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Referred: Resources and Finance

BY THE RULES COMMITTEE BY REQUEST OF
THE LEGISLATIVE COUNCIL (for the House
Power Alternatives Study Committee)

1 IN THE HOUSE

2 HOUSE BILL NO. 851

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to energy conservation in the state
7 and imposing and modifying taxes which relate to energy
8 conservation; and providing for an effective date."

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

10 * Section 1. DECLARATION OF POLICY. It is the policy of the state to
11 encourage and facilitate the implementation of energy conservation measures
12 relating to in-state energy use. This policy shall be implemented by

13 (1) the state setting an example of wise and efficient energy use,
14 by designing and managing public buildings and their energy systems to meet
15 appropriate standards for energy efficiency;

16 (2) providing incentives for the design and modification of resi-
17 dential, commercial, and industrial buildings to accomplish maximum energy
18 efficiency; and

19 (3) establishing mandatory energy efficiency standards for build-
20 ings purchased or constructed with state financial assistance.

21 * Sec. 2. AS 29.48.020 is amended by adding a new paragraph to read:

22 (7) establish or participate in with the federal and state
23 government loan programs for housing rehabilitation and improvement for
24 conservation of energy.

25 * Sec. 3. AS 29.48.035(a)(14) is amended to read:

26 (14) building, housing and related codes, subject to the re-
27 quirements of AS 46.11.020(f), which may be provided by cities within
28 cities or, in the manner required in (b) or (c) of this section, by
29 first or second class boroughs in the borough area outside cities or

1 areawide; exceptions to requirements of the codes may be made in the
2 codes among other reasons, in order to provide for the preservation,
3 maintenance and protection of historic sites, buildings and monuments;

4 * Sec. 4. AS 42.05.141 is amended by adding a new paragraph to read:

5 (8) make a reasonable rate, in accordance with AS 42.05.-
6 381(d), for the sale of waste heat when a producer required by AS 46.11.-
7 010 to sell the waste heat and a prospective buyer are unable to agree
8 on a rate.

9 * Sec. 5. AS 42.05.381 is amended by adding a new subsection to read:

10 (d) A reasonable rate for waste heat required to be sold under
11 AS 46.11.010 is that amount sufficient to compensate the producer of the
12 waste heat for the expenses associated with the capture of the waste
13 heat, plus a reasonable profit. However, the cost of selling the waste
14 heat of a utility may not be included in the rate charged to the consu-
15 mers of the primary service of the utility unless the inclusion of the
16 cost is approved by the commission.

17 * Sec. 6. AS 42.05.711 is amended by adding a new subsection to read:

18 (f) The sale of waste heat required under AS 46.11.010 which is
19 incidental to the primary service provided by a utility or other facil-
20 ity is exempt from regulation by the commission except as provided by
21 AS 42.05.141(8).

22 * Sec. 7. AS 43.20.036 is amended by adding a new subsection to read:

23 (i) For the purpose of calculating the income tax payable under
24 this chapter, the taxpayer may not apply as a credit against his tax
25 liability the credit for residential energy conservation expenses under
26 sec. 44C(a)(1) of the Internal Revenue Code (26 U.S.C. sec. 44C(a)(1)).

27 * Sec. 8. AS 43.20 is amended by adding a new section to read:

28 Sec. 43.20.037. TRADE OR BUSINESS ENERGY CONSERVATION CREDIT. (a)
29 A person engaged in a trade or business is allowed as a credit against

1 the tax due under this chapter 35 percent of the cost of purchasing,
2 constructing, and installing energy conservation facilities, subject to
3 a maximum credit of \$25,000.

4 (b) In this section "energy conservation facilities" means facili-
5 ties for the use of waste heat, cogeneration facilities, fuel cells, and
6 any other energy conservation facility added to an existing facility and
7 approved by the department after consultation with the division of
8 energy and power development of the Department of Commerce and Economic
9 Development.

10 * Sec. 9. AS 43.20.039(a) is amended to read:

11 (a) An individual is allowed as a credit against the tax due under
12 this chapter 35 [10] percent of his expenses for residential fuel con-
13 servation capital improvements paid or accrued during the year, subject
14 to a maximum credit of \$2,000 [\$200]. For married taxpayers filing
15 separate returns, the maximum credit is \$1,000 [\$100] for each return.

