

CS FOR SENATE BILL NO. 31(ENE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE SENATE SPECIAL COMMITTEE ON ENERGY

Offered: 3/2/09

Referred: Resources, Finance

Sponsor(s): SENATORS MCGUIRE, Ellis, Thomas

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 in the amount of 2.1 cents for each kilowatt-hour of alternative energy
9 produced or sold for each of the first four tax years after the date the system used to
10 produce alternative energy is placed into service if

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

13 (2) the energy producer sells all or part of the energy produced.

14 (b) An unused tax credit under this section may be carried forward and applied

1 against the tax liability of the energy producer.

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

4 (d) A taxpayer acquiring a tax credit under (a) or (c) of this section may use
5 the tax credit or a portion of the tax credit to offset taxes imposed under AS 43.20.011.
6 Any portion of the credit not used may be used at a later time or transferred under (c)
7 of this section. A tax credit under this section may not exceed 20 percent of the energy
8 producer's capital investment for the system used to produce alternative energy.

9 (e) An energy producer that claims a tax credit under this section and that
10 wishes to transfer the unused tax credit to a taxpayer under (c) of this section may
11 apply to the department for a transferable tax credit certificate. An application under
12 this subsection must be in a form prescribed by the department and must include
13 supporting information and documentation that the department reasonably requires.
14 The department shall grant or deny an application, or grant an application as to a lesser
15 amount than that claimed and deny it as to the excess, not later than 120 days after it
16 receives the application.

17 (f) A taxpayer acquiring a tax credit under (a) or (c) of this section may not
18 use the tax credit or a portion of the tax credit to offset taxes imposed by AS 43.20.011
19 in the same year the taxpayer uses a federal alternative energy credit under 26 U.S.C.
20 45, authorized by AS 43.20.021, to offset taxes imposed by AS 43.20.011.

21 (g) The department shall

- 22 (1) prescribe an application form for a tax credit under this section; and
- 23 (2) adopt regulations necessary for the administration of this section.

24 (h) In this section,

25 (1) "alternative energy" means geothermal, solar, hydroelectric, wind,
26 biomass, hydrokinetic or tidal, and wave energy;

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

29 * **Sec. 2.** AS 43.20.021(d) is amended to read:

30 (d) Where a credit allowed under the Internal Revenue Code is also allowed in
31 computing Alaska income tax, it is limited to 18 percent for corporations of the

1 amount of credit determined for federal income tax purposes which is attributable to
2 Alaska. This limitation does not apply to a special industrial incentive tax credit under
3 AS 43.20.042 or to an alternative energy production tax credit under
4 AS 43.98.040.

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

7 EXHAUSTION OF UNUSED ALTERNATIVE ENERGY PRODUCTION TAX
8 CREDITS. Notwithstanding the repeal of AS 43.98.040, an unused portion of a tax credit
9 acquired under AS 43.98.040(a) or (c) may be carried forward until exhausted, except that the
10 unused portion of the tax credit may not be carried forward to tax years beginning after
11 December 31, 2028.

12 * **Sec. 4.** AS 43.98.040 is repealed January 1, 2025.

13 * **Sec. 5.** This Act takes effect January 1, 2010.