

HOUSE BILL NO. 280

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES HAWKER AND CHENAULT, Johnson, Olson, Thomas, Ramras, Harris, Millett

Introduced: 1/19/10

Referred: Labor and Commerce, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to natural gas; relating to a gas storage facility; relating to the
2 Regulatory Commission of Alaska; relating to the participation by the attorney general
3 in a matter involving the approval of a rate or a gas supply contract; relating to an
4 income tax credit for a gas storage facility; relating to oil and gas production tax credits;
5 relating to the powers and duties of the Alaska Oil and Gas Conservation Commission;
6 relating to production tax credits for certain losses and expenditures, including
7 exploration expenditures; relating to the powers and duties of the director of the
8 division of lands and to lease fees for the storage of gas on state land; and providing for
9 an effective date."

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

11 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
12 to read:

1 SHORT TITLE. This Act may be known as the Cook Inlet Recovery Act.

2 * **Sec. 2.** AS 31.05 is amended by adding a new section to read:

3 **Sec. 31.05.032. Certification of gas storage capacity.** (a) The commission
4 shall certify the working gas storage capacity in a gas storage facility for which a
5 person may claim a credit under AS 43.20.046 within six months after receiving an
6 application for certification. The commission shall issue a certificate to the owner of
7 the gas storage facility that states the certified capacity to the nearest 1,000,000,000
8 cubic feet that is expected to be in place before December 31, 2015, and shall submit a
9 copy of the certificate to the commissioner of revenue.

10 (b) The owner of a gas storage facility shall apply to the commission for the
11 capacity certification in (a) of this section on a form prescribed by the commission.
12 The application must be filed at least six months before the commencement of
13 commercial operations.

14 (c) The owner of a gas storage facility shall report the maximum working gas
15 storage capacity for a gas storage facility on a form prescribed by the commission. The
16 report shall be filed within six months after the earlier of the date that the gas storage
17 facility ceases commercial operations or December 31, 2015. After receiving the
18 report, the commission shall certify the working gas storage capacity of the gas
19 storage facility as of the earlier of the date the gas processing facility ceased
20 commercial operations or December 31, 2015. The commission shall issue a certificate
21 to the owner of the gas storage facility and a copy of the certificate to the
22 commissioner of revenue that states the capacity of the gas storage rounded to the
23 nearest 1,000,000,000 cubic feet as of the earlier of the date the gas storage facility
24 ceased commercial operations or December 31, 2015.

25 (d) In this section,

26 (1) "ceases commercial operations" means a gas storage facility neither
27 injects nor withdraws an average of more than 1,000,000 cubic feet of gas a day,
28 determined on a calendar year basis;

29 (2) "commencement of commercial operations" means the first
30 injection of non-native gas into the gas storage facility for purposes other than testing;

31 (3) "cushion gas" means native and non-native gas that is needed to

1 pressurize the gas storage facility and that allows the gas storage facility to function;

2 (4) "gas storage facility" means a tank, depleted reservoir, injection
3 well for gas storage permitted under AS 31.05, or other structure in the state with a
4 minimum capacity of 1,000,000,000 cubic feet of gas other than cushion gas, that is
5 used at least in part for the storage of gas on behalf of a utility regulated under
6 AS 42.05.141 and designated for sale and delivery in the state;

7 (5) "native gas" means gas in a gas storage facility before any non-
8 native gas is injected;

9 (6) "non-native gas" means gas that is produced elsewhere and injected
10 into a gas storage facility;

11 (7) "working gas storage capacity" means the maximum volume of gas
12 the gas storage facility may safely contain without waste in addition to the volume of
13 cushion gas.

14 * **Sec. 3.** AS 38.05.035(a) is amended to read:

15 (a) The director shall

16 (1) have general charge and supervision of the division and may
17 exercise the powers specifically delegated to the director; the director may employ and
18 fix the compensation of assistants and employees necessary for the operations of the
19 division; the director is the certifying officer of the division, with the consent of the
20 commissioner, and may approve vouchers for disbursements of money appropriated to
21 the division;

22 (2) manage, inspect, and control state land and improvements on it
23 belonging to the state and under the jurisdiction of the division;

24 (3) execute laws, rules, regulations, and orders adopted by the
25 commissioner;

26 (4) prescribe application procedures and practices for the sale, lease, or
27 other disposition of available land, resources, property, or interest in them;

28 (5) prescribe fees or service charges, with the consent of the
29 commissioner, for any public service rendered;

30 (6) under the conditions and limitations imposed by law and the
31 commissioner, issue deeds, leases, or other conveyances disposing of available land,

