

CS FOR HOUSE BILL NO. 280(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 3/24/10

Offered: 3/22/10

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

SENATORS McGuire, Dyson, Wagoner

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.

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 500,000,000 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 100,000,000 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 or a depleted or nearly depleted

1 reservoir or pool 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 at
11 the working gas storage capacity certified under (b) of this section.

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

13 (a) The director shall

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

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

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

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

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

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

31 (7) have jurisdiction over state land, except that land acquired by the

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

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

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

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

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

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

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

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

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

30 (10) select and employ or obtain at reasonable compensation cadastral,
31 appraisal, or other professional personnel the director considers necessary for the

1 proper operation of the division;

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

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

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

23 * **Sec. 4.** AS 38.05.035 is amended by adding a new subsection to read:

24 (n) The director may not deny an application for a lease or assignment of a
25 lease of state land for the development and operation of a gas storage facility solely
26 because the gas storage facility would be used exclusively or primarily to store gas
27 owned by the owner or operator of the gas storage facility. In this subsection, "gas
28 storage facility" has the meaning given in AS 31.05.032.

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

30 (u) To avoid waste or to promote conservation of natural resources, the
31 commissioner may authorize the subsurface storage of oil or gas, whether or not

1 produced from state land, in land leased or subject to lease under this section. This
2 authorization may provide for the payment of a storage fee or rental on the stored oil
3 or gas, or, instead of the fee or rental, for a royalty other than that prescribed in the
4 lease when the stored oil or gas is produced in conjunction with oil or gas not
5 previously produced. A lease on which storage is so authorized shall be extended at
6 least for the period of storage and so long thereafter as oil or gas not previously
7 produced is produced in paying quantities. **Notwithstanding the authorization for**
8 **payments under this subsection, when requested by a lessee, the commissioner**
9 **shall exempt a gas storage facility that qualifies for a tax credit under**
10 **AS 43.20.046 from any payment described in this subsection for the periods**
11 **described in this subsection. The exemption is available for the calendar year in**
12 **which the facility commences commercial operation and for each of the nine**
13 **calendar years immediately following the first year of commercial operation;**
14 **however, an exemption is not applicable for the calendar year after the facility**
15 **ceases commercial operation or for any subsequent calendar year. The lessee**
16 **shall provide the commissioner with any information the commissioner requests**
17 **to determine if the exemption applies. The information related to state land**
18 **leased for a gas storage facility under this subsection is public information and**
19 **may be furnished to the Regulatory Commission of Alaska. On request, the**
20 **commissioner shall provide the name of each person using state land leased for a**
21 **gas storage facility under this chapter, the years for which an exemption was**
22 **granted, and the amount of the exemption. Gas withdrawn from a gas storage**
23 **facility regulated under AS 42.05 is considered to be non-native gas and is not**
24 **considered to be produced and subject to royalty until all non-native gas injected**
25 **into the gas storage facility has been withdrawn from the gas storage facility. A**
26 **person receiving an exemption for a payment under this section that contracts to**
27 **store gas for a utility regulated under AS 42.05 shall reduce the storage price to**
28 **reflect the value of the exemption. In this subsection, "ceases commercial**
29 **operation," "commences commercial operation," "gas storage facility," and**
30 **"non-native gas" have the meanings given in AS 31.05.032.**

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

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

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

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

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

12 (k) The cost to the utility of storing gas in a gas storage facility that is allowed
 13 in determining a just and reasonable rate shall reflect the reduction in cost attributable
 14 to any exemption from a payment due under AS 38.05.180(u) and the value of a tax
 15 credit that the owner of the gas storage facility received under AS 43.20.046. The
 16 commission may request the (1) commissioner of natural resources to report the value
 17 of the exemption from a payment due under AS 38.05.180(u) that the gas storage
 18 facility received; and (2) commissioner of revenue to report information on the
 19 amount of tax credits claimed under AS 43.20.046 for the gas storage facility. In this
 20 subsection, "gas storage facility" has the meaning given in AS 31.05.032.

21 * **Sec. 8.** AS 42.05.711 is amended by adding a new subsection to read:

22 (q) The service of natural gas storage furnished by operating a natural gas
 23 storage facility that is (1) part of a pipeline facility operated by a pipeline carrier, (2)
 24 part of a natural gas pipeline facility operated by a natural gas pipeline carrier, or (3)
 25 part of a North Slope natural gas pipeline facility operated by a North Slope natural
 26 gas pipeline carrier is exempt from this chapter. In this subsection, "natural gas
 27 pipeline carrier," "natural gas pipeline facility," "North Slope natural gas pipeline
 28 carrier," "North Slope natural gas pipeline facility," "pipeline carrier," and "pipeline
 29 facility" have the meanings given in AS 42.06.630.

