

**CS FOR SENATE BILL NO. 4002(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FOURTH SPECIAL SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 8/2/08

Referred: First Supplemental Calendar

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act amending the bulk fuel bridge loan fund; amending the power cost equalization**  
2 **program, repealing the exclusion from eligibility for power cost equalization for certain**  
3 **power projects that take their power from hydroelectric facilities, and amending the**  
4 **definition of 'eligible electric utility' as it applies to the power cost equalization program**  
5 **and the grant program for small power projects for utility improvements; establishing**  
6 **the Alaska resource rebate program and relating to that program; and providing for an**  
7 **effective date."**

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

9 \* **Section 1.** AS 29.60.660(c) is amended to read:

10 (c) Loans made from the bulk fuel bridge loan fund to one borrower in a fiscal  
11 year

12 (1) may not exceed **\$750,000** [\$500,000]; and

13 (2) shall be repaid within one year after the date of the award.

1 \* **Sec. 2.** AS 42.45.110(c) is repealed and reenacted to read:

2 (c) The amount of power costs for which equalization is paid to an electric  
3 utility is the difference between

4 (1) 10 cents a kilowatt-hour; and

5 (2) the lowest of the following:

6 (A) \$1.15 a kilowatt-hour;

7 (B) power costs as determined by the commission under (a) of  
8 this section; or

9 (C) the average rate for each eligible kilowatt-hour sold.

10 \* **Sec. 3.** AS 42.45.110(c), as repealed and reenacted by sec. 2 of this Act, is repealed and  
11 reenacted to read:

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

16 (1) during the state fiscal year that began July 1, 1999, the power costs  
17 for which power cost equalization were paid to an electric utility were limited to  
18 minimum power costs of more than 12 cents a kilowatt-hour and less than 52.5 cents a  
19 kilowatt-hour; and

20 (2) during each following state fiscal year, the commission shall adjust  
21 the power costs for which power cost equalization may be paid to an electric utility  
22 based on the weighted average retail residential rate in Anchorage, Fairbanks, and  
23 Juneau; however, the commission may not adjust the power costs under this paragraph  
24 to reduce the amount below the lower limit set out in (1) of this subsection.

25 \* **Sec. 4.** AS 42.45.110 is amended by adding new subsections to read:

26 (j) The power cost equalization for each kilowatt-hour calculated under (c) of  
27 this section may be determined for a utility without historical kilowatt-hour sales data  
28 by using kilowatt-hours generated.

29 (k) Notwithstanding (c) of this section, an electric utility shall receive not less  
30 than five cents a kilowatt-hour in power cost equalization under (b)(2) of this section.

31 \* **Sec. 5.** AS 42.45.150(2) is amended to read:

1 (2) "eligible electric utility" or "electric utility" means a public,  
2 cooperative, or other corporation, company, individual, or association of individuals,  
3 and includes the lessees, trustees, or receivers appointed by a court, that

4 [(A)] owns, operates, manages, or controls a plant or system for  
5 the furnishing, by generation, transmission, or distribution, of electric service  
6 to the public for compensation [;

7 (B) DURING CALENDAR YEAR 1983, HAD A  
8 RESIDENTIAL CONSUMPTION LEVEL OF POWER ELIGIBLE FOR  
9 POWER COST EQUALIZATION UNDER FORMER AS 44.83 OF LESS  
10 THAN 7,500 MEGAWATT HOURS OR HAD A RESIDENTIAL  
11 CONSUMPTION LEVEL OF POWER ELIGIBLE FOR POWER COST  
12 EQUALIZATION UNDER FORMER AS 44.83 OF LESS THAN 15,000  
13 MEGAWATT HOURS IF THE UTILITY SERVED TWO OR MORE  
14 MUNICIPALITIES OR UNINCORPORATED COMMUNITIES; AND

15 (C) DURING CALENDAR YEAR 1984, USED DIESEL  
16 FIRED GENERATORS TO PRODUCE MORE THAN 75 PERCENT OF  
17 THE ELECTRICAL CONSUMPTION OF THE UTILITY; AN ELECTRIC  
18 UTILITY THAT IS A SUBSIDIARY OF ANOTHER ELECTRIC UTILITY  
19 IS AN "ELIGIBLE ELECTRIC UTILITY" IF THE OPERATIONS OF THE  
20 SUBSIDIARY, CONSIDERED SEPARATELY, MEET THE ELIGIBILITY  
21 REQUIREMENTS OF AS 42.45.100 - 42.45.150; IF AN ELECTRIC  
22 UTILITY DID NOT RECEIVE POWER COST ASSISTANCE IN 1983 BUT  
23 IS OTHERWISE ELIGIBLE FOR POWER COST EQUALIZATION  
24 UNDER AS 42.45.100 - 42.45.150, THE UTILITY IS AN "ELIGIBLE  
25 ELECTRIC UTILITY"];

