

(3) "wildland fire" includes the uncontrolled burning of grass, brush, timber, and other vegetative material;

(4) "wildland-urban interface" has the meaning given in 16 U.S.C. 6511.

*** Sec. 4.** AS 42.05.431 is amended by adding a new subsection to read:

(i) Costs incurred by an electric cooperative utility organized under AS 10.25 that participates in an electric reliability organization certificated by the commission under AS 42.05.760 must be allowed in the rates charged by the utility if the costs are

approved by the utility's board of directors in connection with a new or purchased renewable energy facility or battery energy storage system with a nameplate capacity of less than 7,000 kilowatts or power purchased from a renewable energy facility or battery energy storage system with a nameplate capacity of less than 7,000 kilowatts. In this subsection, "renewable energy facility" means a facility that generates electricity from geothermal, wind, solar, hydroelectric, hydrokinetic, tidal, or biomass energy or another renewable energy resource.

*** Sec. 5.** AS 42.05.780(a) is amended to read:

(a) An electric reliability organization shall file with the commission in a petition for approval an integrated resource plan for meeting the reliability requirements of all customers within its interconnected electric energy transmission network in a manner that provides the greatest value, consistent with the load-serving entities' obligations. An integrated resource plan must contain an evaluation of the full range of cost-effective means for load-serving entities to meet the service requirements of all customers, including additional generation, transmission, battery storage, and conservation or similar improvements in efficiency. An integrated resource plan must include options to meet customers' collective needs in a manner that provides the greatest value, consistent with the public interest, regardless of the location or ownership of new facilities or conservation activities. **An integrated resource plan must include options for satisfying the diversified portfolio standard under AS 42.05.900.**

*** Sec. 6.** AS 42.05.785(a) is amended to read:

(a) A public utility, including a public utility that is exempt from other regulation under AS 42.05.711 or another provision of this chapter, that is interconnected with an interconnected electric energy transmission network served by an electric reliability organization certificated by the commission may not construct a large energy facility unless the commission determines that the facility

(1) is necessary to the interconnected electric energy transmission network with which it would be interconnected;

(2) complies with reliability standards; [AND]

(3) would, in a cost-effective manner, meet the needs of a load-serving

entity that is substantially served by the facility**; and**

(4) is not detrimental to a load-serving entity's ability to meet the diversified portfolio standard under AS 42.05.900.

*** Sec. 7.** AS 42.05.785(e) is amended to read:

(e) In this section,

(1) "diversified energy resource" has the meaning given in AS 42.05.925;

(2) "large energy facility" means

(A) [(1)] an electric power generating plant or combination of plants at a single site with a combined capacity of 15,000 kilowatts or more with transmission lines that directly interconnect the plant with the transmission system;

(B) [(2)] a high-voltage, above-ground transmission line that

(i) [(A)] has a capacity of 69 kilovolts or more; and

(ii) [(B)] is longer than 10 miles;

(C) [(3)] a high-voltage submarine or underground cable that

(i) [(A)] has a capacity of 69 kilovolts or more; and

(ii) [(B)] is longer than three miles;

(D) [(4)] an energy storage device or combination of devices at a single site with a combined capacity of 15,000 kilowatts and one hour or more of energy storage that directly connects with the interconnected bulk-electric system; and

(E) [(5)] a reactive compensation device or combination of devices at a single site with a combined reactive capability of 15,000 kilovars or more with a step-up device to regulate interconnected bulk-electric system voltage.

*** Sec. 8.** AS 42.05 is amended by adding new sections to read:

Article 11A. Diversified Portfolio Standard.

Sec. 42.05.900. Diversified portfolio standard. (a) The portfolio of a load-serving entity that is subject to the standards of an electric reliability organization under AS 42.05.760 must include 40 percent of megawatt hours of electricity

generated from diversified energy resources by December 31, 2036, adjusted according to AS 42.05.905.

(b) When a fossil fuel and renewable energy resource are co-fired in the same generating unit, the unit is considered to generate diversified electricity in direct proportion to the percentage of the total heat input value represented by the heat input value of the renewable energy resource.

(c) If electricity transmission constraints prevent delivery of diversified electricity that a load-serving entity is obligated to purchase from a third party, the megawatt hours of undelivered diversified electricity, adjusted according to AS 42.05.905, count toward the load-serving entity's compliance with the diversified portfolio standard.

(d) Electricity generated from diversified energy resources count toward a load-serving entity's compliance with the diversified portfolio standard even if rights to the environmental, social, or other nonpower attributes of the electricity generation have been legally transferred to another person.