30 * **Sec. 9.** AS 42.05.990(4) is amended to read:

31 (4) "public utility" or "utility" includes every corporation whether

1 public, cooperative, or otherwise, company, individual, or association of individuals,
 2 their lessees, trustees, or receivers appointed by a court, that owns, operates, manages,
 3 or controls any plant, pipeline, or system for

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

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

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

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

12 (E) furnishing for distribution or by distribution petroleum or
 13 petroleum products to the public for compensation when the consumer has no
 14 alternative in the choice of supplier of a comparable product and service at an
 15 equal or lesser price;

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

18 **(G) furnishing the service of natural gas storage to the**
 19 **public for compensation;**

20 * **Sec. 10.** AS 42.05.990 is amended by adding new paragraphs to read:

21 (9) "natural gas storage facility" means a facility that receives natural
 22 gas volumes from customers, holds the gas volumes in a reservoir, and delivers the gas
 23 volumes to the customer; in this paragraph, "facility" includes

24 (A) all parts of the facility from the point at which the natural
 25 gas volumes are received by the facility from the customer to the point at
 26 which the natural gas volumes are delivered by the facility to the customer;

27 (B) a facility consisting of a reservoir, either underground or
 28 aboveground, and one or more of the following components of the facility:

29 (i) pipe;

30 (ii) compressor stations;

31 (iii) station equipment;

1 (iv) injection and extraction wells;

2 (v) on-site or remote monitoring, supervision, and
3 control facilities;

4 (vi) gas processing plants, treaters, and separators;

5 (vii) other equipment necessary to receive, place into
6 the reservoir, monitor, remove from the reservoir, process, and deliver
7 natural gas;

8 (10) "service of natural gas storage" means the operation of a natural
9 gas storage facility primarily or exclusively for the benefit of third-party customers,
10 and not for the benefit of the owner, operator, or manager of the natural gas storage
11 facility; "service of natural gas storage" does not include the storage of natural gas

12 (A) owned by or contractually obligated to the owner, operator,
13 or manager of the natural gas storage facility;

14 (B) that is incidental to the production or sale of natural gas to
15 one or more third-party customers; or

16 (C) for which the price of storage is not separately itemized.

17 * **Sec. 11.** AS 43.05.230 is amended by adding a new subsection to read:

18 (j) The name of each person claiming a credit and the amount of credit
19 claimed by that person under AS 43.20.046 is public information. The commissioner
20 shall furnish the information to the Regulatory Commission of Alaska on request.

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

22 **Sec. 43.20.046. Gas storage facility tax credit.** (a) A person that is an owner
23 of a gas storage facility described in (b) of this section that commences commercial
24 operation after December 31, 2010, and before January 1, 2016, may apply a
25 refundable credit against a tax liability that may be imposed on the person under this
26 chapter for the taxable year in which the gas storage facility commences commercial
27 operation. The tax credit under this section shall be an amount equal to \$1.50 for each
28 1,000 cubic feet of working gas storage capacity that is certified under AS 31.05.032
29 less any amount of credit received under this section taken in earlier tax years for that
30 capacity. The total amount of the credit that may be received for a single gas storage
31 facility under this section may not exceed the lesser of \$15,000,000 or 25 percent of

1 the costs incurred to establish the gas storage facility. The tax credit in this section is
2 in addition to any other credit under this chapter for which the person is eligible.

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

4 (1) must have a working gas storage capacity of at least 500,000,000
5 cubic feet of gas other than cushion gas;

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

9 (3) must not have been in operation as a gas storage facility before
10 January 1, 2011;

11 (4) must be available for the storage of gas that is owned by a utility
12 regulated under AS 42.05; and

13 (5) if located on state land and leased or subject to a lease under
14 AS 38.05.180, must be in compliance with the terms of the lease.

15 (c) To claim the credit, the person shall submit to the department a copy of the
16 certification of working gas storage capacity and withdrawal capability issued under
17 AS 31.05.032, the date that the gas storage facility commenced commercial operation,
18 and other information required by the department. A person applying the credit against
19 a liability under this chapter shall claim the credit on the person's return.

20 (d) A person entitled to a tax credit under this section that is greater than the
21 person's tax liability under this chapter may request a refund in the amount of the
22 unused portion of the tax credit.

