

ALASKA STATE LEGISLATURE

Session

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Co-Chair

Senate Resources Committee

Chair

Senate Special Committee on Energy
Senate Special Committee on World Trade,
Technology & Innovation

Member

Senate Judiciary Committee
Joint Armed Services Committee

SENATOR LESIL MCGUIRE

SPONSOR STATEMENT

SB 31: Alternative Energy Production Tax Credit

SB 31 encourages the development of Alaska's vast alternative energy resources by offering power producers and utilities a valuable production tax credit for each kilowatt-hour of electricity they produce from geothermal, wind, hydro, tidal, wave, biomass, in-river, or solar energy.

In its simplest terms, a tax credit is a direct reduction in the amount of taxes owed. The production tax credit created by SB 31 rewards power producers in the state of Alaska for producing electricity from alternative energy sources by offering to directly reduce the amount of state corporate income tax they owe. In Alaska, the corporate income tax rate is graduated from 1% to 9.4% in increments of \$10,000 of taxable income. The 9.4% maximum rate applies to taxable income of \$90,000 and over.

SB 31 offers a production tax credit in the amount of 0.35 cents per kilowatt-hour (kWh). What this means is that the state will directly reduce the amount of corporate tax owed by 0.35 cents for each kWh of energy produced. The tax credit is calculated based on one year of production and there are 8,760 kilowatt-hours in a year. A power plant that produces 100 kW of energy would be able to reduce their corporate tax by \$3,066 per year ($100 \text{ kW} \times \$0.0035 \times 8,760 \text{ kWh/year} = \$3,066/\text{year}$). A 100 megawatt (1MW = 1000 kW) power plant, similar in size to the proposed Mt. Spur geothermal power plant, would be able to reduce their corporate tax liability by over \$3 million per year. The credit can only be claimed for each of the first four years after a power plant is placed into service.

However, the dominant model for energy production in Alaska is not the privately owned power producer that pays corporate tax, but rather the publically owned cooperatives and municipal utilities that are tax exempt. To level the playing field and to ensure that all power producers in the state can benefit from the tax credit, SB 31 proposes a transferable tax credit. A transferable tax credit can be sold or traded on an open market to other corporate entities that are required to pay the state corporate income tax.

Because the production tax credit can only be claimed by a power producer that has made a significant investment in infrastructure and is already producing electricity, SB 31 allows a way to incentivize alternative energy development without requiring hefty state appropriations to unproven projects and technologies.

In energy plans across the nation, production incentives are playing an increasingly important role in encouraging the development of alternative energy resources. Twenty-five states offer some sort of alternative energy corporate tax incentives and five states and the federal government offer a production tax credit similar to the one proposed by SB 31.

SENATE BILL NO. 31

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATORS MCGUIRE, Ellis

Introduced: 1/21/09

Referred: Senate Special Committee on Energy, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a geothermal electricity production tax credit under the Alaska Net**
2 **Income Tax Act."**

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

4 * **Section 1.** AS 43.20 is amended by adding a new section to article 1 to read:

5 **Sec. 43.20.046. Geothermal electricity production tax credit.** (a) A taxpayer
6 that owns a commercial geothermal electric energy system capable of producing at
7 least 400 kilowatts of electricity may claim a geothermal electricity production tax
8 credit if

9 (1) the commercial geothermal electric energy system supplies all or
10 part of the energy required by commercial units owned or used by the taxpayer; or

11 (2) the taxpayer sells all or part of the energy produced by the
12 commercial geothermal electric energy system as a commercial enterprise.

13 (b) A taxpayer may claim a tax credit under this section in the amount of 35
14 cents for each kilowatt-hour of geothermal electricity produced or sold. A tax credit

1 may be claimed for each of the first four years after the date the commercial
2 geothermal electric energy system is placed into service.

3 (c) An unused tax credit under this section may be carried forward and applied
4 against the tax liability of the taxpayer for four years after the date the commercial
5 geothermal electric energy system was placed into service.

6 (d) The department shall prepare an application form for a credit under this
7 section.

8 (e) In this section,

9 (1) "commercial geothermal electric energy system" means an active
10 geothermal electricity system capable of producing electricity for use by or sale to a
11 commercial unit or commercial entity;

12 (2) "geothermal electricity" means electricity produced solely from
13 energy contained in heat that continuously flows from below the ground.