16 * Sec. 10. AS 43.20.039(d)(1) is amended to read:

17 (1) the costs of additional insulation or insulating mater-
18 ials installed in the residence of the taxpayer if the residence was
19 completed on or before January 1, 1980 [IN EXISTENCE ON THE EFFECTIVE
20 DATE OF THIS ACT];

21 * Sec. 11. AS 43.20.039(d)(2) is amended to read:

22 (2) the cost of insulating windows and the cost of storm or
23 thermal windows or doors for the exterior of the dwelling;

24 * Sec. 12. AS 43.20.039(d)(4) is repealed and re-enacted to read:

25 (4) the costs of acquiring and installing devices to use
26 solar energy, windpower, or other alternate source of power not depend-
27 ent on fossil fuels for the purpose of any energy conservation purpose,
28 including power generation, water heating, or space heating or cooling.

29 * Sec. 13. AS 43.20.039(d) is amended by adding a new paragraph to read:

1 (5) the costs of acquiring and installing energy saving
2 devices or measures in a residence completed on or before January 1,
3 1980, including

4 (A) a furnace replacement burner designed to achieve a
5 reduction in the amount of fuel consumed as a result of increased
6 combustion efficiency;

7 (B) a device for modifying flue openings designed to
8 increase the efficiency of operation of the heating system;

9 (C) an electrical or mechanical furnace ignition system
10 which replaces a gas pilot light;

11 (D) an automatic energy saving setback thermostat;

12 (E) a meter which displays the cost of energy usage;

13 (F) caulking and weatherstripping of doors and windows;

14 (G) other energy saving devices approved by the commis-
15 sioner of commerce and economic development.

16 * Sec. 14. AS 43.40.100(2) is amended by adding a new subparagraph to
17 read:

18 (F) fuel which is at least 10 percent ethyl alcohol by
19 volume.

20 * Sec. 15. AS 43 is amended by adding a new chapter to read:

21 CHAPTER 62. EXCISE TAX ON EXCESS WASTE HEAT PRODUCTION.

22 Sec. 43.62.010. EXCESS WASTE HEAT PRODUCTION TAX. A person who
23 fails to sell waste heat to a prospective buyer as required by AS 46.-
24 11.010(a) or who refuses to sell waste heat at the rate determined under
25 AS 46.11.010(b) is subject to an annual tax of \$10 per million British
26 thermal units of waste heat produced in excess of 875,000,000 British
27 thermal units produced annually which he fails or refuses to sell.

28 Sec. 43.62.020. REPORTS OF ATTEMPTED PURCHASES OF WASTE HEAT. (a)
29 A person who attempts to purchase waste heat from a producer required to

1 sell waste heat under AS 46.11.010(a) shall file a report with the
2 department if the producer of the waste heat refuses to sell it at a
3 price agreed upon or determined under AS 46.11.010(b).

4 (b) The department shall prepare a form for the report required by
5 (a) of this section. The report shall either be an oath or contain a
6 written declaration that it is made under penalty of perjury.

7 Sec. 43.62.030. INVESTIGATIONS. Upon receiving a report required
8 to be filed under AS 43.62.020, the department shall conduct an in-
9 vestigation to determine if the tax imposed under this chapter is due.
10 If, after the investigation, the department concludes that the tax
11 imposed under this chapter is due, it shall proceed to collect it.

12 Sec. 43.62.040. PENALTIES. (a) A person is guilty of a class A
13 misdemeanor if he

14 (1) files or aids or abets another in filing a false report
15 with the department with the intent to fraudulently cause the imposition
16 of the tax levied in this chapter;

17 (2) knowingly provides the department with false or fraudu-
18 lent information with intent to evade the payment of the tax imposed by
19 this chapter.

20 (b) A person who violates a provision of this chapter other than
21 as specified in (a) of this section is guilty of a class B misdemeanor.

22 (c) In this section "person" includes, but is not limited to, an
23 officer or employee of a corporation or a member or employee of a part-
24 nership, who as officer, employee, or member is under a duty to perform
25 the act in respect to which the violation occurs.

26 Sec. 43.62.050. ADMINISTRATION. (a) The department shall admin-
27 ister this chapter and collect, supervise, and enforce the collection of
28 the tax due under this chapter.

29 (b) The department may adopt regulations, in accordance with the

1 Administrative Procedure Act (AS 44.62), necessary for the administra-
2 tion of this chapter and for the collection of the tax imposed by this
3 chapter.

4 * Sec. 16. AS 44.31.020 is amended by adding a new paragraph to read:

5 (5) conduct periodic inspections of buildings covered by
6 AS 46.11.040(a) and (b) to assure compliance with the thermal and light-
7 ing energy standards established by that section.

