AN ACT

Establishing a renewable energy grant fund and describing its uses and purposes; establishing a renewable energy grant recommendation program; for the fiscal year ending June 30, 2009, authorizing the Alaska Energy Authority to distribute renewable energy grants and setting out the procedures to be followed to award those grants; establishing a state heating assistance program in addition to the federal heating assistance program; establishing an Alaska Renewable Energy Task Force; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1
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*Section 1.* The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE FINDINGS AND INTENT. (a) For secs. 3 and 6 of this Act, the legislature finds that

(1) an adequate, reliable, reasonably priced, and safe supply of energy is
necessary for Alaska's basic infrastructure and economic and technological development;

(2) Alaska possesses vast amounts of renewable energy resources in the form of wind, solar, geothermal, hydrothermal, wave, tidal, biomass, river in-stream, and hydropower;

(3) the legislature established the Alaska Energy Policy Task Force in 2003 to review and analyze the state's current and long-term energy needs;

(4) the task force found that one of Alaska's long-term energy needs is to identify and evaluate long-term fuel resources, and recommended that the state should increase the proportion of renewables in long-term fuel sources;

(5) the cost of fuels such as natural gas and diesel that Alaskans rely on in large part to generate electric power is steadily rising;

(6) residents of rural Alaska pay far more for electricity than residents who live on the Railbelt energy grid;

(7) there is virtually no fuel cost associated with renewable energy resources;

(8) other states and nations are working successfully to develop their renewable energy resources;

(9) the continued competitiveness and stability of the state's economy requires that the legislature consider national trends toward renewable energy development;

(10) renewable energy technology development promotes industry and creates jobs;

(11) clean renewable energy has many environmental and health benefits;

(12) locally produced renewable energy has many security benefits;

(13) modern, affordable, and efficient renewable energy technologies now exist;

(14) it is in the interest of the public for Alaska to develop its renewable energy resources; and

(15) natural gas can be considered as a last alternative for communities with no other reasonable renewable resources.

(b) It is the intent of the legislature that each year for the next five years $50,000,000 in capital funds be appropriated to fund projects recommended by the Alaska Energy Authority as described in secs. 3 and 6 of this Act.
(c) For sec. 7 of this Act, the legislature finds that

(1) energy issues are among the most critical issues in the state; and

(2) a thorough assessment of present and future state energy needs and requirements is necessary.

* Sec. 2. AS 36.30.850(b) is amended by adding a new paragraph to read:

(46) contracts for delivery of home heating assistance under AS 47.25.626.

* Sec. 3. AS 42.45 is amended by adding a new section to read:

Sec. 42.45.045. Renewable energy grant fund and recommendation program. (a) A renewable energy grant fund is established as a separate fund to finance certain energy projects in Alaska.

(b) The authority shall administer the fund as a fund distinct from other funds of the authority. The fund consists of

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

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

(3) interest earned on the fund balance; and

(4) investments to be managed by the Department of Revenue, which shall be the fiduciary of the fund under AS 37.10.071.

(c) The fund is not a dedicated fund.

(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 is able to make available;
(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.

(e) In consultation with the advisory committee established in (i) of this
section, the authority shall make recommendations to the legislature regarding eligible
applicants' projects that finance feasibility studies, reconnaissance studies, energy
resource monitoring, and construction of renewable energy projects, natural gas
projects, or transmission or distribution infrastructure located in Alaska that meet the
requirements of (f), (g), or (h) of this section, as applicable, and shall, at least once
each year, solicit from the advisory committee funding recommendations for all
grants.

(f) For a renewable energy project to qualify for a grant recommendation
under (e) of this section, the project must

(1) be a new project not in operation on the effective date of this
section or an addition to an existing project made after the effective date of this
section; and

(2) be a

(A) hydroelectric facility;

(B) direct use of renewable energy resources;

(C) facility that generates electricity from fuel cells that use
hydrogen from renewable energy resources or natural gas; or

(D) facility that generates energy from renewable energy
resources.

(g) To qualify for a grant recommendation under (e) of this section, a project
that is a natural gas project must benefit a community that

(1) has a population of 10,000 or less; and

(2) does not have economically viable renewable energy resources it
can develop.
(h) To qualify for a grant recommendation under (e) of this section, transmission or distribution infrastructure must link a renewable energy project or natural gas project to the transmission or distribution infrastructure. A grant may be recommended under this subsection even if the grant applicant is not itself financing the construction of the renewable energy project or natural gas project.

