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CS FOR HOUSE BILL NO. 280()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES HAWKER AND CHENAULT, Johnson, Olson, Thomas, Ramras, Harris,
Millett

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

Sec. 31.05.032. Certification of gas storage capacity. (a) An owner of a gas storage facility that seeks an exemption under AS 38.05.180(u) or a credit under AS 43.20.046 shall apply to the commission for certification of the facility's working gas storage capacity and certification of the facility's gas withdrawal capability. The application shall be on a form prescribed by the commission.

(b) Within six months after receiving an application under (a) of this section, the commission shall determine and certify

(1) the working gas storage capacity of the facility on the date the facility commences commercial operations, rounded to the nearest 1,000,000,000 cubic feet; and

(2) whether the gas storage facility is capable of withdrawing a minimum of 10,000,000 feet of gas each day.

(c) The commission shall provide a copy of the certifications required by (b) of this section to the owner of the gas storage facility that requested the certification, the commissioner of natural resources, and the commissioner of revenue.

(d) If a gas storage facility ceases commercial operations, an owner of the gas storage facility shall give written notice to the commission that commercial operations have ceased. The notice must be filed with the commission before April 1 of the year immediately following the year in which operations ceased.

(e) In this section,

(1) "ceases commercial operations" means that the gas storage facility fails to inject or withdraw more than 10,000,000 cubic feet of gas during a calendar year following the year in which a gas storage facility commences commercial operations;

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

(3) "cushion gas" means native and non-native gas in a gas storage facility that is needed to pressurize the facility and that allows the facility to function;

(4) "gas storage facility" means a tank, depleted pool, or other structure in the state that

(A) has a capacity of more than 500,000,000 cubic feet of gas other than cushion gas;

(B) is available for the storage of gas that is owned by a utility regulated under AS 42.05; and

(C) if the gas storage facility is in land leased or subject to lease under AS 38.05.180, is in compliance with the terms of the lease;

(5) "native gas" means gas in a gas storage facility that was not injected;

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

(7) "working gas storage capacity" means the maximum volume of non-native gas a gas storage facility may safely contain without creating or causing waste; the maximum volume of non-native gas does not include the volume of cushion gas present or the volume required for proper functioning of the gas storage facility.

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

(a) The director shall

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

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

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

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

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

(6) under the conditions and limitations imposed by law and the

commissioner, issue deeds, leases, or other conveyances disposing of available land, resources, property, or any interests in them;

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

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

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

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

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

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

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

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

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

state by the director;

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

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

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

(13) when reasonably possible, give priority to and expedite the processing of an application for a lease or assignment of a lease of state land for development and operation of a gas storage facility, for a right-of-way to a gas storage facility, for a change to the allocation of production within a unit, and for a permit necessary for the operation of a gas storage facility; in this paragraph, "gas storage facility" has the meaning given in AS 31.05.032.

* Sec. 4. AS 38.05.180(u) is amended to read:

(u) To avoid waste or to promote conservation of natural resources, the commissioner may authorize the subsurface storage of oil or gas, whether or not produced from state land, in land leased or subject to lease under this section. This authorization may provide for the payment of a storage fee or rental on the stored oil or gas, or, instead of the fee or rental, for a royalty other than that prescribed in the

1 lease when the stored oil or gas is produced in conjunction with oil or gas not
2 previously produced. A lease on which storage is so authorized shall be extended at
3 least for the period of storage and so long thereafter as oil or gas not previously
4 produced is produced in paying quantities. Notwithstanding the authorization for
5 payments under this subsection, when requested by a lessee, the commissioner
6 shall exempt a gas storage facility with certificates issued under AS 31.05.032
7 from any payment described in this subsection for the periods described in this
8 subsection. The exemption is available for the calendar year in which the facility
9 commences commercial operations and for each of the nine calendar years
10 immediately following the first year of commercial operations; however, an
11 exemption is not applicable for the calendar year after the facility ceases
12 commercial operations or for any subsequent calendar year. The lessee shall
13 provide the commissioner with any information the commissioner requests to
14 determine if the exemption applies. The information related to state land leased
15 for a gas storage facility under this subsection is public information and may be
16 furnished to the Regulatory Commission of Alaska. On request, the
17 commissioner shall provide the name of each person using state land leased for a
18 gas storage facility under AS 38.05, the years for which an exemption was
19 granted, and the amount of the exemption. Gas withdrawn from a gas storage
20 facility is considered to be non-native gas and is not considered to be produced
21 and subject to royalty until all non-native gas injected into the gas storage facility
22 has been withdrawn from the gas storage facility. A person receiving an
23 exemption for a payment under this section that contracts to store gas for a
24 utility regulated under AS 42.05 shall reduce the storage price to reflect the value
25 of the exemption. In this subsection, "ceases commercial operations,"
26 "commences commercial operations," "gas storage facility," and "non-native
27 gas" have the meanings given in AS 31.05.032.