26 \* **Sec. 6.** AS 42.45.150(2), as amended by sec. 5 of this Act, is amended to read:

27 (2) "eligible electric utility" or "electric utility" means a public,  
28 cooperative, or other corporation, company, individual, or association of individuals,  
29 and includes the lessees, trustees, or receivers appointed by a court, that

30 (A) owns, operates, manages, or controls a plant or system for  
31 the furnishing, by generation, transmission, or distribution, of electric service

1 to the public for compensation;

2 (B) during calendar year 1983, had a residential  
 3 consumption level of power eligible for power cost equalization under  
 4 former AS 44.83 of less than 7,500 megawatt-hours or had a residential  
 5 consumption level of power eligible for power cost equalization under  
 6 former AS 44.83 of less than 15,000 megawatt-hours if the utility served  
 7 two or more municipalities or unincorporated communities; and

8 (C) during calendar year 1984, used diesel-fired generators  
 9 to produce more than 75 percent of the electrical consumption of the  
 10 utility; an electric utility that is a subsidiary of another electric utility is an  
 11 "eligible electric utility" if the operations of the subsidiary, considered  
 12 separately, meet the eligibility requirements of AS 42.45.100 - 42.45.150; if  
 13 an electric utility did not receive power cost assistance in 1983 but is  
 14 otherwise eligible for power cost equalization under AS 42.45.100 -  
 15 42.45.150, the utility is an "eligible electric utility";

16 \* **Sec. 7.** AS 42.45.250(e) is amended to read:

17 (e) Loans made from the bulk fuel revolving loan fund to one borrower in any  
 18 fiscal year

19 (1) may not exceed \$750,000 [\$500,000], or, if the borrower is a  
 20 cooperative corporation organized under AS 10.15 or an electric cooperative  
 21 organized under AS 10.25 and uses the loan to purchase bulk fuel on behalf of more  
 22 than one community, may not exceed the lesser of \$750,000 [\$500,000] multiplied by  
 23 the number of communities on whose behalf the bulk fuel is to be purchased, or  
 24 \$1,800,000;

25 (2) shall be repaid in one year or less; and

26 (3) may not exceed 90 percent of the wholesale price of the fuel  
 27 purchased.

28 \* **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to  
 29 read:

30 ALASKA RESOURCE REBATE PROGRAM ESTABLISHED. Subject to  
 31 appropriations and availability of funds for the program, the Alaska resource rebate program

1 is established to provide residents of the state with resource rebates under sec. 9 of this Act  
2 and to provide persons with emergency energy relief under sec. 10 of this Act.

3 \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to  
4 read:

5 RESOURCE REBATES. (a) To provide residents of the state with a resource rebate,  
6 the amount of the 2008 permanent fund dividend shall be increased. After calculating the  
7 amount of the 2008 dividend under AS 43.23.025, the commissioner of revenue shall add  
8 \$500 to determine the total amount of that dividend.

9 (b) A veteran or the spouse or dependent of a living or deceased veteran who did not  
10 apply for the 2008 permanent fund dividend and is eligible for veterans' benefits under 38  
11 U.S.C. 1315, 1513, 1521, 1541, and 1542 may apply to the Department of Revenue for a \$500  
12 Alaska resource rebate payment for 2008. The individual shall apply on a form provided by  
13 the department not later than October 1, 2008, and shall demonstrate that the individual would  
14 have been eligible to receive a 2008 permanent fund dividend under AS 43.23, except that the  
15 individual did not apply for that dividend.

16 (c) A veteran or the spouse or dependent of a living or deceased veteran who is  
17 eligible for veterans' benefits under 38 U.S.C. 1315, 1513, 1521, 1541, and 1542 who is  
18 denied or receives reduced payments under those provisions or reduced health care benefits  
19 solely because the \$500 increase in the dividend under (a) of this section or the \$500 payment  
20 under (b) of this section received by the individual is counted as income is eligible for cash  
21 assistance under AS 47.25.120 - 47.25.300 (general relief assistance). Notwithstanding the  
22 limit in AS 47.25.130, the individual is entitled to receive the same amount as the individual  
23 would have received under 38 U.S.C. 1315, 1513, 1521, 1541, and 1542 and as a health care  
24 benefit as a result of being eligible under 38 U.S.C. 1315, 1513, 1521, 1541, and 1542, had  
25 the \$500 increase or payment not been received under (a) or (b) of this section.