23 (e) The department may use available money in the oil and gas tax credit fund
24 established in AS 43.55.028 to make the refund applied for under (d) of this section in
25 whole or in part if the department finds that (1) the claimant does not have an
26 outstanding liability to the state for unpaid delinquent taxes under this title; and (2)
27 after application of all available tax credits, the claimant's total tax liability under this
28 chapter for any taxable year ending before the date of the refund claim is zero. In this
29 subsection, "unpaid delinquent tax" means an amount of tax for which the department
30 has issued an assessment that has not been paid and, if contested, has not been finally
31 resolved in the taxpayer's favor.

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

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

6 (h) If the gas storage facility for which a credit was received under this section
7 ceases commercial operation during the nine calendar years immediately following the
8 calendar year in which the gas storage facility commences commercial operation, the
9 tax liability under this chapter of the person who claimed the credit shall be increased.
10 The amount of the increase in tax liability

11 (1) shall be determined and assessed for the taxable year in which the
12 gas storage facility ceases commercial operation, regardless of whether the gas storage
13 facility subsequently resumes commercial operation; and

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

18 (i) The issuance of a refund under this section does not limit the department's
19 ability to later audit or adjust the claim if the department determines, as a result of the
20 audit, that the person that claimed the credit was not entitled to the amount of the
21 credit. The tax liability of the person receiving the credit under this chapter is
22 increased by the amount of the credit that exceeds that to which the person was
23 entitled. If the tax liability is increased under this subsection, the increase bears
24 interest under AS 43.05.225 from the date the refund was issued.

25 (j) A person claiming a tax credit under this section shall, when contracting
26 with a utility regulated under AS 42.05 to store the utility's gas, reduce the price it
27 would otherwise charge the utility to reflect the value of any tax credits received under
28 this section.

29 (k) A person claiming a tax credit under this section for a gas storage facility
30 that ceases commercial operation within nine calendar years immediately following
31 the calendar year in which the gas storage facility commences commercial operation

1 shall notify the department in writing of the date the gas storage facility ceased
 2 commercial operation. The notice must be filed with the return for the taxable year in
 3 which the gas storage facility ceases commercial operation.

4 (l) A refund under this section does not bear interest.

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

8 * **Sec. 13.** AS 43.55.011(m) is amended to read:

9 (m) Notwithstanding any contrary provision of AS 38.05.180(i),
 10 AS 41.09.010, AS 43.55.024, or 43.55.025, the department shall provide by regulation
 11 a method to ensure that, for a calendar year for which a producer's tax liability is
 12 limited by (j), (k), or (o) of this section, tax credits **based on a lease expenditure**
 13 **incurred before January 1, 2011, that are** otherwise available under
 14 AS 38.05.180(i), AS 41.09.010, AS 43.55.024, or 43.55.025 and allocated to gas
 15 subject to the limitations in (j), (k), and (o) of this section are accounted for as though
 16 the credits had been applied first against a tax liability calculated without regard to the
 17 limitations under (j), (k), and (o) of this section so as to reduce the tax liability to the
 18 maximum amount provided for under (j) or (o) of this section for the production of gas
 19 or (k) of this section for the production of oil. The regulation must provide for a
 20 reasonable method to allocate tax credits to gas subject to (j) and (o) of this section.
 21 Only the amount of a tax credit remaining after the accounting provided for under this
 22 subsection may be used for a later calendar year, transferred to another person, or
 23 applied against a tax levied on the production of oil or gas not subject to (j), (k), or (o)
 24 of this section to the extent otherwise allowed.

25 * **Sec. 14.** AS 43.55.020 is amended by adding a new subsection to read:

26 (i) Cushion gas in a gas storage facility is not considered to be gas used in the
 27 operation of a lease or property or gas used for repressuring as described in (e) of this
 28 section. Gas withdrawn from a gas storage facility regulated under AS 42.05 is
 29 considered to be non-native gas until all non-native gas injected into the gas storage
 30 facility has been withdrawn from the gas storage facility. Non-native gas withdrawn
 31 from a gas storage facility is not considered to be gas produced for the purposes of

1 AS 43.55.011 - 43.55.180. Gas withdrawn from a gas storage facility after all non-
 2 native gas previously injected into the gas storage facility has been withdrawn is gas
 3 considered to be produced from the lease or property for the purposes of AS 43.55.011
 4 - 43.55.180. In this subsection, "gas storage facility," "native gas," and "non-native
 5 gas" have the meanings given in AS 31.05.032.