8 * Sec. 17. AS 44.33.040 is amended by adding new paragraphs to read:

9 (12) promote the efficient management of state energy re-
10 sources;

11 (13) encourage and aid local programs which promote the effi-
12 cient use of energy;

13 (14) establish, by regulations adopted in accordance with the
14 Administrative Procedure Act (AS 44.62), a training and certification
15 program for persons performing energy audits as defined in AS 46.11.-
16 900(2).

17 * Sec. 18. AS 44.56.224 is amended to read:

18 Sec. 44.56.224. LONG-TERM PLAN. The Department of Commerce and
19 Economic Development, assisted by the authority, shall prepare, after
20 public hearings, and [, AS APPROPRIATE,] revise annually a long-term
21 energy [ELECTRICAL POWER] development plan for meeting projected [ELEC-
22 TRICAL] energy demand in Alaska at the lowest reasonable cost, including
23 environmental and social costs, consistent with acceptable standards of
24 reliability. The plan must give as equal consideration as practicable
25 to all types of power production facilities (except those based on
26 nuclear fuels) that are technologically feasible, and must promote the
27 efficient use of facilities and fuels consistent with energy conserva-
28 tion policy. The plan must also consider the possibility of conversion
29 of non-electrical energy to electrical energy required by the increase

1 in the cost of non-electrical energy. The plan must include, but is not
2 limited to, (1) a study which shows the current and projected energy
3 use in the state broken into categories showing the regional use, the
4 purpose for which the energy is used, the source, and the type of
5 energy; (2) proposed short-term and long-term energy conservation and
6 energy production goals divided into categories showing the goals as
7 they relate to regional use, the particular purpose for which the
8 energy is used, the source, and the type of energy; and (3) considera-
9 tions specified in AS 44.56.180(e). After preparation of the plan and
10 any revision of it, the authority shall hold public hearings on the
11 plan, and the [THE] plan and any revision of it shall then be submitted
12 to the governor for his approval and shall be reviewed by all appropri-
13 ate state agencies. After approval by the governor the plan shall be
14 submitted to the legislature not later than January 20 of each year.

15 * Sec. 19. AS 45 is amended by adding a new chapter to read:

16 CHAPTER 89. RESIDENTIAL ENERGY CONSERVATION LOAN FUND.

17 Sec. 45.89.010. FUND ESTABLISHED. There is established in the
18 Department of Commerce and Economic Development the residential energy
19 conservation loan fund to carry out the purposes of this chapter. Loans
20 made under this chapter may be used for the purchase, construction, and
21 installation of energy conservation measures in residential buildings.
22 The fund may be used for no other purpose.

23 Sec. 45.89.020. POWERS OF THE DEPARTMENT IN ADMINISTERING THE
24 FUND. (a) The department may make loans for the purchase, construc-
25 tion, and installation of energy conservation measures in residential
26 buildings, including:

- 27 (1) caulking and weatherstripping of doors and windows;
28 (2) a furnace replacement burner designed to achieve a reduc-
29 tion in the amount of fuel consumed as a result of increased combustion

1 efficiency;

2 (3) a device for modifying flue openings designed to increase
3 the efficiency of operation of the heating system;

4 (4) an electrical or mechanical furnace ignition system which
5 replaces a gas pilot light;

6 (5) an automatic energy saving setback thermostat;

7 (6) a meter which displays the cost of energy usage;

8 (7) other energy conservation measures as specified in regu-
9 lations adopted by the commissioner.

10 (b) A measure included in (a)(2) - (7) of this section may not be
11 treated as an energy conservation measure unless it is warranted by the
12 manufacturer to meet a specific level of performance over a period of
13 not less than three years.

14 Sec. 45.89.030. LOAN TERMS. (a) A loan for the purchase, con-
15 struction, and installation of an energy conservation measure under this
16 chapter may not exceed \$10,000.

17 (b) The duration of repayment of the loan may not exceed 20 years.

18 (c) A loan made under this chapter may be used to finance all of
19 the cost of purchasing, constructing, and installing an energy conser-
20 vation measure.

21 (d) The rate of interest on a loan made under this chapter before
22 January 1, 1983, is three percent a year on the unpaid balance of the
23 loan. The rate of interest on a loan made under this chapter after
24 December 31, 1982, is nine and one-half percent a year on the unpaid
25 balance of the loan.

26 Sec. 45.89.040. PRIORITY IN APPROVING LOANS. The department shall
27 give priority to loans for those energy conservation measures which
28 provide the highest energy cost savings per square foot.

29 Sec. 45.89.050. SALE OR TRANSFER OF MORTGAGES AND NOTES. (a) The

1 commissioner may sell or transfer at par value or at a premium or dis-
2 count to any bank or other private purchaser for cash or other con-
3 sideration the mortgages and notes held by the department as security
4 for loans made under this chapter.