1 resources, property, or any interests in them;

2 (7) have jurisdiction over state land, except that land acquired by the
3 Alaska World War II Veterans Board and the Agricultural Loan Board or the
4 departments or agencies succeeding to their respective functions through foreclosure
5 or default; to this end, the director possesses the powers and, with the approval of the
6 commissioner, shall perform the duties necessary to protect the state's rights and
7 interest in state land, including the taking of all necessary action to protect and enforce
8 the state's contractual or other property rights;

9 (8) maintain the records the commissioner considers necessary,
10 administer oaths, and do all things incidental to the authority imposed; the following
11 records and files shall be kept confidential upon request of the person supplying the
12 information:

13 (A) the name of the person nominating or applying for the sale,
14 lease, or other disposal of land by competitive bidding;

15 (B) before the announced time of opening, the names of the
16 bidders and the amounts of the bids;

17 (C) all geological, geophysical, and engineering data supplied,
18 whether or not concerned with the extraction or development of natural
19 resources;

20 (D) except as provided in AS 38.05.036, cost data and financial
21 information submitted in support of applications, bonds, leases, and similar
22 items;

23 (E) applications for rights-of-way or easements;

24 (F) requests for information or applications by public agencies
25 for land that is being considered for use for a public purpose;

26 (9) account for the fees, licenses, taxes, or other money received in the
27 administration of this chapter including the sale or leasing of land, identify their
28 source, and promptly transmit them to the proper fiscal department after crediting
29 them to the proper fund; receipts from land application filing fees and charges for
30 copies of maps and records shall be deposited immediately in the general fund of the
31 state by the director;

1 (10) select and employ or obtain at reasonable compensation cadastral,
 2 appraisal, or other professional personnel the director considers necessary for the
 3 proper operation of the division;

4 (11) be the certifying agent of the state to select, accept, and secure by
 5 whatever action is necessary in the name of the state, by deed, sale, gift, devise,
 6 judgment, operation of law, or other means any land, of whatever nature or interest,
 7 available to the state; and be the certifying agent of the state, to select, accept, or
 8 secure by whatever action is necessary in the name of the state any land, or title or
 9 interest to land available, granted, or subject to being transferred to the state for any
 10 purpose;

11 (12) on request, furnish records, files, and other information related to
 12 the administration of AS 38.05.180 to the Department of Revenue for use in
 13 forecasting state revenue under or administering AS 43.55, whether or not those
 14 records, files, and other information are required to be kept confidential under (8) of
 15 this subsection; in the case of records, files, or other information required to be kept
 16 confidential under (8) of this subsection, the Department of Revenue shall maintain
 17 the confidentiality that the Department of Natural Resources is required to extend to
 18 records, files, and other information under (8) of this subsection;

19 **(13) give priority to and expedite the processing of an application**
 20 **for a lease or assignment of a lease of state land for development and operation of**
 21 **a gas storage facility, for a right-of-way to a gas storage facility, for a change to a**
 22 **participating area, and for a permit necessary for the operation of a gas storage**
 23 **facility; in this paragraph, "gas storage facility" has the meaning given in**
 24 **AS 31.05.032.**

25 * **Sec. 4.** AS 38.05 is amended by adding a new section to read:

26 **Sec. 38.05.099. Exemption from rental payments for a gas storage facility.**

27 (a) A person using state land leased under AS 38.05.070 - 38.05.105 for a gas storage
 28 facility is exempt from storage fees or rental payments authorized under
 29 AS 38.05.180(u) on that land for the first calendar year of commercial operation of the
 30 gas storage facility and for each of the nine calendar years immediately following the
 31 first year of commercial operations; however, if the gas storage facility ceases

1 commercial operations during the eight calendar year period immediately following
 2 the first year of commercial operations, the state land is no longer exempt from storage
 3 fees or rental payments after the calendar year in which the gas storage facility ceases
 4 commercial operations.

5 (b) In this section, "ceases commercial operations" and "gas storage facility"
 6 have the meanings given in AS 31.05.032.

