SENATE BILL NO. 220

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Introduced: 1/19/10
Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

"An Act declaring a state energy policy; relating to energy efficiency and alternative energy; establishing the energy efficiency grant fund, an emerging energy technology fund, a renewable energy production tax credit, and an energy use index; and relating to a fuel purchasing cooperative, to energy codes and efficiency standards, to energy conservation targets in public buildings, to a state agency energy use reduction plan, to the alternative energy revolving loan fund, and to the renewable energy grant fund."

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:

SHORT TITLE. This Act may be known as the Alaska Sustainable Energy Act.

*** Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE INTENT. For AS 44.99.115, enacted by sec. 19 of this Act, it is the

intent of the legislature that the state

(1) achieve a 10 percent increase in energy efficiency on a per capita basis by 2015 and a 15 percent increase in energy efficiency by 2020;

(2) receive 50 percent of its electric generation from renewable energy sources by 2025;

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

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

PURPOSE. The purpose of secs. 14 - 16, 18, 27, and 28 of this Act is to reduce the amount of energy consumed by public facilities by 20 percent not later than 15 years after the completion of the energy use index database, thereby reducing costs to the state and increasing jobs in energy efficiency industries.

*** Sec. 4.** AS 18.56.090 is amended by adding a new subsection to read:

(f) In furtherance of its corporate purpose, the corporation may, in cooperation with the Alaska Energy Authority, provide technical assistance to municipalities related to residential and commercial building energy codes and energy efficiency standards.

*** Sec. 5.** AS 18.56 is amended by adding a new section to read:

Sec. 18.56.310. Energy efficiency grant fund. (a) An energy efficiency grant fund is established in the corporation as a separate fund to provide grants for energy efficiency projects.

(b) The corporation shall administer the energy efficiency grant fund as a fund separate from other funds of the corporation. The energy efficiency grant fund consists of money appropriated to the fund by the legislature to provide grants for energy efficiency projects.

(c) The energy efficiency grant fund is not a dedicated fund.

(d) The corporation may provide grants from the energy efficiency grant fund to

(1) municipalities and unincorporated communities for energy efficiency improvements of municipal or unincorporated community buildings or to enhance the energy efficiency of buildings to be constructed;

(2) school districts for energy efficiency improvements of schools or other school district buildings or to enhance the energy efficiency of schools or other school district buildings to be constructed; and

(3) the University of Alaska for energy efficiency improvements of university buildings or to enhance the energy efficiency of university buildings to be constructed.

(e) For a new construction project to qualify for a grant under this section, the project must be designed and constructed in accordance with applicable standards listed in the most recently published edition of the ASHRAE/IESNA Standard 90.1, Energy Standard for Buildings Except Low-Rise Residential Buildings, as published by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers or the minimal standards listed in the Leadership in Energy and Environmental Design rating system for a certified building.

(f) In awarding grants from the energy efficiency grant fund under this section, the corporation shall give priority to projects that

(1) propose the highest level of energy savings for each dollar spent;

(2) have obtained funding for the project from sources other than state sources.

(g) The corporation shall adopt regulations necessary to carry out the provisions of this section.

*** Sec. 6.** AS 35.10 is amended by adding a new section to article 1 to read:

Sec. 35.10.085. Alternative energy for public works. (a) When preparing and adopting plans and specifications and determining standards for the construction of a public work under AS 35.10.010, the department shall review the option of using a viable alternative energy system for heat or electrical power for the public work.

(b) If a viable alternative energy resource is available and can be used as a primary or secondary source of heat or electrical power or the department determines a viable alternative energy source will become available, a public work constructed under this chapter shall be constructed to accommodate or be compatible with the viable alternative energy system.

(c) In this section, "viable alternative energy system" means a system that uses

a nonfossil fuel fired system for heat or electrical power that, if used over the course of the life of the facility, will cost not more than a fossil fuel fired system to purchase, install, maintain, and operate and will have less measurable adverse effect on the environment than a fossil fuel fired system.

*** Sec. 7.** AS 36.30 is amended by adding a new section to read:

Sec. 36.30.323. Preference for energy efficient appliances, equipment, and vehicles. (a) The commissioner shall, by regulation, provide for a preference for appliances and equipment that have received an Energy Star under the Energy Star program of the United States Environmental Protection Agency and the United States Department of Energy when equipment and appliances are being procured by the state. If Energy Star equipment or appliances are not available for a procurement, preference shall be given to the most energy efficient equipment or appliances that are available.

(b) The commissioner shall, by regulation, set standards for the procurement of energy-efficient vehicles when state vehicles are being replaced.

