

CS FOR SENATE BILL NO. 31(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 3/16/09

Referred: Finance

Sponsor(s): SENATORS MCGUIRE, Ellis, Thomas, Wielechowski, Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a renewable 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 43.20.021(d) is amended to read:

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

12 * **Sec. 2.** AS 43.20 is amended by adding a new section to article 1 to read:

13 **Sec. 43.20.046. Renewable energy production tax credit.** (a) An energy
14 producer that produces renewable energy may claim a renewable energy production

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

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

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

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

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

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

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

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

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

31 (h) An energy producer that claims a renewable energy tax credit under this

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

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

14 (j) The department shall

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

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

17 (k) In this section,

18 (1) "capital investment" means an expenditure made

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

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

30 (2) "energy producer" means

31 (A) an electric utility or independent power producer holding a

1 certificate of public convenience and necessity under AS 42.05; or

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

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

6 * **Sec. 3.** AS 43.20.046 is repealed January 1, 2025.

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

9 EXHAUSTION OF UNUSED RENEWABLE ENERGY PRODUCTION TAX
10 CREDITS. Notwithstanding the repeal of AS 43.20.046 by sec. 3 of this Act, an unused
11 portion of a tax credit acquired under AS 43.20.046(a) or (e), enacted by sec. 2 of this Act,
12 may be carried forward until exhausted, except that the unused portion of the tax credit may
13 not be carried forward to tax years beginning after December 31, 2025.

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