7 * **Sec. 5.** AS 38.05.180(u) is amended to read:

8 (u) To avoid waste, [OR] to promote conservation of natural resources, or to
 9 store gas designated for sale or delivery in the state and regulated under
 10 AS 42.05, the commissioner may authorize the subsurface storage of oil or gas,
 11 whether or not produced from state land, in land leased or subject to lease under this
 12 section. This authorization may provide for the payment of a storage fee or rental on
 13 the stored oil or gas, or, instead of the fee or rental, for a royalty other than that
 14 prescribed in the lease when the stored oil or gas is produced in conjunction with oil or
 15 gas not previously produced, except that a storage fee or rental fee on gas owned
 16 by a utility regulated under AS 42.05 and injected, stored, or withdrawn from a
 17 gas storage facility and designated for sale or delivery in the state may not be
 18 required for the first calendar year of commercial operation of the gas storage
 19 facility and for the nine calendar years immediately following the first year of
 20 commercial operations; however, if the gas storage facility ceases commercial
 21 operations during the eight calendar year period immediately following the first
 22 year of commercial operations, the gas is no longer exempt from a storage fee or
 23 rental fee after the calendar year in which the gas storage facility ceases
 24 commercial operations. A lease on which storage is so authorized shall be extended
 25 at least for the period of storage and so long thereafter as oil or gas not previously
 26 produced is produced in paying quantities. Gas withdrawn from a gas storage
 27 facility is considered to be non-native gas and is not considered to be produced
 28 and subject to royalty until all non-native gas injected into the gas storage facility
 29 has been withdrawn from the gas storage facility. In this subsection, "ceases
 30 commercial operations," "gas storage facility," and "non-native gas" have the
 31 meanings given in AS 31.05.032.

1 * **Sec. 6.** AS 42.05.141 is amended by adding a new subsection to read:

2 (d) When considering whether the approval of a gas supply contract proposed
3 by a utility to provide a reliable supply of gas for a reasonable price is in the public
4 interest, the commission shall

5 (1) recognize the public benefits from allowing a utility to negotiate
6 different pricing mechanisms with different gas suppliers and to maintain a diversified
7 portfolio of gas supply contracts to protect customers from the risks of inadequate
8 supply or excessive cost that may arise from a single pricing mechanism; and

9 (2) consider whether a utility could meet its responsibility to the public
10 in a timely manner and without undue risk to the public if the commission fails to
11 approve a rate or a gas supply contract proposed by the utility.

12 * **Sec. 7.** AS 42.05.381 is amended by adding a new subsection to read:

13 (k) In determining the just and reasonable rate for a utility for which the cost
14 of gas storage is a factor in determining the rate, the cost of gas storage shall reflect
15 the reduction in cost attributable to storage fees and rental payments exempted under
16 AS 38.05.099(a) and the value of tax credits taken under AS 43.20.046 for the gas
17 storage facility. In this subsection, "gas storage facility" has the meaning given in
18 AS 31.05.032.

19 * **Sec. 8.** AS 43.05.230 is amended by adding a new subsection to read:

20 (j) Information described in this subsection that relates to the tax credit in
21 AS 43.20.046 is public information and may be furnished to the Regulatory
22 Commission of Alaska by the commissioner upon request. The commissioner shall
23 disclose

24 (1) the name of each person claiming a credit and the amount of credit
25 issued to that person under AS 43.20.046;

26 (2) the amount of credit shown on a transferable tax credit certificate
27 and the name of the person to whom the tax credit certificate is transferred; and

28 (3) the name of each person selling an unused credit to the department
29 under AS 43.20.046 and the amount paid to that person by the department.

30 * **Sec. 9.** AS 43.20 is amended by adding a new section to article 1 to read:

31 **Sec. 43.20.046. Gas storage facility tax credit.** (a) A person that is an owner

1 of a gas storage facility for which the commencement of commercial operations is
2 after December 31, 2010, and before January 1, 2016, may apply, as a credit against
3 the tax liability that may be imposed on the person under this chapter an amount equal
4 to \$1.50 for each 1,000 cubic feet of working gas storage capacity less any amount of
5 the credit under this section taken in earlier tax years. The total amount of the credit
6 that may be applied for a single gas storage facility under this section may not exceed
7 \$30,000,000. The credit is subject to the terms and conditions of this section and is in
8 addition to any other credit authorized to the person by this chapter.

9 (b) The person claiming the credit has the burden of demonstrating
10 compliance with the requirements of this section and the amount of the credit being
11 claimed. To claim the credit, the person shall submit, on a form prescribed by the
12 department, the volume of a gas storage facility that is the basis for the credit, the date
13 that the gas storage facility commences commercial operation, and other information
14 required by the department. A person

15 (1) required to file a return under this chapter shall submit the form
16 claiming the credit with the taxpayer's return;

17 (2) not required to file a return under this chapter shall submit the form
18 claiming the credit before May 1 of the year following the year in which the gas
19 storage facility on which the credit is based first began commercial operation.