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2/11/09

CS FOR SENATE BILL NO. 31()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): SENATORS MCGUIRE, Ellis

A BILL**FOR AN ACT ENTITLED**

1 **"An Act relating to an alternative energy production tax credit that may be claimed or**
2 **applied against tax due under the Alaska Net Income Tax Act; and providing for an**
3 **effective date."**

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

5 *** Section 1.** AS 43.98 is amended by adding a new section to read:

6 **Sec. 43.98.040. Alternative energy production tax credit.** (a) An energy
7 producer that produces alternative energy may claim an alternative energy production
8 tax credit if

9 (1) the alternative energy produced supplies all or part of the energy
10 required by commercial units owned or used by the energy producer; or

11 (2) the energy producer sells all or part of the energy produced as a
12 commercial enterprise.

13 (b) An energy producer may claim a tax credit under this section in the
14 amount of 35/100 cent for each kilowatt-hour of alternative energy produced or sold.

1 A tax credit may be claimed for each of the first four years after the date the system
2 used to produce alternative energy is placed into service.

3 (c) An unused tax credit under this section may be carried forward and applied
4 against the tax liability of the energy producer for four years after the date the system
5 used to produce alternative energy was placed into service.

6 (d) A tax credit provided under (a) of this section may be sold, assigned,
7 exchanged, conveyed, or otherwise transferred, in whole or in part.

8 (e) A taxpayer acquiring a transferable tax credit may use the tax credit or a
9 portion of the tax credit to offset taxes imposed under AS 43.20 (Alaska Net Income
10 Tax Act). Any portion of the credit not used may be used at a later time or transferred
11 under (d) of this section.

12 (f) The department shall

13 (1) prepare an application form for a tax credit under this section; and

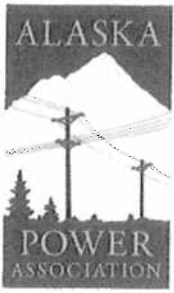
14 (2) adopt regulations necessary for the administration of this section.

15 (g) In this section,

16 (1) "alternative energy" includes geothermal, solar, hydroelectric,
17 wind, biomass, hydrokinetic or tidal, and wave energy;

18 (2) "energy producer" means an electric utility holding a certificate of
19 public convenience and necessity under AS 42.05 or an independent power producer.

20 * **Sec. 2.** This Act takes effect January 1, 2010.



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February 10, 2009

Senator Lesil McGuire
Chair, Senate Special Committee on Energy

Re: Committee Substitute of SB 31, Alternative Energy Production Tax Credits

Dear Honorable Chair McGuire:

Alaska Power Association (APA) is the statewide trade association for the electric utilities that supply power to more than a half-million Alaskans in communities from Barrow to Unalaska and down the Inside Passage.

APA strongly supports the development of alternative energy projects. State financial assistance and incentives will play a critical role in getting these projects off the drawing board. The Committee Substitute for Senate Bill 31 would help encourage the construction of alternative energy projects through the use of tax credits. It is for these reasons that Alaska Power Association supports the Committee Substitute for Senate Bill 31.

I would like to offer the following suggested changes:

APA suggests defining the time during which a renewable energy producer could claim a credit as 48 months instead of four (4) years. Under the existing bill, if a utility or independent power producer started producing power in August, it could only claim a few months worth of production for that year. By counting months instead of years, the bill would allow for a full four (4) years of production to be claimed over a five-year period. The change could be made by amending subsection (b) to read as follows:

(b) An energy producer may claim a tax credit under this section in the amount of .35 cents for each kilowatt-hour of alternative energy produced or sold. A tax credit may be claimed for each of the first ~~four years~~ **forty-eight months** after the date the system used to produce alternative energy is placed into service.

APA also suggests amending subsection (e) to clarify that it is referring to the credits described in subsection (d). The clarified language would read as follows:

(e) A taxpayer acquiring a ~~transferable~~ tax credit **under (d) of this section** may use the tax credit or a portion of the tax credit to offset taxes imposed under AS 43.20 (Alaska Net Income Tax Act). Any portion of the credit not used may be used at a later time or transferred under (d) of this section.

APA believes that this minor change to section (b) and the clarification to subsection (e) are consistent with the intent behind Committee Substitute for SB 31.

If you have any questions regarding this letter, please contact me at 907-771-5703 or mleland@alaskapower.org. I will be traveling to an out-of-state meeting the day of the first hearing on this bill. As a result, I regret that I will not be able to testify at the hearing.

Thank you for your work on this and other issues of importance to the Alaska electric utility industry.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marilyn Leland', with a stylized, cursive script.

Marilyn Leland
Executive Director