26 (d) Subject to appropriation, the amount necessary for resource rebates to increase  
27 2008 permanent fund dividends under (a) of this section shall be transferred from the general  
28 fund to the dividend fund (AS 43.23.045).

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

31 EMERGENCY ENERGY RELIEF. (a) The Alaska Energy Authority shall provide

1 persons with emergency energy relief payments to offset the cost of fuel used for residences.

2 (b) Subject to (e) of this section, a person may receive an emergency energy relief  
3 payment based on the amount that exceeds \$3.00 a gallon that the person pays for each gallon  
4 of fuel delivered September 1, 2008, through March 31, 2009, and September 1, 2009,  
5 through March 31, 2010, for a building in the state that is primarily used for one or more  
6 residences. The amount of the emergency energy relief payment must include an amount to  
7 reimburse the sales tax that the individual paid for the fuel for which the emergency energy  
8 relief payment is made, except that the amount of reimbursement included in the payment  
9 must be based on the sales tax rate in effect on the effective date of this section. Payments  
10 may not be made for more than 600 gallons of fuel used for a single family residence during  
11 September 1, 2008, through March 31, 2009, and 600 gallons of fuel used for a single family  
12 residence during September 1, 2009, through March 31, 2010. Payments may not be made for  
13 more than 300 gallons of fuel for each unit in a multifamily building used for that building  
14 during September 1, 2008, through March 31, 2009, and 300 gallons of fuel for each unit in a  
15 multifamily building used for that building during September 1, 2009, through March 31,  
16 2010. A payment may not be made for fuel used for a building owned by a governmental  
17 entity. A person may apply for and receive more than one emergency energy relief payment.  
18 If the authority estimates that appropriations to the authority are insufficient to fully fund  
19 emergency energy relief, the authority may eliminate or reduce the payments on an equitable  
20 basis.

21 (c) A landlord or lessor that receives a payment under this section shall pass on a  
22 benefit to the landlord's or lessor's tenant by lowering the amount of rent by the amount  
23 attributable to the tenant's unit. A landlord or lessor may retain up to 10 percent of the  
24 payment otherwise required to be passed on to the tenant to cover administrative costs. Failure  
25 to comply with the requirement of this subsection is a violation of AS 45.50.471. The  
26 authority may audit the books and records of a landlord or lessor for compliance with this  
27 subsection.

28 (d) The authority

29 (1) shall administer this section, but may contract for the performance of some  
30 or all of those administrative duties; and

31 (2) may adopt regulations under AS 44.62 to implement this section.

1 (e) A person who is an individual is eligible to receive a payment under this section  
2 only if the individual is a state resident under AS 01.10.055. In addition, to receive a payment  
3 under this section, a person shall

4 (1) apply, before July 1, 2010, for the payment on a form provided by the  
5 authority;

6 (2) provide, with each application, proof of purchase of fuel from a qualified  
7 distributor on the list prepared under (f) of this section;

8 (3) verify that the fuel is used for a building that is primarily used for one or  
9 more residences, identify the building, and identify the number of residential units in the  
10 building;

11 (4) verify that the building is not owned by a government entity;

12 (5) supply other information that may be required by the authority.

13 (f) A business or other entity that supplies fuel for use in residential buildings may  
14 apply in a manner required by the authority for inclusion on the qualified distributor list  
15 prepared and kept updated by the authority under this subsection. As a condition of becoming  
16 a qualified distributor, the business or other entity must submit a signed statement to the  
17 authority, under penalty of unsworn falsification, on a form or in a format prescribed by the  
18 authority, that the business or other entity will not increase its price for fuel solely in response  
19 to this section, and that the business's or other entity's pricing policy will remain consistent  
20 with prior practices and be based on the same criteria, as though this section had not been  
21 enacted. The authority may audit a qualified distributor's books and records to confirm that  
22 the statement made under this subsection is complete and accurate. If the distributor  
23 reasonably believes a delivery of fuel is made to a building primarily used for one or more  
24 residences, during September 1, 2008, through March 31, 2009, or during September 1, 2009,  
25 through March 31, 2010, the distributor shall agree to identify the delivery as residential in a  
26 manner prescribed by the authority. The distributor shall agree to submit to the authority its  
27 billing statements for purchases of fuel for residences and related customer and sales  
28 information that may be requested by the authority from time to time. The distributor shall  
29 provide other information required by the authority.