20 (c) A person entitled to the credit in (a) of this section that is not fully applied
21 against the tax liability that may be imposed under this chapter may apply to the
22 department for a transferable tax credit certificate in the amount of the unused portion
23 of the tax credit. The unused portion of the transferable tax credit certificate may be
24 purchased by the department under AS 43.55.028 or, with prior written approval by
25 the department, transferred to another person.

26 (d) After receiving a written application from a person qualifying for the credit
27 under this section, the department shall purchase, in whole or in part, any unused
28 portion of the credit with money available from the oil and gas tax credit fund
29 (AS 43.55.028) if the department finds that the

30 (1) applicant does not have an outstanding liability to the state for
31 unpaid delinquent taxes under this title; and

1 (2) total tax liability of the applicant under this chapter is zero after the
2 application of all available tax credits for the tax year in which the application is
3 submitted.

4 (e) For the purpose of determining the amount of the credit under this section,
5 the working gas storage capacity on which the credit is based shall be determined by
6 the Alaska Oil and Gas Conservation Commission under AS 31.05.032.

7 (f) A person may not receive a credit under this section for the acquisition of a
8 gas storage facility for which a credit has been granted under this section.

9 (g) If the gas storage facility for which a credit was taken under this section
10 ceases commercial operation during the 10 years immediately following the
11 commencement of commercial operations, the tax liability under this chapter of the
12 person who took the credit shall be increased based on the amount of the credit taken
13 and the number of years in which the gas storage facility was in commercial operation.
14 The amount of the increase in tax liability (1) shall be determined and assessed as of
15 the date the gas storage facility first ceases commercial operations, regardless of
16 whether the gas storage facility subsequently resumes commercial operations; and (2)
17 is equal to the total amount of the credit taken multiplied by a fraction, the numerator
18 of which is the difference between 10 and the number of years the gas storage facility
19 was engaged in commercial operation rounded to the nearest whole number, and the
20 denominator of which is 10. In this subsection, "commencement of commercial
21 operations" has the meaning given in AS 31.05.032.

22 (h) The issuance of a tax credit certificate under this section does not limit the
23 department's ability to later audit a tax credit claim to which the certificate relates or to
24 adjust the claim if the department determines, as a result of the audit, that the person
25 that received the credit was not entitled to the amount of the credit that was issued.
26 The tax liability of the person receiving the credit under this chapter is increased by
27 the amount of the credit that exceeds that to which the person was entitled. If the tax
28 liability is increased under this subsection, the increase bears interest under
29 AS 43.05.225 from the date the transferable tax credit certificate was issued.

30 (i) A person liable for an increased tax liability under (g) and (h) of this
31 section that otherwise is not subject to tax under this chapter is considered to be a

1 corporation subject to tax under this chapter.

2 (j) In this section, "ceases commercial operations," "cushion gas," "gas storage
3 facility," and "working gas storage capacity" have the meanings given in
4 AS 31.05.032.

5 * **Sec. 10.** AS 43.55.020 is amended by adding a new subsection to read:

6 (i) Cushion gas in a gas storage facility is not considered to be gas used in the
7 operation of a lease or property or gas used for repressuring as described in (e) of this
8 section. Gas withdrawn from a gas storage facility is considered to be non-native gas
9 until all non-native gas injected into the gas storage facility has been withdrawn from
10 the gas storage facility. Non-native gas withdrawn from a gas storage facility is not
11 considered to be gas produced for the purposes of AS 43.55.011 - 43.55.180. Gas
12 withdrawn from a gas storage facility after all non-native gas previously injected into
13 the gas storage facility has been withdrawn is gas considered to be produced from the
14 lease or property for the purposes of AS 43.55.011 - 43.55.180. In this subsection,
15 "gas storage facility," "native gas," and "non-native gas" have the meanings given in
16 AS 38.05.032.

17 * **Sec. 11.** AS 43.55.023(a) is amended to read:

18 (a) A producer or explorer may take a tax credit for a qualified capital
19 expenditure as follows:

20 (1) notwithstanding that a qualified capital expenditure may be a
21 deductible lease expenditure for purposes of calculating the production tax value of oil
22 and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under
23 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or
24 explorer that incurs a qualified capital expenditure may also elect to apply a tax credit
25 against a tax levied by AS 43.55.011(e) in the amount of 20 percent of that
26 expenditure; **the full amount of the credit for a qualified capital expenditure for**
27 **activity in the Cook Inlet sedimentary basin after December 31, 2010, may be**
28 **applied for a single calendar year;** however, not more than half of the tax credit **for**
29 **a qualified capital expenditure for activity outside of the Cook Inlet sedimentary**
30 **basin after December 31, 2010,** may be applied for a single calendar year;

31 (2) a producer or explorer may take a credit for a qualified capital

1 expenditure incurred in connection with geological or geophysical exploration or in
2 connection with an exploration well only if the producer or explorer

3 (A) agrees, in writing, to the applicable provisions of
4 AS 43.55.025(f)(2);

5 (B) submits to the Department of Natural Resources all data
6 that would be required to be submitted under AS 43.55.025(f)(2).