(i) An advisory committee is established and consists of seven members, appointed as follows:

(1) five members shall be appointed by the governor to staggered three-year terms, with one representative to be appointed from each of the following groups:

(A) small Alaska rural electric utilities;
(B) large Alaska urban electric utilities;
(C) Alaska Native organizations;
(D) businesses or organizations engaged in the renewable energy sector; and
(E) the Denali Commission established under P.L. 105-277, 42 U.S.C. 3121 note;

(2) one member of the house of representatives shall be appointed by the speaker of the house of representatives; and

(3) one member of the senate shall be appointed by the president of the senate.

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

(k) The legislature may appropriate money for grants from the renewable energy grant fund for renewable energy projects described in this section.

(l) In this section,

(1) "eligible applicant" means an electric utility holding a certificate of public convenience and necessity under AS 42.05, independent power producer, local government, or other governmental utility, including a tribal council and housing authority;
(2) "fund" means the renewable energy grant fund;

(3) "hydroelectric facility" has the meaning given to the term "project" under AS 42.45.350;

(4) "natural gas project" means use or access of natural gas other than landfill or digester gas;

(5) "renewable energy resources" means

(A) wind, solar, geothermal, wasteheat recovery, hydrothermal, wave, tidal, river in-stream, or hydropower;

(B) low-emission nontoxic biomass based on solid or liquid organic fuels from wood, forest and field residues, or animal or fish products;

(C) dedicated energy crops available on a renewable basis; or

(D) landfill gas and digester gas.

* Sec. 4. AS 47.25 is amended by adding new sections to read:

Article 3A. Alaska Heating Assistance Program.

Sec. 47.25.621. Alaska heating assistance program. (a) The Alaska heating assistance program is established in the Department of Health and Social Services to provide expanded eligibility for Alaska residents for home heating assistance, to the extent funds are appropriated by the legislature for that purpose.

(b) The heating assistance program established under this section is in addition to the federal low-income heating and energy assistance provided under 42 U.S.C. 8621 - 8629 (Low-Income Home Energy Assistance Act of 1981), as amended, and implementing regulations.

Sec. 47.25.622. Duties. The department shall

(1) administer the Alaska heating assistance program provided under AS 47.25.621;

(2) adopt regulations under AS 44.62 (Administrative Procedure Act) to carry out the purpose of the program;

(3) coordinate payments among other heating assistance programs to avoid duplication of payments.

Sec. 47.25.623. Eligibility. An individual is eligible for home heating assistance payments under the Alaska home heating assistance program if the
individual

(1) is a resident of the state;
(2) is physically present and resides in a home in the state when the home heating costs are incurred;
(3) has gross household income above 150 percent but that does not exceed 225 percent of the federal poverty guideline for Alaska set by the United States Department of Health and Human Services and revised under 42 U.S.C. 9902(2);
(4) meets other eligibility requirements specified in regulations adopted under AS 47.25.622.

**Sec. 47.25.624. Appeal rights.** Except as provided in AS 47.25.626(e), an individual who receives a determination from the department that denies, limits, or modifies home heating payments under AS 47.25.621 - 47.25.626, other than a determination based on insufficient funding of the program, may request a hearing before the department under regulations adopted by the department.

**Sec. 47.25.625. Ability to recover or recoup improper home heating assistance payments.** An individual is liable to the department for the value of assistance improperly paid under AS 47.25.623 if the improper payment was based on inaccurate or incomplete information provided by the individual. In a civil action brought by the state to recover from the individual the value of the assistance improperly paid, the state may recover from the individual the costs of investigation and prosecution of the civil action, including attorney fees as determined under court rules.

**Sec. 47.25.626. Regional heating assistance program.** (a) The department may develop a regional Alaska heating assistance program for the administration of AS 47.25.621 - 47.25.626 to provide home heating assistance in a uniform and cost-effective manner in a region of this state if an Alaska Native organization is authorized to implement a federally approved tribal family assistance plan that includes that region and has been awarded a tribal energy assistance grant for a program that includes that region under 42 U.S.C. 8623(d).

(b) The department may award contracts to implement a program developed under (a) of this section. A contract authorized for delivery of home heating assistance
under a regional Alaska heating assistance program under this section is exempt from
the competitive bid requirements of AS 36.30 (State Procurement Code). Subject to
appropriation, a contract under this section must be in an amount that represents a fair
and equitable share of the money appropriated for the Alaska heating assistance
program under AS 47.25.621 - 47.25.626 to serve the state residents specified in (a) of
this section. The authority provided under this section to contract is in addition to the
authority to contract in AS 47.05.015 or other law.

(c) The department may award a contract under this section only to an
organization that

(1) has been awarded a tribal energy assistance grant under 42 U.S.C.
8623(d) for a program that includes that region;
(2) agrees to administer home heating assistance under AS 47.25.621 -
47.25.626 to state residents in the region; and
(3) agrees to implement an appeals process as described in (e) of this
section.