28 * Sec. 5. AS 42.05.141 is amended by adding a new subsection to read:

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

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

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

*** Sec. 6.** AS 42.05.381 is amended by adding a new subsection to read:

(k) In determining the just and reasonable rates of a gas utility, the commission shall allow the reasonable and necessary costs of storing the utility's gas. The cost to the utility of storing gas in a gas storage facility that is allowed shall reflect the reduction in cost attributable to any exemption from a payment due under AS 38.05.180(u) and the value of a tax credit that the owner of the gas storage facility received under AS 43.20.046. The commission may request the (1) commissioner of natural resources to report the value of the exemption from a payment due under AS 38.05.180(u) that the gas storage facility received; and (2) commissioner of revenue to report information on the amount of tax credits taken under AS 43.20.046 for the gas storage facility. In this subsection, "gas storage facility" has the meaning given in AS 31.05.032.

*** Sec. 7.** AS 43.05.230 is amended by adding a new subsection to read:

(j) Information described in this subsection that relates to the tax credit in AS 43.20.046 is public information and the commissioner shall furnish the information to the Regulatory Commission of Alaska on request. The commissioner shall disclose

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

(2) the amount of credit shown on a transferable tax credit certificate issued under AS 43.20.046 and the name of the person to whom the tax credit certificate is transferred; and

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

* **Sec. 8.** AS 43.20 is amended by adding a new section to article 1 to read:

Sec. 43.20.046. Gas storage facility tax credit. (a) A person that is an owner of a gas storage facility that commences commercial operations after December 31, 2010, and before January 1, 2016, may apply for a credit against a tax liability that may be imposed on the person under this chapter for the tax year beginning after the date the gas storage facility commences commercial operations. The tax credit under this section shall be an amount equal to \$1.50 for each 1,000 cubic feet of working gas storage capacity that is certified under AS 31.05.032 less any amount of credit received under this section taken in earlier tax years for that capacity. The total amount of the credit that may be received for a single gas storage facility under this section may not exceed \$30,000,000. The tax credit in this section is in addition to any other credit under this chapter for which the person is eligible.

(b) The person applying for the credit under this section has the burden of demonstrating compliance with the requirements of this section and the amount of the credit being claimed. To apply for the credit, the person shall submit to the department a copy of the certification of working gas storage capacity issued under AS 31.05.032, the date that the gas storage facility commenced commercial operations, and other information required by the department. A person applying the credit against a liability under this chapter shall submit the form claiming the credit with the taxpayer's return. A person that is not subject to tax under this chapter that is applying for a transferable tax credit certificate shall submit the form claiming the credit before May 1 of the year following the year in which the gas storage facility on which the credit is based first commences commercial operations.

(c) A person entitled to a tax credit under this section that is greater than the person's tax liability under this chapter may apply to the department for a transferable tax credit certificate in the amount of the unused portion of the tax credit. The department shall grant or deny the application in whole or in part within 120 days after the date of the application. A person who receives a transferable tax credit certificate under this subsection may transfer the certificate to another person, and a transferee may further transfer the certificate.

(d) A person who receives a transferable tax credit certificate under this

1 section may apply to the department to have the department purchase the tax credit
2 certificate. The department may use available money in the oil and gas tax credit fund
3 established in AS 43.55.028 to purchase the certificate in whole or in part if the
4 department finds that (1) the applicant does not have an outstanding liability to the
5 state for unpaid delinquent taxes under this title; and (2) after application of all
6 available tax credits, the applicant's total tax liability under this chapter for any tax
7 year ending before the date on which the application is submitted is zero. In this
8 subsection, "unpaid delinquent tax" means an amount of tax for which the department
9 has issued an assessment that has not been paid and, if contested, has not been finally
10 resolved in the taxpayer's favor.

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

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

16 (g) If the gas storage facility for which a credit was received under this section
17 ceases commercial operation during the nine calendar years immediately following the
18 calendar year in which the gas storage facility commences commercial operations, the
19 tax liability under this chapter of the person who took the credit shall be increased.
20 The amount of the increase in tax liability

21 (1) shall be determined and assessed as of the first calendar year after
22 the gas storage facility ceases commercial operations, regardless of whether the gas
23 storage facility subsequently resumes commercial operations; and

24 (2) is equal to the total amount of the credit taken multiplied by a
25 fraction, the numerator of which is the difference between 10 and the number of
26 calendar years for which the gas storage facility was eligible for a tax credit under this
27 section and the denominator of which is 10.

28 (h) The issuance of a tax credit certificate under this section does not limit the
29 department's ability to later audit a tax credit claim to which the certificate relates or to
30 adjust the claim if the department determines, as a result of the audit, that the person
31 that received the credit was not entitled to the amount of the credit that was issued.

1 The tax liability of the person receiving the credit under this chapter is increased by
2 the amount of the credit that exceeds that to which the person was entitled. If the tax
3 liability is increased under this subsection, the increase bears interest under
4 AS 43.05.225 from the date the transferable tax credit certificate was issued.

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

8 (j) A person that applies for a tax credit under this section shall, when
9 contracting with a utility regulated under AS 42.05 to store the utility's gas, reduce the
10 price it would otherwise charge the utility to reflect the value of any tax credits
11 received under this section.