7 * **Sec. 12.** AS 43.55.023(d) is amended to read:

8 (d) Except as limited by (i) of this section, a person that is entitled to take a tax
9 credit under this section that wishes to transfer the unused credit to another person or
10 obtain a cash payment under AS 43.55.028 may apply to the department for
11 transferable tax credit certificates. An application under this subsection must be in a
12 form prescribed by the department and must include supporting information and
13 documentation that the department reasonably requires. The department shall grant or
14 deny an application, or grant an application as to a lesser amount than that claimed and
15 deny it as to the excess, not later than 120 days after the latest of (1) March 31 of the
16 year following the calendar year in which the qualified capital expenditure or carried-
17 forward annual loss for which the credit is claimed was incurred; (2) the date the
18 statement required under AS 43.55.030(a) or (e) was filed for the calendar year in
19 which the qualified capital expenditure or carried-forward annual loss for which the
20 credit is claimed was incurred; or (3) the date the application was received by the
21 department. If, based on the information then available to it, the department is
22 reasonably satisfied that the applicant is entitled to a credit, the department shall,
23 **except as provided in (m) of this section,** issue the applicant two transferable tax
24 credit certificates, each for half of the amount of the credit; **the** [. THE] credit shown
25 on one of the two certificates is available for immediate use. The credit shown on the
26 second of the two certificates may not be applied against a tax for a calendar year
27 earlier than the calendar year following the calendar year in which the certificate is
28 issued, and the certificate must contain a conspicuous statement to that effect; **a** [. A]
29 certificate issued under this subsection does not expire.

30 * **Sec. 13.** AS 43.55.023(g) is amended to read:

31 (g) The issuance of a transferable tax credit certificate under (d) **or (m)** of this

1 section or the purchase of a certificate under AS 43.55.028 does not limit the
 2 department's ability to later audit a tax credit claim to which the certificate relates or to
 3 adjust the claim if the department determines, as a result of the audit, that the applicant
 4 was not entitled to the amount of the credit for which the certificate was issued. The
 5 tax liability of the applicant under AS 43.55.011(e) and 43.55.017 - 43.55.180 is
 6 increased by the amount of the credit that exceeds that to which the applicant was
 7 entitled, or the applicant's available valid outstanding credits applicable against the tax
 8 levied by AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is
 9 increased under this subsection, the increase bears interest under AS 43.05.225 from
 10 the date the transferable tax credit certificate was issued. For purposes of this
 11 subsection, an applicant that is an explorer is considered a producer subject to the tax
 12 levied by AS 43.55.011(e).

13 * **Sec. 14.** AS 43.55.023 is amended by adding a new subsection to read:

14 (m) For a qualified capital expenditure for activity in the Cook Inlet
 15 sedimentary basin after December 31, 2010, or adjusted lease expenditures for activity
 16 in the Cook Inlet sedimentary basin after December 31, 2010, that is the basis for the
 17 credit under (b) of this section, the department shall issue the applicant a transferable
 18 tax credit certificate for the full amount of the credit. The transferrable tax credit is
 19 available for immediate use and does not expire.

20 * **Sec. 15.** AS 43.55.025(a) is amended to read:

21 (a) Subject to the terms and conditions of this section, a credit against the
 22 production tax levied by AS 43.55.011(e) is allowed for exploration expenditures that
 23 qualify under (b) of this section in an amount equal to one of the following:

24 (1) 30 percent of the total exploration expenditures that qualify only
 25 under (b) and **(c)(1)** [(c)] of this section;

26 (2) **except as provided in (6) of this subsection,** 30 percent of the
 27 total exploration expenditures that qualify only under (b) and (d) of this section;

28 (3) 40 percent of the total exploration expenditures that qualify under
 29 (b), **(c)(1)** [(c)], and (d) of this section; [OR]

30 (4) 40 percent of the total exploration expenditures that qualify only
 31 under (b) and (e) of this section;

1 **(5) 40 percent of the total explorations expenditures incurred after**
 2 **December 31, 2010, that qualify only under (b) and (c)(2) of this section; or**
 3 **(6) 40 percent of the total exploration expenditures incurred after**
 4 **December 31, 2010, for a well located in the Cook Inlet sedimentary basin and**
 5 **that qualify only under (b) and (d) of this section.**