*** Sec. 8.** 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 **has verified to the authority that are** [IS ABLE TO MAKE] available **for a project, and to projects that are likely to have a financial benefit that exceeds the amount of grant funds received**;

(2) make recommendations to the legislature for renewable power production reimbursement grants; [AND]

(3) not later than 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**; and**

(4) require activity reports for each project funded at intervals determined by the authority.

*** Sec. 9.** AS 42.45.045 is amended by adding a new subsection to read:

(m) The authority shall enter into a contract or agreement with an economist with experience in the area of renewable energy for the economist to prepare a written evaluation for each project the authority recommends under (e) of this section and submit a report to the legislature detailing the results of the evaluation.

*** Sec. 10.** AS 42.45 is amended by adding a new section to article 5 to read:

Sec. 42.45.260. Fuel purchasing cooperative. (a) The authority shall organize or provide for the organization of a statewide fuel purchasing cooperative, or may participate with others in the organization of a statewide fuel purchasing cooperative, and shall adopt regulations to allow communities, utilities, and school districts to participate in a statewide fuel purchasing cooperative.

(b) The authority shall create a procedure by which a community that is not eligible initially to participate in the fuel purchasing cooperative under this section may join the cooperative at a later date by providing satisfactory proof to the authority that good standing has been restored.

*** Sec. 11.** AS 42.45 is amended by adding a new section to read:

Article 7A. Emerging Energy Technology Fund.

Sec. 42.45.375. Emerging energy technology fund. (a) The emerging energy technology fund is established. The fund consists of

(1) money appropriated to the fund by the legislature to provide grants for energy projects; and

(2) gifts, bequests, contributions from other sources, and federal money appropriated to the fund.

(b) The fund is not a dedicated fund.

(c) The fund shall be administered by the interdisciplinary research unit of the arm of the College of Engineering and Mines of the University of Alaska known as the Alaska Center for Energy and Power, whose mission is to research energy sources and

the way in which energy fits into the state's economic development, but the Alaska Center for Energy and Power may contract for the investment of money appropriated to the fund but not disbursed for a grant. The Alaska Center for Energy and Power, in consultation with the advisory committee established under (f) of this section, may make grants from the fund to eligible applicants for

(1) research, development, or demonstration projects designed to

(A) test new energy technologies or methods of conserving energy; or

(B) improve an existing energy technology; and

(2) applied research projects that employ energy technology with a reasonable expectation that the technology will be commercially viable in not more than five years.

(d) In making grants under this section, the Alaska Center for Energy and Power, in consultation with the advisory committee established under (f) of this section, shall give priority to

(1) Alaska residents, associations, organizations, or institutions;

(2) projects that demonstrate partnership with the University of Alaska or another Alaska postsecondary institution; and

(3) projects supported by matching funds or in-kind partnerships.

(e) If the University of Alaska alters the status of the Alaska Center for Energy and Power, the president of the University of Alaska shall promptly notify the revisor of statutes and the presiding officer of each house of the state legislature of that change.

(f) An advisory committee is established and consists of five members. Each member of the committee shall have a degree in science or engineering and at least two years of experience working in the state. Members of the committee shall be appointed by the governor to staggered three-year terms. The committee consists of one representative of each of the following groups:

(1) a business or organization engaged in the renewable energy sector;

(2) a business or organization engaged in the fossil fuel energy sector;

(3) the Alaska Power Association or an Alaska electric utility;

(4) the Denali Commission established under P.L. 105-277 and mentioned in a note at 42 U.S.C. 3121;

(5) a department or agency of the state.

(g) A member of the advisory committee appointed under (f) of this section serves without compensation but is entitled to per diem and travel expenses as provided in AS 39.20.180.

(h) In this section,

(1) "eligible applicant" means

(A) an electric utility holding a certificate of public convenience and necessity under AS 42.05;

(B) an independent power producer;

(C) a local government, quasi-governmental entity, or other governmental entity, including a tribal council or housing authority;

(D) a business holding an Alaska business license; or

(E) a nonprofit organization.

(2) "energy technology" means technology that promotes, enhances, or expands the diversity of available energy supply sources or means of transmission, increases energy efficiency, or reduces negative energy-related environmental effects; "energy technology" includes technology related to renewable sources of energy, conservation of energy, enabling technologies, efficient and effective use of hydrocarbons, and integrated energy systems;

(3) "fund" means the emerging energy technology fund.