5 (b) The commissioner may sell or transfer at par value to the
6 Department of Revenue the mortgages and notes held by the department as
7 security for loans made under this chapter. The Department of Revenue
8 may purchase the mortgages and notes offered.

9 Sec. 45.89.100. DEFINITIONS. In this chapter

10 (1) "commissioner" means the commissioner of commerce and
11 economic development;

12 (2) "department" means the Department of Commerce and Economic
13 Development.

14 * Sec. 20. AS 46 is amended by adding a new chapter to read:

15 TITLE 46. WATER, AIR, ENERGY, AND ENVIRONMENTAL CONSERVATION.

16 CHAPTER 11. ENERGY CONSERVATION.

17 Sec. 46.11.010. SALE OF WASTE HEAT. (a) A person owning a faci-
18 lity that produces more than 250,000 British thermal units per hour of
19 waste heat for more than 3,500 hours a year must sell the waste heat if
20 a buyer can be found and a rate for the sale can be agreed upon or
21 determined under (b) of this section.

22 (b) If the seller and a prospective buyer of waste heat are unable
23 to agree on the rate for which the waste heat will be sold, the matter
24 shall be referred to the Alaska Public Utilities Commission for a rate
25 determination under AS 42.05.141(8) and 42.05.381(d). The rate deter-
26 mined by the commission is conclusive as to the seller of the waste
27 heat.

28 (c) A person required by (a) of this section to make waste heat
29 available for sale who fails to sell it to a prospective buyer or who

1 refuses to sell it at the rate established under (b) of this section is
2 liable for the tax imposed by AS 43.62.

3 Sec. 46.11.020. THERMAL AND LIGHTING ENERGY STANDARDS. (a) All
4 public facilities of the state, the construction of which begins after
5 the effective date of this Act, shall be designed to comply with thermal
6 and lighting energy standards.

7 (b) By June 30, 1985 all public facilities of the state existing
8 on the effective date of this Act shall be modified, to the extent
9 economically feasible, to comply with thermal and lighting energy stan-
10 dards.

11 (c) State financial assistance may not be approved or granted for
12 the purchase or construction of a new residential or commercial building
13 or for renovation of a residential or commercial building unless

14 (1) the building is in compliance with thermal and lighting
15 energy standards;

16 (2) the building is in compliance with the building code of a
17 municipality if the municipal building code meets or exceeds the thermal
18 and lighting energy standards; or

19 (3) the building is located or is to be located in an area
20 where thermal and lighting energy standards are not justified because of
21 the high cost of implementation of the standards, as determined under
22 regulations adopted by the commissioner of commerce and economic develop-
23 ment.

24 (d) The commissioner of commerce and economic development may, by
25 regulations adopted in accordance with the Administrative Procedure Act
26 (AS 44.62), revise thermal and lighting energy standards.

27 (e) The Department of Labor shall conduct periodic inspections to
28 assure compliance with this section.

29 (f) Thermal and lighting energy standards shall be incorporated

1 into the building codes of each municipality that adopts a building code
2 under AS 29.48.035(a)(14) before or after the effective date of the Act,
3 but the standards apply only to the construction of new buildings for
4 which construction permits have not been issued before the effective
5 date of this Act.

6 Sec. 46.11.030. TRAINING OF PUBLIC BUILDING MAINTENANCE PERSONNEL.
7 Persons responsible for the maintenance of public buildings designed
8 with energy conservation or production features shall be trained by the
9 department in the use and operation of those features.

10 Sec. 46.11.040. ENERGY AUDITS AND LIFE-CYCLE COST ANALYSIS OF
11 PUBLIC AND OTHER STATE-FINANCED BUILDINGS. (a) The department shall,
12 as soon as practicable after the effective date of this Act, and at
13 least once every four years thereafter, perform an energy audit of each
14 existing public building. A report of the results of the energy audits
15 performed during the preceding year shall be submitted to the legisla-
16 ture not later than January 31 of each year.

17 (b) The department shall include in the report required in (a) of
18 this section recommendations for corrective measures to improve the
19 energy efficiency and to minimize the life-cycle cost of the buildings
20 audited. These measures may include, but need not be limited to, (1)
21 energy conservation measures, (2) measures involving solar technology
22 and other alternative energy resources, and (3) maintenance and oper-
23 ating procedures and energy-related modifications determined as appro-
24 priate by the energy audit. In recommending the measures, the depart-
25 ment shall give priority to changes in maintenance and operating proce-
26 dures over measures requiring substantial structural modification or
27 installation of equipment.