6 * **Sec. 16.** AS 43.55.025(c) is amended to read:

7 (c) To be eligible for the 30 percent production tax credit authorized by (a)(1)
 8 of this section or the 40 percent production tax credit authorized by (a)(3) of this
 9 section, exploration expenditures must

10 [(1)] qualify under (b) of this section, [;] and

11 **(1) [(2)] be for an exploration well outside of the Cook Inlet**
 12 **sedimentary basin or have been exploration expenditures for an exploration well**
 13 **in the Cook Inlet sedimentary basin incurred before January 1, 2011,** subject to
 14 the following:

15 (A) before the well is spudded,

16 (i) the explorer shall submit to the commissioner of
 17 natural resources the information necessary to determine whether the
 18 geological objective of the well is a potential oil or gas trap that is
 19 distinctly separate from any trap that has been tested by a preexisting
 20 well;

21 (ii) at the time of the submittal of information under (i)
 22 of this subparagraph, the commissioner of natural resources may
 23 request from the explorer that specific data sets, ancillary data, and
 24 reports including all results, and copies of well data collected and data
 25 analyses for the well be provided to the Department of Natural
 26 Resources upon completion of the drilling; in this sub-subparagraph,
 27 well data include all analyses conducted on physical material, and well
 28 logs collected from the well and sample analyses; testing geophysical
 29 and velocity data including vertical seismic profiles and check shot
 30 surveys; testing data and analyses; age data; geochemical analyses; and
 31 access to tangible material; and

1 (iii) the commissioner of natural resources must make
 2 an affirmative determination as to whether the geological objective of
 3 the well is a potential oil or gas trap that is distinctly separate from any
 4 trap that has been tested by a preexisting well and what information
 5 under (ii) of this subparagraph must be submitted by the explorer after
 6 completion, abandonment, or suspension under AS 31.05.030; the
 7 commissioner of natural resources shall make that determination within
 8 60 days after receiving all the necessary information from the explorer
 9 based on the information received and on other information the
 10 commissioner of natural resources considers relevant;

11 (B) for an exploration well other than **exploration**
 12 **expenditures incurred before January 1, 2011, for** a well to explore a Cook
 13 Inlet prospect, the well must be located and drilled in such a manner that the
 14 bottom hole is located not less than three miles away from the bottom hole of a
 15 preexisting well drilled for oil or gas, irrespective of whether the preexisting
 16 well has been completed, suspended, or abandoned;

17 (C) after completion, suspension, or abandonment under
 18 AS 31.05.030 of the exploration well, the commissioner of natural resources
 19 must determine that the well was consistent with achieving the explorer's
 20 stated geological objective; **or**

21 **(2) be incurred after December 31, 2010, for an exploration well in**
 22 **the Cook Inlet sedimentary basin, subject to the following:**

23 **(A) the well must be located and drilled in such a manner**
 24 **that the bottom hole is located not less than three miles away from the**
 25 **bottom hole of a preexisting well drilled for oil or gas, irrespective of**
 26 **whether the preexisting well has been completed, suspended, or**
 27 **abandoned; or**

28 **(B) if the bottom hole is located less than three miles away**
 29 **from the bottom hole of a preexisting well drilled for oil or gas,**
 30 **irrespective of whether the preexisting well has been completed,**
 31 **suspended, or abandoned, before the well is spudded,**

1 (i) the explorer shall submit to the commissioner of
2 natural resources the information necessary to determine whether
3 the geological objective of the well is a potential oil or gas trap that
4 is distinctly separate from a trap that has been tested by a
5 preexisting well;

6 (ii) at the time of the submittal of information under
7 (i) of this subparagraph, the commissioner of natural resources
8 may request from the explorer that specific data sets, ancillary
9 data, and reports, including all results and copies of well data
10 collected and data analyses for the well, be provided to the
11 Department of Natural Resources on completion of the drilling; in
12 this sub-subparagraph, well data include all analyses conducted on
13 physical material, well logs collected from the well, and sample
14 analyses; testing geophysical and velocity data, including vertical
15 seismic profiles and check shot surveys; testing data and analyses;
16 age data; geochemical analyses; and access to tangible material;
17 and

18 (iii) the commissioner of natural resources must
19 make an affirmative determination as to whether the geological
20 objective of the well is a potential oil or gas trap that is distinctly
21 separate from a trap that has been tested by a preexisting well and
22 what information under (ii) of this subparagraph must be
23 submitted by the explorer after completion, abandonment, or
24 suspension under AS 31.05.030; the commissioner of natural
25 resources shall, within 60 days after receiving all the necessary
26 information from the explorer, make that determination based on
27 the information received and on other information the
28 commissioner of natural resources considers relevant; and