*** Sec. 12.** AS 43.20.021(d) is amended to read:

(d) Where a credit allowed under the Internal Revenue Code is also allowed in computing Alaska income tax, it is limited to 18 percent for corporations of the amount of credit determined for federal income tax purposes **that** [WHICH] is attributable to Alaska. This limitation does not apply to a special industrial incentive tax credit under AS 43.20.042 **or to a renewable energy production tax credit under AS 43.20.046**.

*** Sec. 13.** AS 43.20 is amended by adding a new section to article 1 to read:

Sec. 43.20.046. Renewable energy production tax credit. (a) An energy

producer that produces renewable energy may claim a renewable energy production tax credit in the amount of 15 percent of the retail rate for each kilowatt-hour of electricity charged by the energy producer, as determined by the Regulatory Commission of Alaska; however, a tax credit may not be less than 2.1 cents for each kilowatt-hour of renewable energy produced or more than five cents for each kilowatt-hour of renewable energy produced.

(b) An energy producer may claim a renewable energy tax credit under this section for each kilowatt-hour of renewable energy produced or sold for each of the first five tax years after the date the capital investment used to produce renewable energy is placed into service if the energy producer sells all or part of the energy produced.

(c) A renewable energy tax credit under this section may be claimed only for a capital investment

(1) to produce renewable energy that is placed into service on or after July 1, 2009; or

(2) to expand production of renewable energy if the investment for production expansion is made on or after July 1, 2009.

(d) An unused renewable energy tax credit under this section may be carried forward and applied against the tax liability of the energy producer.

(e) A renewable energy tax credit provided under this section may be sold, assigned, exchanged, conveyed, or otherwise transferred, in whole or in part.

(f) A taxpayer acquiring a renewable energy tax credit under (a) or (e) of this section may use the tax credit or a portion of the tax credit to offset taxes imposed under this chapter. Any portion of the credit not used may be used at a later time or transferred under (e) of this section.

(g) A renewable energy tax credit acquired under (a) or (e) of this section, when combined with any state aid that the energy producer receives for the capital investment made to produce renewable energy for which the credit is acquired, may not exceed 10 percent of the energy producer's capital investment for production of renewable energy, aggregated over the five years within which the credit is allowed to be claimed under (b) of this section.

(h) An energy producer that claims a renewable energy tax credit under this section and that wishes to transfer the unused tax credit to a taxpayer under (e) of this section may apply to the department for a transferable tax credit certificate. An application under this subsection must be in a form prescribed by the department and must include supporting information and documentation that the department reasonably requires. The department shall grant or deny the tax credit certificate, or grant the tax credit certificate as to a lesser amount than that for which application is made and deny it as to the excess, not later than 120 days after it receives the application.

(i) An energy producer that uses a renewable energy production tax credit to offset the tax imposed by this chapter or transfers the credit under (e) of this section may not also claim the federal renewable energy credit under 26 U.S.C. 45, authorized by AS 43.20.021, for a capital investment associated with the production or expansion of renewable energy that generated the credit under this section.

(j) The department shall

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

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

(k) In this section,

(1) "capital investment" means an expenditure made

(A) as a cash expenditure or binding payment agreement for real property or tangible personal property used in this state in the production of renewable energy; and

(B) for an asset first placed in service for the production of renewable energy in the state during or before the tax year in which the credit is claimed; in this subparagraph, "placed in service for the production of renewable energy in the state" means that the first use of the capital investment is in this state; if the property on which the claim of the credit is based has been used elsewhere in the tax year of acquisition and is brought to this state during that year or a subsequent year, the property does not qualify as a capital investment;

(2) "energy producer" means

(A) an electric utility or independent power producer holding a certificate of public convenience and necessity under AS 42.05; or

(B) an independent power producer producing more than 100 kilowatts of electricity from renewable energy;

(3) "renewable energy" means geothermal, solar, hydroelectric, wind, biomass, hydrokinetic or tidal, and wave energy.

*** Sec. 14.** AS 44.42.065 is amended to read:

Sec. 44.42.065. Energy use index database maintenance; energy audit [CONSERVATION OF ENERGY IN PUBLIC BUILDINGS]. (a) The department shall

(1) update the energy use index database established in AS 44.83.955 not later than December 31 of each year; and

(2) conduct [, AT LEAST ONCE EVERY SEVEN YEARS, PERFORM] an energy audit of each public **facility whenever, in updating the energy use index under (1) of this subsection, the department determines there is substantial energy inefficiency for the public facility** [BUILDING].