30 (g) A person aggrieved by a decision of the authority regarding the person's eligibility  
31 to receive an emergency energy relief payment, other than a determination based on

1 insufficient funding for emergency energy relief, may request a hearing before the office of  
2 administrative hearings established under AS 44.64.

3 (h) A person is liable to the state for the value of emergency energy relief improperly  
4 paid under this section if the improper payment was based on inaccurate or false information  
5 provided by the person. In a civil action brought by the state to recover from the person the  
6 value of the emergency energy relief improperly paid, the state may recover from the person  
7 the costs of investigation and prosecution of the civil action, including attorney fees as  
8 determined under court rules.

9 (i) In determining the eligibility of an individual under a public assistance program  
10 administered by the Department of Health and Social Services in which eligibility for  
11 assistance is based on financial need, the Department of Health and Social Services may not  
12 consider a payment under this section as income or resources received by the individual or by  
13 a member of the individual's household unless required to do so by federal law. The  
14 Department of Health and Social Services shall notify all recipients of public assistance of the  
15 effects of receiving emergency energy relief.

16 (j) An individual who is denied medical assistance under 42 U.S.C. 1396 - 1396v  
17 (Title XIX, Social Security Act) solely because of the receipt of a payment under this section  
18 by the individual or by a member of the individual's household is eligible for state-funded  
19 medical assistance under AS 47.25.120 - 47.25.300 (general relief assistance). The individual  
20 is entitled to receive, for a period not to exceed four months, the same level of medical  
21 assistance as the individual would have received under 42 U.S.C. 1396 - 1396v had the  
22 emergency energy relief not been received.

23 (k) An individual who is denied assistance solely because a payment under this  
24 section received by the individual or by a member of the individual's household is counted as  
25 income or resources under federal law is eligible for cash assistance under AS 47.25.120 -  
26 47.25.300 (general relief assistance). Notwithstanding the limit in AS 47.25.130, the  
27 individual is entitled to receive, for a period not to exceed four months, the same amount as  
28 the individual would have received under other public assistance programs had the emergency  
29 energy relief not been received.

30 (l) A program that is established before the effective date of this section, that is  
31 administered by the state or any of its instrumentalities or municipalities or by a Native

1 organization under AS 47.27.070, 47.27.200, or 47.27.300, and for which eligibility is based  
 2 on financial need may not consider a payment under this section as income or resources  
 3 unless required to do so by federal law.

4 (m) A veteran or the spouse or dependent of a living or deceased veteran who is  
 5 denied or receives reduced disability payments solely because a payment received under this  
 6 section by the individual is counted as income is eligible for cash assistance under  
 7 AS 47.25.120 - 47.25.300 (general relief assistance). Notwithstanding the limit in  
 8 AS 47.25.130, the veteran or the spouse or dependent of a living or deceased veteran is  
 9 entitled to receive the same amount as the individual would have received under 38 U.S.C.  
 10 1315, 1513, 1521, 1541, and 1542 had the emergency energy relief not been received.

11 (n) Notwithstanding any contrary provision of state law, a payment under this section  
 12 is exempt from levy, execution, garnishment, or any other remedy for debt collection until  
 13 after the payment has been received by the person. No other exemption applies to emergency  
 14 energy relief payments received under this section.

15 (o) A form provided by the authority under (e) of this section must include a warning  
 16 that the submission of incomplete or inaccurate information is punishable as unsworn  
 17 falsification in the second degree under AS 11.56.210.

18 (p) A person is guilty of a class A misdemeanor if the person

19 (1) uses fuel, payment for which has been partially reimbursed with a payment  
 20 under this section,

21 (A) for a purpose other than use in a building that is primarily used for  
 22 one or more residences; or

23 (B) for a building that is owned by a governmental entity; or

24 (2) resells fuel, payment for which has been partially reimbursed with a  
 25 payment under this section.

26 (q) In this section,

27 (1) "authority" means the Alaska Energy Authority created under  
 28 AS 44.83.020;

29 (2) "fuel" means heating oil or propane.

30 \* **Sec. 11.** AS 42.45.110(k) is repealed June 30, 2010.

31 \* **Sec. 12.** AS 42.45.115 is repealed.

- 1     \* **Sec. 13.** Sections 10(a), (b), (d) - (f), (i) - (o), and (q) of this Act are repealed September 1,  
2     2010.
- 3     \* **Sec. 14.** Sections 3 and 6 of this Act take effect June 30, 2010.
- 4     \* **Sec. 15.** Sections 2, 4, 5, 11, and 12 of this Act take effect October 1, 2008.
- 5     \* **Sec. 16.** Sections 1 and 7 - 10 of this Act take effect immediately under AS 01.10.070(c).