29 (iv) after completion, suspension, or abandonment of
30 the exploration well under AS 31.05.030, the commissioner of
31 natural resources must determine that the well was consistent with

1 **achieving the explorer's stated geological objective.**

2 * **Sec. 17.** AS 43.55.025(f) is amended to read:

3 (f) For a production tax credit under this section,

4 (1) an explorer shall, in a form prescribed by the department and,
5 except for a credit under (k) of this section, within six months of the completion of the
6 exploration activity, claim the credit and submit information sufficient to demonstrate
7 to the department's satisfaction that the claimed exploration expenditures qualify under
8 this section; in addition, the explorer shall submit information necessary for the
9 commissioner of natural resources to evaluate the validity of the explorer's compliance
10 with the requirements of this section;

11 (2) an explorer shall agree, in writing,

12 (A) to notify the Department of Natural Resources, within 30
13 days after completion of seismic or geophysical data processing, completion of
14 well drilling, or filing of a claim for credit, whichever is the latest, for which
15 exploration costs are claimed, of the date of completion and submit a report to
16 that department describing the processing sequence and providing a list of data
17 sets available;

18 (B) to provide to the Department of Natural Resources, within
19 30 days after the date of a request, unless a longer period is provided by the
20 Department of Natural Resources, specific data sets, ancillary data, and reports
21 identified in (A) of this paragraph; in this subparagraph,

22 (i) a seismic or geophysical data set includes the data
23 for an entire seismic survey, irrespective of whether the survey area
24 covers nonstate land in addition to state land or land in a unit in
25 addition to land outside a unit;

26 (ii) well data include all analyses conducted on physical
27 material, and well logs collected from the well, results, and copies of
28 data collected and data analyses for the well, including well logs;
29 sample analyses; testing geophysical and velocity data including
30 seismic profiles and check shot surveys; testing data and analyses; age
31 data; geochemical analyses; and tangible material;

1 (C) that, notwithstanding any provision of AS 38, information
2 provided under this paragraph will be held confidential by the Department of
3 Natural Resources,

4 (i) in the case of well data, until the expiration of the
5 24-month period of confidentiality described in AS 31.05.035(c), at
6 which time the Department of Natural Resources will release the
7 information after 30 days' public notice unless, in the discretion of the
8 commissioner of natural resources, it is necessary to protect
9 information relating to the valuation of unleased acreage in the same
10 vicinity, or unless the well is on private land and the owner, including
11 the lessor but not the lessee, of the oil and gas resources has not given
12 permission to release the well data;

13 (ii) in the case of seismic or other geophysical data,
14 other than seismic data acquired by seismic exploration subject to (k) of
15 this section, for 10 years following the completion date, at which time
16 the Department of Natural Resources will release the information after
17 30 days' public notice, except as to seismic or other geophysical data
18 acquired from private land, unless the owner, including a lessor but not
19 a lessee, of the oil and gas resources in the private land gives
20 permission to release the seismic or other geophysical data associated
21 with the private land;

22 (iii) in the case of seismic data obtained by seismic
23 exploration subject to (k) of this section, only until the expiration of 30
24 days' public notice issued on or after the date the production tax credit
25 certificate is issued under (5) of this subsection;

26 (3) if more than one explorer holds an interest in a well or seismic
27 exploration, each explorer may claim an amount of credit that is proportional to the
28 explorer's cost incurred;

29 (4) the department may exercise the full extent of its powers as though
30 the explorer were a taxpayer under this title, in order to verify that the claimed
31 expenditures are qualified exploration expenditures under this section; and

1 (5) if the department is satisfied that the explorer's claimed
 2 expenditures are qualified under this section and that all data required to be submitted
 3 under this section have been submitted, the department shall issue to the explorer a
 4 production tax credit certificate for the amount of credit to be allowed against
 5 production taxes levied by AS 43.55.011(e); **for a credit based on exploration**
 6 **expenses incurred after December 31, 2010, the department shall issue separate**
 7 **credit certificates to an explorer for the amount of credit based on exploration**
 8 **expenditures incurred for exploration outside of the Cook Inlet sedimentary**
 9 **basin and for the amount of credit based on exploration expenditures incurred**
 10 **for exploration in the Cook Inlet sedimentary basin;** notwithstanding any contrary
 11 provision of AS 38, AS 40.25.100, or AS 43.05.230, the following information is not
 12 confidential:

- 13 (A) the explorer's name;
 14 (B) the date of the application;
 15 (C) the location of the well or seismic exploration;
 16 (D) the date of the department's issuance of the certificate; and
 17 (E) the date on which the information required to be submitted

18 under this section will be released.