28 (c) The commissioner of commerce and economic development shall
29 adopt regulations, in accordance with the Administrative Procedure Act

1 (AS 44.62), requiring that an energy audit and life-cycle cost analysis
2 be performed for all buildings to be purchased with state financial
3 assistance.

4 (d) The department shall perform a life-cycle cost analysis for
5 each public building.

6 Sec. 46.11.050. ENERGY AUDITS. (a) The Department of Commerce
7 and Economic Development shall

8 (1) establish criteria for the performance of energy audits
9 of commercial, industrial, and residential buildings located in the
10 state;

11 (2) solicit bids from persons certified under AS 44.33.-
12 040(14) to perform those energy audits in the state; and

13 (3) enter into a contract with the lowest bidder meeting the
14 performance criteria for the performance of energy audits in the state.

15 (b) A municipality may submit a bid under (a)(2) of this section
16 to perform energy audits in the municipality. The Department of Com-
17 merce and Economic Development may, subject to (a)(3) of this section,
18 contract with a municipality for the performance of energy audits in the
19 municipality.

20 (c) A person requesting an energy audit is required to pay for the
21 audit. The fee for an audit of a one- or two-family dwelling performed
22 before January 1, 1982, is \$25 and \$60 thereafter. The fee for an audit
23 of a dwelling housing more than two families or of a commercial or
24 industrial building shall be established by regulations adopted, in
25 accordance with the Administrative Procedure Act (AS 44.62), by the
26 commissioner of commerce and economic development.

27 (d) The Department of Commerce and Economic Development shall
28 reimburse persons performing energy audits in the state for the cost, in
29 excess of fees received, of performing energy audits. In this subsection

1 "cost" includes administrative cost.

2 Sec. 46.11.060. RECYCLING OF REUSABLE MATERIALS BY STATE AGENCIES.
3 Each state agency shall, to the greatest extent practicable, recycle
4 reusable materials such as paper, glass, and cans.

5 Sec. 46.11.900. DEFINITIONS. Unless the context requires other-
6 wise, in this chapter

7 (1) "department" means the Department of Transportation and
8 Public Facilities;

9 (2) "energy audit" means a determination of

10 (A) the energy consumption characteristics of a build-
11 ing, including the size, type, and rate of energy consumption of
12 major energy consuming systems of the building and the climate
13 characterizing the region where the building is located; and

14 (B) a determination of the energy conservation and cost
15 savings likely to result from appropriate energy-conserving mainte-
16 nance and operating procedures and modifications, including the
17 purchase and installation of energy-related fixtures;

18 (3) "life-cycle cost" means the total cost of owning, oper-
19 ating, and maintaining a building over its useful life, including its
20 energy and fuel costs, determined on a basis of a systematic evaluation
21 and comparison of alternative building systems, except that in the case
22 of leased buildings the life-cycle cost shall be calculated over the
23 effective remaining term of the lease:

24 (4) "new building" means a building the construction of which
25 begins after the effective date of this Act;

26 (5) "public building" means a building owned or controlled
27 and held by the state for government or public use;

28 (6) "state financial assistance" means a loan, grant, guaran-
29 tee, insurance, payment, rebate, subsidy, or other form of direct or

1 indirect state assistance (other than aid under AS 43.18) including the
2 purchase by a state agency of a loan to finance the construction of a
3 new residential, commercial, or industrial building;

4 (7) "thermal and lighting energy standards" means the thermal
5 and lighting energy standards established by the American Society of
6 Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE 90-75R).

7 * Sec. 21. The Department of Commerce and Economic Development shall
8 conduct an education program to inform the public of the contents of this Act
9 and other government programs relating to energy conservation.

10 * Sec. 22. AS 43.20.037, enacted by sec. 8 of this Act, terminates
11 June 30, 1985.

12 * Sec. 23. The amendment made by sec. 7 of this Act is retroactive to
13 January 1, 1980 and applies to tax years beginning after December 31, 1979.

14 * Sec. 24. The amendments made by secs. 9 - 13 of this Act are retro-
15 active to January 1, 1980, and apply to expenses paid or accrued on or after
16 that date and apply to tax years beginning after December 31, 1979.

17 * Sec. 25. Sections 7, 9 - 13, and 22 - 24 of this Act take effect imme-
18 diately in accordance with AS 01.10.070(c).

19 * Sec. 26. Sections 1 - 6, 8, and 14 - 21 of this Act take effect July 1,
20 1980.

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