12 (k) A person that receives a tax credit under this section for a gas storage
13 facility that ceases commercial operations within 10 calendar years after the year in
14 which the gas storage facility commences commercial operations shall notify the
15 department in writing of the date the gas storage facility ceased commercial
16 operations. The notice must be filed with the return due in the calendar year
17 immediately following the calendar year in which the gas storage facility ceases
18 commercial operations, or, if no return is due, before April 1 of the year immediately
19 following the year in which the gas storage facility ceases commercial operations.

20 (l) In this section, "ceases commercial operations," "gas storage facility," and
21 "working gas storage capacity" have the meanings given in AS 31.05.032.

22 * **Sec. 9.** AS 43.55.011(m) is amended to read:

23 (m) Notwithstanding any contrary provision of AS 38.05.180(i),
24 AS 41.09.010, AS 43.55.024, or 43.55.025, the department shall provide by regulation
25 a method to ensure that, for a calendar year for which a producer's tax liability is
26 limited by (j), (k), or (o) of this section, tax credits **based on an expenditure or**
27 **action taken before January 1, 2011, that are** otherwise available under
28 AS 38.05.180(i), AS 41.09.010, AS 43.55.024, or 43.55.025 and allocated to gas
29 subject to the limitations in (j), (k), and (o) of this section are accounted for as though
30 the credits had been applied first against a tax liability calculated without regard to the
31 limitations under (j), (k), and (o) of this section so as to reduce the tax liability to the

1 maximum amount provided for under (j) or (o) of this section for the production of gas
2 or (k) of this section for the production of oil. The regulation must provide for a
3 reasonable method to allocate tax credits to gas subject to (j) and (o) of this section.
4 Only the amount of a tax credit remaining after the accounting provided for under this
5 subsection may be used for a later calendar year, transferred to another person, or
6 applied against a tax levied on the production of oil or gas not subject to (j), (k), or (o)
7 of this section to the extent otherwise allowed.

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

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

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

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

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

1 **a qualified capital expenditure for activity outside of the Cook Inlet sedimentary**
2 **basin after December 31, 2010,** may be applied for a single calendar year;

3 (2) a producer or explorer may take a credit for a qualified capital
4 expenditure incurred in connection with geological or geophysical exploration or in
5 connection with an exploration well only if the producer or explorer

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

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

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

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

certificate issued under this subsection does not expire.

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

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

* **Sec. 14.** AS 43.55.023 is amended by adding new subsections to read:

(m) A producer or explorer may apply for a tax credit for a Cook Inlet well expenditure, as follows:

(1) notwithstanding that a Cook Inlet well expenditure may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under (a) of this section, AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a Cook Inlet well expenditure may also elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of 40 percent of that expenditure. A tax credit under this subsection may be applied for a single calendar year;

(2) a producer or explorer may take a credit for a Cook Inlet well expenditure incurred in connection with geological or geophysical exploration or in connection with an exploration well only if the producer or explorer

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

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

(n) For an expenditure in the Cook Inlet sedimentary basin after December 31, 2010, that qualifies for tax credits under (a) and (b) of this section, and for a Cook Inlet well expenditure that qualifies for a tax credit under (m) of this section, the department shall issue a transferable tax credit certificate to the person entitled to the credit for the full amount of the credit. The transferable tax credit is available for immediate use and does not expire.

* **Sec. 15.** AS 43.55.028(a) is amended to read:

(a) The oil and gas tax credit fund is established as a separate fund of the state. The purpose of the fund is to purchase [CERTAIN] transferable tax credit certificates issued under AS 43.20.046 and AS 43.55.023 and [CERTAIN] production tax credit certificates issued under AS 43.55.025.

* **Sec. 16.** AS 43.55.028(e) is amended to read:

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

(1) the calendar year of the purchase is not earlier than the first calendar year for which the credit shown on the certificate would otherwise be allowed to be applied against a tax;

(2) except for the application of a person for the purchase of a transferable tax credit certificate issued under AS 43.55.023(n),

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

(B) [(3)] the amount expended for the purchase would not exceed the total of qualified capital expenditures and successful bids described in (A) [(2)] of this paragraph [SUBSECTION] that have not been the subject

of a finding made under this **subparagraph** [PARAGRAPH] for purposes of a previous purchase of a certificate;

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

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

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

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

* **Sec. 17.** AS 43.55.028(g) is amended to read:

(g) The department may adopt regulations to carry out the purposes of this section, including standards and procedures to allocate available money among applications for purchases **under AS 43.20.046 and this chapter when** the total amount of **the applications for purchase** [WHICH] exceeds the amount of available money in the fund. **The regulations adopted by the department may not, when allocating available money in the fund under this section, distinguish an application for the purchase of a credit certificate issued under AS 43.20.046 or AS 43.55.023(n).**

* **Sec. 18.** AS 44.23.020(e) is amended to read:

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

* **Sec. 19.** This Act takes effect immediately under AS 01.10.070(c).