

CS FOR HOUSE BILL NO. 280(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 2/17/10

Referred: Resources, Finance

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

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 uncoded 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.

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

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

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

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

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

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

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

22 (e) In this section,

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

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

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

31 (4) "gas storage facility" means a tank, depleted or nearly depleted

1 reservoir or pool, or other structure in the state that is available for the storage of gas;

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

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

6 (7) "pool" has the meaning given in AS 31.05.170;

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

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

12 (a) The director shall

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

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

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

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

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

27 (6) under the conditions and limitations imposed by law and the
28 commissioner, issue deeds, leases, or other conveyances disposing of available land,
29 resources, property, or any interests in them;

30 (7) have jurisdiction over state land, except that land acquired by the
31 Alaska World War II Veterans Board and the Agricultural Loan Board or the

1 departments or agencies succeeding to their respective functions through foreclosure
 2 or default; to this end, the director possesses the powers and, with the approval of the
 3 commissioner, shall perform the duties necessary to protect the state's rights and
 4 interest in state land, including the taking of all necessary action to protect and enforce
 5 the state's contractual or other property rights;

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

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

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

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

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

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

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

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

29 (10) select and employ or obtain at reasonable compensation cadastral,
 30 appraisal, or other professional personnel the director considers necessary for the
 31 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 lease when the stored oil or gas is produced in conjunction with oil or gas not previously produced. A lease on which storage is so authorized shall be extended at least for the period of storage and so long thereafter as oil or gas not previously produced is produced in paying quantities. **Notwithstanding the authorization for**

payments under this subsection, when requested by a lessee, the commissioner shall exempt a gas storage facility that qualifies for a tax credit under AS 43.20.046 from any payment described in this subsection for the periods described in this subsection. The exemption is available for the calendar year in which the facility commences commercial operation and for each of the nine calendar years immediately following the first year of commercial operation; however, an exemption is not applicable for the calendar year after the facility ceases commercial operation or for any subsequent calendar year. The lessee shall provide the commissioner with any information the commissioner requests to determine if the exemption applies. The information related to state land leased for a gas storage facility under this subsection is public information and may be furnished to the Regulatory Commission of Alaska. On request, the commissioner shall provide the name of each person using state land leased for a gas storage facility under this chapter, the years for which an exemption was granted, and the amount of the exemption. Gas withdrawn from a gas storage facility is considered to be non-native gas and is not considered to be produced and subject to royalty until all non-native gas injected into the gas storage facility has been withdrawn from the gas storage facility. A person receiving an exemption for a payment under this section that contracts to store gas for a utility regulated under AS 42.05 shall reduce the storage price to reflect the value of the exemption. In this subsection, "ceases commercial operation," "commences commercial operation," "gas storage facility," and "non-native gas" have the meanings given in AS 31.05.032.

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

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

(1) recognize the public benefits of 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 42.05.990(4) is amended to read:

(4) "public utility" or "utility" includes every corporation whether public, cooperative, or otherwise, company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that owns, operates, manages, or controls any plant, pipeline, or system for

(A) furnishing, by generation, transmission, or distribution, electrical service to the public for compensation;

(B) furnishing telecommunications service to the public for compensation;

(C) furnishing water, steam, or sewer service to the public for compensation;

(D) furnishing by transmission or distribution of natural or manufactured gas to the public for compensation;

(E) furnishing for distribution or by distribution petroleum or petroleum products to the public for compensation when the consumer has no alternative in the choice of supplier of a comparable product and service at an

1 equal or lesser price;

2 (F) furnishing collection and disposal service of garbage,
3 refuse, trash, or other waste material to the public for compensation;

4 **(G) furnishing injection, storage, and withdrawal services**
5 **for natural gas that is owned by a utility regulated under this chapter;**

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

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

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

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

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

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

19 **Sec. 43.20.046. Gas storage facility tax credit.** (a) A person that is an owner
20 of a gas storage facility described in (b) of this section that commences commercial
21 operation after December 31, 2010, and before January 1, 2016, may apply for a credit
22 against a tax liability that may be imposed on the person under this chapter for the tax
23 year in which the gas storage facility commences commercial operation or the tax year
24 immediately following. The tax credit under this section shall be an amount equal to
25 \$1.50 for each 1,000 cubic feet of working gas storage capacity that is certified under
26 AS 31.05.032 less any amount of credit received under this section taken in earlier tax
27 years for that capacity. The total amount of the credit that may be received for a single
28 gas storage facility under this section may not exceed \$30,000,000. The tax credit in
29 this section is in addition to any other credit under this chapter for which the person is
30 eligible.