(b) The department shall include in each energy audit required by **(a)(2)** [(a)] of this section recommendations for corrective measures to improve the energy efficiency and to minimize the life-cycle cost of the public **facility** [BUILDING] surveyed. These measures may include (1) energy conservation measures, (2) measures involving solar technology and other **renewable** [ALTERNATIVE] energy systems, (3) energy management, and (4) maintenance and operating procedures and energy-related modifications. In recommending the corrective measures, the department shall give priority to changes in maintenance and operating procedures over measures requiring substantial structural modification or installation of equipment.

(c) In this section, "energy audit" means a determination of

(1) the energy consumption characteristics of a **public facility** [BUILDING], including the size, type, and rate of energy consumption of major energy-consuming systems of the **public facility** [BUILDING] and the climate characterizing the region where the **public facility** [BUILDING] is located; and

(2) a determination of the energy conservation and cost savings likely to result from appropriate energy-conserving maintenance and operating procedures and modifications, including the purchase and installation of energy-related fixtures.

*** Sec. 15.** AS 44.42.065 is amended by adding a new subsection to read:

(d) The department shall annually, not later than December 31, determine an appropriate energy conservation target for each public building and report the energy conservation targets for all buildings to each agency of the state.

*** Sec. 16.** AS 44.42 is amended by adding a new section to read:

Sec. 44.42.067. Retrofits; performance contracting for energy efficiency. (a) In addition to its obligation under AS 44.42.065, the department shall

(1) retrofit all public facilities listed in the energy use index described in AS 44.83.955; and

(2) retrofit, replace, or redesign inefficient lighting fixtures to be as efficient as possible while meeting federal guidelines.

(b) In carrying out the duty under (a) of this section, the department may, if no other funding or partial funding for a project is available,

(1) enter into an energy performance contract; and

(2) administer a performance contract for a public facility by contracting with an energy service company that is a member of the National Association of Energy Service Companies.

(c) If the department uses an energy performance contract under (b) of this section for a project retrofitting a public facility, the contract may also include renewable energy projects and capital improvements not related to energy retrofitting.

(d) The department shall manage its duties under (a) of this section so that the retrofitting of public facilities identified in the energy use index database described in AS 44.83.955 shall be completed not later than 15 years after completion of the energy use index database.

(e) If the department determines that an energy retrofit described under (a) of this section is not cost-effective, the department may postpone the retrofit until it is determined to be cost-effective or additional capital improvements are required. In making the determination under this subsection, the department may consider if the

energy retrofit will be able to meet a return on investment within 15 years after the project is completed.

(f) Any retrofit, new construction, or deferred maintenance of a public facility performed under this section must meet or exceed the most recently published edition of the ASHRAE/IESNA Standard 90.1, Energy Standard for Buildings Except for Low-Rise Residential Buildings, as published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

(g) In this section,

(1) "performance contract" means an agreement for the provision of energy services and equipment in which a private entity or qualified third party agrees to finance, design, construct, install, maintain, operate, or manage energy systems or equipment to improve the energy efficiency of, or produce energy for, a facility in exchange for a portion of the cost savings, lease payments, or specified revenue, and by which the level of payments is made contingent on verified energy savings, energy production, avoided maintenance, avoided energy equipment replacement, or any combination of verified energy savings, energy production, avoided maintenance, or avoided energy equipment replacement;

(2) "public facility" means a facility owned or controlled and held by the state for government or public use.

*** Sec. 17.** AS 44.83.080 is amended by adding a new subsection to read:

(b) In furtherance of its corporate purpose, the authority shall annually plan and conduct, in cooperation with the Alaska Housing Finance Corporation, a public education campaign to promote energy efficiency and conservation.

*** Sec. 18.** AS 44.83 is amended by adding a new section to read:

Sec. 44.83.955. Energy use index. (a) The authority shall

(1) develop an energy use index for public facilities to measure baseline energy consumption;

(2) establish an energy use index database to include baseline energy use data for all public facilities evaluated in (1) of this subsection; and

(3) adopt regulations establishing the methodology to be used in determining the energy use index described in (1) of this subsection.

(b) In this section, "public facility" means a facility owned or controlled and held by the state for government or public use.