Sec. 42.05.905. Compliance incentives and alternatives. (a) To calculate a load-serving entity's compliance with the diversified portfolio standard, the megawatt hours of electricity from a project that generates electricity from a diversified energy resource are multiplied by a factor of 1.5 if

(1) the project is operational before January 1, 2033;

(2) the project has a nameplate generation capacity of at least 100 megawatts; and

(3) more than one load-serving entity acquires electricity production from the project and each entity acquires at least the entity's load ratio share or 20 percent of the project's energy output, whichever is less; in this paragraph, "load ratio share" means a percentage calculated by dividing a load-serving entity's total retail electricity sales by the sum of retail electricity sales from all load-serving entities that acquire electricity from the project.

(b) In addition to generating megawatt hours of electricity from diversified energy resources, a load-serving entity may satisfy the diversified portfolio standard by using diversified portfolio credits from generation connected to the same

interconnected electric energy transmission network that serves the load-serving entity's customers.

Sec. 42.05.910. Diversified portfolio credits. (a) A load-serving entity subject to the standards of an electric reliability organization under AS 42.05.760 acquires one diversified portfolio credit for each megawatt hour of electricity generated from diversified energy resources, adjusted according to AS 42.05.905.

(b) A diversified portfolio credit may only be traded, sold, or otherwise transferred for value to another load-serving entity subject to the standards of an electric reliability organization under AS 42.05.760. A load-serving entity that transfers a diversified portfolio credit may not use the diversified electricity associated with the transferred credit to comply with the diversified portfolio standard.

(c) A diversified portfolio credit may be used only once. A diversified portfolio credit expires one year after the credit was created.

(d) A load-serving entity shall track the life cycle of a diversified portfolio credit created, transferred, or used by the load-serving entity. Each load-serving entity is responsible for demonstrating that a diversified portfolio credit used to comply with the diversified portfolio standard is derived from a diversified energy resource and that the diversified portfolio credit has not been previously used or transferred.

Sec. 42.05.915. Other diversified energy resources. (a) A load-serving entity subject to the standards of an electric reliability organization under AS 42.05.760 that plans to use a resource to generate electrical energy at a generation facility may apply to the commission to designate the resource at the generation facility as a diversified energy resource. The commission shall designate the resource as a diversified energy resource for the generation facility if the load-serving entity submits

(1) a certification from a certifier that the scope 1, 2, and 3 greenhouse gas emissions occurring from the use of the resource to generate electrical energy at the facility are less than 100 kilograms carbon dioxide equivalent per megawatt hour of electrical energy generated across the entire lifetime of the generation facility; and

(2) a credible plan for maintaining scope 1, 2, and 3 greenhouse gas emissions below 100 kilograms carbon dioxide equivalent per megawatt hour of electrical energy generated across the entire lifetime of the generation facility and a

cost estimate for complying with the plan.

(b) To maintain the designation of a resource as a diversified energy resource under (a) of this section, a load-serving entity shall annually report to the commission the amount of scope 1, 2, and 3 greenhouse gas emissions occurring from the generation facility using the diversified energy resource, as certified by a certifier.

(c) In this section, "certifier" means a person who has been accredited under standards ISO 14064-3 and ISO 14065 of the International Organization for Standardization to verify greenhouse gas emissions.

Sec. 42.05.920. Exemptions. A load-serving entity is exempt from compliance with the diversified portfolio standard if the aggregate percentage of electricity generated from diversified energy resources by all load-serving entities on the interconnected electric energy transmission network, adjusted according to AS 42.05.905, meets or exceeds the aggregate diversified portfolio standard for those entities.

Sec. 42.05.925. Definitions. In AS 42.05.900 - 42.05.925,

(1) "distributed energy system" means a community energy facility as that term is defined in AS 42.05.735 or a diversified energy resource that is located on any property owned or leased by a customer within the service territory of the load-serving entity that is interconnected on the customer's side of the utility meter;

(2) "diversified electricity" means electrical energy generated from diversified energy resources;

(3) "diversified energy resource" means

(A) a renewable energy resource;

(B) nuclear energy;

(C) natural gas that

(i) is received through a gas pipeline that originates from the area of the state lying north of 68 degrees North latitude;

(ii) is acquired by a load-serving entity at a stable price; and

(iii) generates electrical energy at a cost lower than the cost of generating electrical energy from renewable energy resources;

or

(D) a resource designated as a diversified energy resource by the commission under AS 42.05.915;

(4) "diversified portfolio credit" means a credit described in AS 42.05.910;

(5) "diversified portfolio standard" means the percentage of a load-serving entity's net electrical energy sales to customers in the entity's service area that is represented by diversified energy resources as required under AS 42.05.900;

(6) "interconnected electric energy transmission network" has the meaning given in AS 42.05.790;

(7) "load-serving entity" has the meaning given in AS 42.05.790;

(8) "megawatt hour" means 1,000,000 watts of electricity being used in one hour and includes the steam equivalent of a megawatt hour;

(9) "renewable energy resource" means a resource, other than a fossil fuel, that is ultimately derived from solar power, water power, or wind power, comes from the sun or from thermal inertia of the earth, and minimizes the output of toxic material in the conversion of the energy; in this paragraph, "resource" includes

(A) solar and solar thermal energy, wind energy, and kinetic energy of moving water, including

(i) waves, tides, or currents;

(ii) run-of-river hydropower, in-river hydrokinetic;

(iii) conventional hydropower, lake tap hydropower;

(iv) water released through a dam; and

(v) geothermal energy;

(B) waste to energy systems, including

(i) wood;

(ii) landfill gas that has been manufactured in whole or significant part from waste;

(iii) biofuels produced in the state; and

(iv) thermal energy produced from a geothermal heat pump using municipal solid waste, including biogenic and

anthropogenic factions.