(d) Records pertaining to recipients of home heating assistance under a
contract awarded under this section are confidential and not subject to disclosure
under AS 40.25.100 - 40.25.220.

(e) An organization that receives a contract under this section shall provide an
appeals process to applicants for or recipients of home heating assistance covered by
the contract awarded under this section. The appeals process must be the same as the
method available under AS 47.25.624, except that the decision reached shall be
considered a recommended decision to the department. Within 30 days after receiving
a recommended decision, the department shall review the recommended decision and
issue a decision accepting or rejecting the recommended decision. If the department
rejects the recommended decision, the department shall independently review the
record and issue its final decision. The final decision of the department on the matter
is appealable to the courts of this state.

(f) If the department establishes a regional Alaska heating assistance program
and awards a contract to provide home heating assistance under this section, a person
applying for home heating assistance under AS 47.25.621 - 47.25.626 in the region of
the state covered by the regional Alaska heating assistance program may obtain home
heating assistance from the department only through the organization designated by
the department to serve the region.

* Sec. 5. AS 42.45.045 is repealed June 30, 2013.

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

RENEWABLE ENERGY GRANTS DURING STATE FISCAL YEAR 2009. (a) For
the fiscal year ending June 30, 2009, from an appropriation made under the statement of intent
set out in sec. 1(b) of this Act, the Alaska Energy Authority shall distribute grants to
applicants determined by the authority and that meet the criteria in AS 42.45.045(f) - (h),
added by sec. 3 of this Act, based on the procedure described in (b) of this section.

(b) For administering grants under AS 42.45.045(f) - (h), added by sec. 3 of this Act, for
the fiscal year ending June 30, 2009, notwithstanding AS 42.45.045(d), (e), and (i) - (l),
added by sec. 3 of this Act,

(1) the Alaska Energy Authority shall submit to the Legislative Budget and
Audit Committee for review a revised program setting out the proposed grants;

(2) 45 days shall elapse before commencement of expenditures under the
revised program unless the Legislative Budget and Audit Committee earlier recommends
otherwise;

(3) should the Legislative Budget and Audit Committee recommend within the
45-day period that the Alaska Energy Authority not award the grants as set out in the revised
program, the Alaska Energy Authority shall again review the grant applications and, if the
Alaska Energy Authority determines to authorize the expenditures, the Alaska Energy
Authority shall provide the Legislative Budget and Audit Committee with a statement of the
Alaska Energy Authority's reasons before commencement of expenditures making the
approved grants.

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

ALASKA RENEWABLE ENERGY TASK FORCE. (a) There is established in the
legislative branch of state government the Alaska Renewable Energy Task Force. The task
force consists of seven voting members appointed as follows:
(1) the speaker of the house of representatives shall appoint three members from the house of representatives;

(2) the president of the senate shall appoint three members from the senate; and

(3) the governor shall appoint one member.

(b) The chair of the task force shall be a legislative member selected by a majority vote of the members of the task force. The staff of the members who are legislators shall serve as staff to the task force.

(c) The task force shall prepare a report that includes

(1) an assessment of future statewide renewable energy needs; and

(2) recommendations for a statewide energy plan to fulfill the state's renewable energy needs.

(d) Members of the task force are entitled to transportation expenses and per diem allowances provided by law.

(e) The task force shall meet at least four times. The task force may meet in communities in the state that are using or considering sources of renewable energy.

(f) The task force shall submit written reports of its findings and recommendations to the legislature

(1) before March 1, 2009; and

(2) before March 1, 2010.

(g) The Alaska Renewable Energy Task Force is terminated on April 16, 2010.

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

TRANSITION: RENEWABLE ENERGY PROJECT ADVISORY COMMITTEE. For the initial appointments made to the advisory committee under AS 42.45.045(i)(1), added by sec. 3 of this Act, two members serve for one year, two for two years, and three for three years.

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

TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding a contrary provision of AS 44.62.240, if the Department of Health and Social Services expressly
designates in a regulation adopted under AS 47.25.622(2), enacted by sec. 4 of this Act, that
the regulation applies retroactively to November 1, 2007, and is necessary to implement,
interpret, make specific, or otherwise carry out AS 47.25.621 and 47.25.623, enacted by sec. 4
of this Act, the regulation may apply retroactively to November 1, 2007.

* Sec. 10. Sections 1(c) and 7 of this Act are repealed April 16, 2010.

* Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to
read:

RETROACTIVITY OF CERTAIN PROVISIONS OF THIS ACT. AS 47.25.621 and
47.25.623, enacted by sec. 4 of this Act, are retroactive to November 1, 2007.

* Sec. 12. Sections 2, 4, 9, and 11 of this Act takes effect immediately under
AS 01.10.070(c).