19 * **Sec. 18.** AS 43.55.028(a) is amended to read:

20 (a) The oil and gas tax credit fund is established as a separate fund of the state.
 21 The purpose of the fund is to purchase **unused portions of the credit eligible for**
 22 **purchase by the department under AS 43.20.046,** certain transferable tax credit
 23 certificates issued under AS 43.55.023, and certain production tax credit certificates
 24 issued under AS 43.55.025.

25 * **Sec. 19.** AS 43.55.028(e) is amended to read:

26 (e) The department, on the written application of the person to whom a
 27 transferable tax credit certificate has been issued under **AS 43.20.046 or**
 28 AS 43.55.023(d) **or (m)** or a production tax credit certificate has been issued under
 29 AS 43.55.025(f), may use available money in the oil and gas tax credit fund to
 30 purchase, in whole or in part, the certificate if the department finds that

- 31 (1) the calendar year of the purchase is not earlier than the first

1 calendar year for which the credit shown on the certificate would otherwise be allowed
2 to be applied against a tax;

3 (2) **except for the application of a person for the purchase of a**
4 **production tax credit certificate based on exploration expenditures incurred for**
5 **exploration in the Cook Inlet sedimentary basin after December 31, 2010,**

6 (A) within 24 months after applying for the transferable tax
7 credit certificate or filing a claim for the production tax credit certificate, the
8 applicant incurred a qualified capital expenditure or was the successful bidder
9 on a bid submitted for a lease on state land under AS 38.05.180(f);

10 (B) [(3)] the amount expended for the purchase would not
11 exceed the total of qualified capital expenditures and successful bids described
12 in (A) [(2)] of this **paragraph** [SUBSECTION] that have not been the subject
13 of a finding made under this **subparagraph** [PARAGRAPH] for purposes of a
14 previous purchase of a certificate;

15 (3) [(4)] the applicant does not have an outstanding liability to the state
16 for unpaid delinquent taxes under this title;

17 (4) [(5)] the applicant's total tax liability under AS 43.55.011(e), after
18 application of all available tax credits, for the calendar year in which the application is
19 made is zero;

20 (5) [(6)] the applicant's average daily production of oil and gas taxable
21 under AS 43.55.011(e) during the calendar year preceding the calendar year in which
22 the application is made was not more than 50,000 BTU equivalent barrels; and

23 (6) [(7)] the purchase is consistent with this section and regulations
24 adopted under this section.

25 * **Sec. 20.** AS 43.55.028(g) is amended to read:

26 (g) The department may adopt regulations to carry out the purposes of this
27 section, including standards and procedures to allocate available money among
28 applications for purchases **under AS 43.20.046 and this chapter,** the total amount of
29 which exceeds the amount of available money in the fund. **The regulations adopted**
30 **by the department may not, when allocating available money in the fund under**
31 **this section, distinguish an application for the purchase of a credit certificate**

1 **issued under AS 43.20.046, AS 43.55.023(m), or 43.55.025(f)(5) for exploration**
2 **expenditures incurred after December 31, 2010, in the Cook Inlet sedimentary**
3 **basin from other applications.**

4 * **Sec. 21.** AS 44.23.020(e) is amended to read:

5 (e) There is established within the Department of Law the function of public
6 advocacy for regulatory affairs. The attorney general shall participate as a party in a
7 matter that comes before the Regulatory Commission of Alaska when the attorney
8 general determines that participation is in the public interest. **When considering**
9 **whether participation is in the public interest, the attorney general shall consider**
10 **the issues the Regulatory Commission of Alaska must take into consideration**
11 **under AS 42.05.141(d).**

12 * **Sec. 22.** AS 43.55.011(m) is repealed January 1, 2011.

13 * **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 **LIMITATION APPLICABLE TO CERTAIN CREDITS.** After December 31, 2010,
16 only the amount of a tax credit that could have been applied against a tax under AS 43.55.011
17 before January 1, 2011, and that was not accounted for under AS 43.55.011(m) as that section
18 read before January 1, 2011, as a credit applied first against a tax liability under AS 43.55.011
19 calculated without regard to the limitations under AS 43.55.011(j), (k), and (o) may be
20 transferred to another person or applied against a tax levied under AS 43.55.011.

21 * **Sec. 24.** This Act takes effect immediately under AS 01.10.070(c).