31 (b) A gas storage facility qualifying for the credit in this section must

1 (1) have a working gas storage capacity of more than 500,000,000
2 cubic feet of gas other than cushion gas;

3 (2) have a minimum withdrawal capability of 10,000,000 cubic feet a
4 day as certified by the Alaska Oil and Gas Conservation Commission under
5 AS 31.05.032;

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

8 (4) if located on state land and leased or subject to a lease under
9 AS 38.05.180, be in compliance with the terms of the lease.

10 (c) The person applying for the credit under this section has the burden of
11 demonstrating compliance with the requirements of this section and the amount of the
12 credit being claimed. To apply for the credit, the person shall submit to the department
13 a copy of the certification of working gas storage capacity and withdrawal capability
14 issued under AS 31.05.032, the date that the gas storage facility commenced
15 commercial operation, and other information required by the department. A person
16 applying the credit against a liability under this chapter shall submit the application
17 claiming the credit with the taxpayer's return. A person that is not subject to tax under
18 this chapter that is applying for a transferable tax credit certificate under (d) of this
19 section shall submit the application claiming the credit before May 1 of the year
20 following the year in which the gas storage facility on which the credit is based first
21 commences commercial operation.

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

29 (e) A person who receives a transferable tax credit certificate under this
30 section may apply to the department to have the department purchase the tax credit
31 certificate. The department may use available money in the oil and gas tax credit fund

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

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

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

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

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

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

26 (i) The issuance of a tax credit certificate under this section does not limit the
 27 department's ability to later audit a tax credit claim to which the certificate relates or to
 28 adjust the claim if the department determines, as a result of the audit, that the person
 29 that received the credit was not entitled to the amount of the credit that was issued.
 30 The tax liability of the person receiving the credit under this chapter is increased by
 31 the amount of the credit that exceeds that to which the person was entitled. If the 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.

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

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

(l) A person that receives a tax credit under this section for a gas storage facility that ceases commercial operation within nine calendar years immediately following the calendar year in which the gas storage facility commences commercial operation shall notify the department in writing of the date the gas storage facility ceased commercial operation. The notice must be filed with the return due in the calendar year immediately following the calendar year in which the gas storage facility ceases commercial operation, or, if no return is due, before May 1 of the year immediately following the year in which the gas storage facility ceases commercial operation. The notice in this subsection is considered a return for purposes of AS 43.05.260.

(m) In this section, "ceases commercial operation," "commences commercial operation," "gas storage facility," and "working gas storage capacity" have the meanings given in AS 31.05.032.

* **Sec. 10.** AS 43.55.011(m) is amended to read:

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

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

* **Sec. 11.** AS 43.55.020 is amended by adding a new subsection to read:

(i) Cushion gas in a gas storage facility is not considered to be gas used in the operation of a lease or property or gas used for repressuring as described in (e) of this section. Gas withdrawn from a gas storage facility is considered to be non-native gas until all non-native gas injected into the gas storage facility has been withdrawn from the gas storage facility. Non-native gas withdrawn from a gas storage facility is not considered to be gas produced for the purposes of AS 43.55.011 - 43.55.180. Gas withdrawn from a gas storage facility after all non-native gas previously injected into the gas storage facility has been withdrawn is gas considered to be produced from the lease or property for the purposes of AS 43.55.011 - 43.55.180. In this subsection, "gas storage facility," "native gas," and "non-native gas" have the meanings given in AS 31.05.032.

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

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

(1) notwithstanding that a qualified capital 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 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 qualified capital expenditure may also elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of 20 percent of that expenditure; **the full amount of the credit for a qualified capital expenditure incurred in the Cook Inlet sedimentary basin after December 31, 2010, may be**

applied for a single calendar year; however, not more than half of the tax credit **for a qualified capital expenditure incurred outside of the Cook Inlet sedimentary basin after December 31, 2010,** may be applied for a single calendar year;

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

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

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

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

issued, and the certificate must contain a conspicuous statement to that effect; a [. A]
 certificate issued under this subsection does not expire.

* **Sec. 14.** 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. 15.** 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 lease expenditure incurred after December 31, 2010, as follows:

(1) notwithstanding that a Cook Inlet well lease 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 lease 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 lease 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 a lease expenditure incurred 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 lease 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. 16.** 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. 17.** AS 43.55.028(e) is amended to read:

(e) The department, on the written application of a [THE] person to whom a transferable tax credit certificate has been issued under 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. 18.** 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. 19.** 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. 20.** This Act takes effect immediately under AS 01.10.070(c).