*** Sec. 9.** 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;

(2) make recommendations to the legislature for renewable power production reimbursement grants; and

(3) not later than **November 15 of each year** [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.

*** Sec. 10.** AS 42.45.045 is amended by adding a new subsection to read:

(m) The advisory committee appointed under (i) of this section shall elect a chair from among its members. The chair serves for a term of two years. The chair may not serve for consecutive terms. After a year of not serving as chair, the member is eligible for election as chair again. The advisory committee shall meet at the call of the chair.

*** Sec. 11.** AS 44.99.115 is amended to read:

Sec. 44.99.115. Declaration of state energy policy. The State of Alaska recognizes that the state's economic prosperity is dependent on available, reliable, and affordable residential, commercial, and industrial energy to supply the state's electric, heating, and transportation needs. The state also recognizes that worldwide supply and demand for fossil fuels and concerns about global climate change will affect the price **and volatility** of fossil fuels consumed by Alaskans and exported from the state to

other markets. In establishing a state energy policy, the state further recognizes the immense diversity of the state's geography, cultures, and resource availability**, as well as the universal imperative of affordable and stable energy prices**. Therefore, it is the policy of the state to

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

(A) **increasing energy efficiency and conservation of natural gas and other heating fuels through**

(i) investments focused on home energy efficiency and beneficial electrification;

(ii) support for energy audit programs; and

(iii) state assistance in the development of local and statewide residential and commercial energy efficiency standards [ENCOURAGING STATEWIDE ENERGY EFFICIENCY CODES FOR NEW AND RENOVATED RESIDENTIAL, COMMERCIAL, AND PUBLIC BUILDINGS];

(B) decreasing public building energy consumption through conservation measures and energy-efficient technologies; [AND]

(C) initiating and supporting a program to educate state residents on the benefits of energy efficiency and conservation, including dissemination of information on state and federal programs that reward energy efficiency; **and**

(D) improving the efficiency of electricity generation and transmission;

(2) encourage economic development by

(A) promoting the development of renewable and alternative energy resources, including geothermal, wind, solar, hydroelectric, hydrokinetic, tidal, [AND] biomass energy, **and geologic hydrogen** for use by Alaskans;

(B) using renewable energy and geologic hydrogen resources to produce energy products such as methanol, ammonia, and

sustainable aviation fuel for use by Alaskans and for export;

(C) [(B)] promoting the development, transport, and efficient use of nonrenewable and alternative energy resources, including natural gas, coal, oil, gas hydrates, heavy oil, and nuclear energy, for use by Alaskans and for export;

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

(E) [(D)] creating and maintaining a state fiscal regime and permitting and regulatory processes that encourage private sector development of the state's energy resources; and

(F) [(E)] promoting the efficiency of energy used for transportation;

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

(A) training and education programs that will help create jobs for Alaskans and that address energy conservation, efficiency, and availability, including programs that address workforce development and workforce transition; [AND]

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

(C) the state's innovation ecosystem, including start-up incubators, accelerators, venture studios, tech transfer programs, research faculty innovation fellowships, and commercialization support initiatives;

(4) coordinate governmental functions

(A) by reviewing and streamlining regulatory processes and balancing the economic costs of review with the level of regulation necessary to protect the public interest;

(B) by using one office or agency, as may be specified by law, to serve as a clearinghouse in managing the state's energy-related functions to

avoid fragmentation and duplication and to increase effectiveness; and

(C) by actively collaborating with federal agencies to achieve the state's energy goals and to meet emissions, **diversified** [RENEWABLE AND ALTERNATIVE] energy, and energy production targets.

*** Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 09.65.086, added by sec. 2 of this Act, applies to civil lawsuits that are filed on or after the effective date of this Act and are based on acts and omissions that occur on or after the effective date of this Act.

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

TRANSITION: TIME FOR SUBMITTING WILDLAND FIRE MITIGATION PLAN. If AS 42.05.352, added by sec. 3 of this Act, requires a public utility to adopt a wildland fire mitigation plan, the public utility shall submit a copy of the plan to the Department of Natural Resources before January 1, 2028.

*** Sec. 14.** This Act takes effect July 1, 2026.