*** Sec. 19.** AS 44.99 is amended by adding a new section 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 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. Therefore, it is the policy of the state to

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

(A) establishing statewide energy efficiency codes for new and renovated public buildings and by assisting local communities interested in adopting energy efficiency codes for new and renovated residential and commercial buildings;

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

(C) educating state residents on the benefits of energy efficiency and conservation, including dissemination of information on state and federal programs that reward energy efficiency;

(2) encourage economic development by

(A) promoting the development of renewable energy resources, including geothermal, wind, solar, hydroelectric, hydrokinetic, tidal, and biomass energy, for use by Alaskans and for export;

(B) promoting the development, transport, and efficient use of nonrenewable energy resources, including natural gas, coal, oil, gas hydrates, and heavy oil, for use by Alaskans, for export, and as feedstock for value-added enterprises;

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

(D) creating and maintaining a state fiscal regime that encourages private sector development of the state's energy resources;

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

(A) training and education programs that address energy conservation, efficiency, and availability, including programs that address workforce development and workforce transition; and

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

(4) coordinate governmental functions by

(A) actively collaborating with federal agencies to achieve the state's energy goals and to meet national emissions, renewable energy, and energy production targets; and

(B) reviewing and streamlining regulatory processes and balancing the economic costs of review with the level of review necessary to protect the public interest.

*** Sec. 20.** AS 45.88.010 is amended by adding a new subsection to read:

(e) The fund consists of

(1) money appropriated to the fund by the legislature;

(2) gifts, bequests, or contributions from other sources; and

(3) principal and interest payments or other income earned on loans or investments in the fund and appropriated to the fund.

*** Sec. 21.** AS 45.88.020(a) is amended to read:

(a) The department may

(1) make loans for the purchase, construction, and installation of alternative energy systems **that are located in the state**;

(2) adopt regulations necessary to carry out the provisions of

AS 45.88.010 - 45.88.090, including regulations to establish reasonable fees for services provided and charges for collecting the fees;

(3) collect the fees and collection charges established under this subsection.

*** Sec. 22.** AS 45.88.030 is amended by adding new subsections to read:

(f) A loan must be secured by a mortgage or other security instrument in the real property to be improved, and a lien on the improvements financed under AS 45.88.010.

(g) The interest rate

(1) may not exceed the maximum rate of eight percent a year and may not be less than five percent a year;

(2) shall be established by the department based on the bank prime rate listed in the Wall Street Journal during the previous quarter plus one percentage point, set to the nearest one-half point for loans made; and

(3) set for a quarter remains in effect until the department changes the rate.

*** Sec. 23.** AS 45.88.090(a) is amended to read:

(a) In AS 45.88.010 - 45.88.090, "alternative energy system"

(1) means a source of thermal, mechanical**,** or electrical energy **that** [WHICH] is not dependent on oil or gas or a nuclear fuel for the supply of energy for space heating and cooling, refrigeration and cold storage, electrical power, mechanical power, or the heating of water;

(2) includes

(A) an alternative energy property as defined by 26 U.S.C. 48(a)(3)(A) (Sec. 301, P.L. 95-618, Internal Revenue Code);

(B) a method of architectural design and construction which provides for the collection, storage, and use of direct radiation from the sun;

(C) a woodstove with a catalytic converter or a catalytic converter for a wood stove; [AND]

(D) a steam, hot water, or ducted hot air central heating system that uses wood or coal for fuel; **and**

(E) a high efficiency wood pellet stove;

(3) does not include

(A) a stove that uses only [WOOD,] coal, [OR] oil**, or unprocessed wood** for fuel; or

(B) a fireplace or fireplace insert.

*** Sec. 24.** AS 45.88.010(c), 45.88.030(e), and 45.88.040(a) are repealed.

*** Sec. 25.** AS 43.20.046 is repealed January 1, 2025.

*** Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to read:

EXHAUSTION OF UNUSED RENEWABLE ENERGY PRODUCTION TAX CREDITS. Notwithstanding the repeal of AS 43.20.046 by sec. 25 of this Act, an unused portion of a tax credit acquired under AS 43.20.046(a) or (e), enacted by sec. 13 of this Act, may be carried forward until exhausted, except that the unused portion of the tax credit may not be carried forward to tax years beginning after December 31, 2025.

*** Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to read:

ENERGY USE INDEX DATABASE. The Alaska Energy Authority shall establish the energy use index database described in AS 44.83.955, added by sec. 18 of this Act, not later than six months after the effective date of this Act.

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

ENERGY PERFORMANCE REPORT. Not later than January 31 of each of the three years following the completion of an energy retrofit project, the Department of Transportation and Public Facilities shall submit to the legislature an energy performance report detailing the effectiveness of the energy efficiency measures provided for in secs. 14, 16, and 18 of this Act.

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

STATE AGENCY ENERGY USE REDUCTION PLAN AND REPORTS. The Department of Administration shall, in consultation with the Department of Transportation and Public Facilities, submit a plan to the legislature not later than December 1, 2010, to

reduce state agency energy use by 10 percent by 2015 and, until that date, shall annually report to the legislature and the public on progress achieved in implementing the plan.