6 * **Sec. 15.** AS 43.55.023(a) is amended to read:

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

9 (1) notwithstanding that a qualified capital expenditure may be a
 10 deductible lease expenditure for purposes of calculating the production tax value of oil
 11 and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under
 12 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or
 13 explorer that incurs a qualified capital expenditure may also elect to apply a tax credit
 14 against a tax levied by AS 43.55.011(e) in the amount of 20 percent of that
 15 expenditure; **the full amount of the credit for a qualified capital expenditure**
 16 **incurred in the Cook Inlet sedimentary basin after December 31, 2010, may be**
 17 **applied for a single calendar year;** however, not more than half of the tax credit **for**
 18 **a qualified capital expenditure incurred outside of the Cook Inlet sedimentary**
 19 **basin after December 31, 2010,** may be applied for a single calendar year;

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

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

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

27 * **Sec. 16.** AS 43.55.023(d) is amended to read:

28 (d) Except as limited by (i) of this section, a person that is entitled to take a tax
 29 credit under this section that wishes to transfer the unused credit to another person or
 30 obtain a cash payment under AS 43.55.028 may apply to the department for
 31 transferable tax credit certificates. An application under this subsection must be in a

1 form prescribed by the department and must include supporting information and
 2 documentation that the department reasonably requires. The department shall grant or
 3 deny an application, or grant an application as to a lesser amount than that claimed and
 4 deny it as to the excess, not later than 120 days after the latest of (1) March 31 of the
 5 year following the calendar year in which the qualified capital expenditure or carried-
 6 forward annual loss for which the credit is claimed was incurred; (2) the date the
 7 statement required under AS 43.55.030(a) or (e) was filed for the calendar year in
 8 which the qualified capital expenditure or carried-forward annual loss for which the
 9 credit is claimed was incurred; or (3) the date the application was received by the
 10 department. If, based on the information then available to it, the department is
 11 reasonably satisfied that the applicant is entitled to a credit, the department shall,
 12 **except as provided in (n) of this section,** issue the applicant two transferable tax
 13 credit certificates, each for half of the amount of the credit; **the** [. THE] credit shown
 14 on one of the two certificates is available for immediate use. The credit shown on the
 15 second of the two certificates may not be applied against a tax for a calendar year
 16 earlier than the calendar year following the calendar year in which the certificate is
 17 issued, and the certificate must contain a conspicuous statement to that effect; **a** [. A]
 18 certificate issued under this subsection does not expire.

19 * **Sec. 17.** AS 43.55.023(g) is amended to read:

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

1 levied by AS 43.55.011(e).

2 * **Sec. 18.** AS 43.55.023 is amended by adding new subsections to read:

3 (m) A producer or explorer may apply for a tax credit for a Cook Inlet well
4 lease expenditure incurred after December 31, 2010, as follows:

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

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

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

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

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

26 (o) For the purposes of (m) and (n) of this section, a Cook Inlet well lease
27 expenditure is a lease expenditure that is incurred in the Cook Inlet sedimentary basin
28 that is

29 (1) directly related to a well; a lease expenditure is directly related to a
30 well if,

31 (A) during exploration and development, the lease expenditure

1 is a qualified capital expenditure as that term is defined in (l) of this section;

2 (B) during production, the lease expenditure is an expenditure
3 that is intended to increase, enhance, or mitigate the decline of well production
4 and directly related to the processes of operating a well and moving fluids to
5 the assembly of valves, pipes, and fittings used to control the flow of oil and
6 gas from the casinghead, but does not include the processes of gathering,
7 separating, and processing well fluids downstream from that assembly;

8 (2) an overhead expenditure authorized under AS 43.55.165(a)(2) and
9 calculated on the Cook Inlet well lease expenditures allowed under (1) of this
10 subsection; or

11 (3) an expense for seismic work conducted within the boundaries of a
12 production or exploration unit.

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

14 (a) The oil and gas tax credit fund is established as a separate fund of the state.
15 The purpose of the fund is to purchase [CERTAIN] transferable tax credit certificates
16 issued under AS 43.55.023, [AND CERTAIN] production tax credit certificates issued
17 under AS 43.55.025, **and to pay refunds claimed under AS 43.20.046.**

18 * **Sec. 20.** AS 43.55.028(e) is amended to read:

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

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

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

29 **(A)** within 24 months after applying for the transferable tax
30 credit certificate or filing a claim for the production tax credit certificate, the
31 applicant incurred a qualified capital expenditure or was the successful bidder

1 on a bid submitted for a lease on state land under AS 38.05.180(f);

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

7 **(3)** [(4)] the applicant does not have an outstanding liability to the state
8 for unpaid delinquent taxes under this title;

9 **(4)** [(5)] the applicant's total tax liability under AS 43.55.011(e), after
10 application of all available tax credits, for the calendar year in which the application is
11 made is zero;

12 **(5)** [(6)] the applicant's average daily production of oil and gas taxable
13 under AS 43.55.011(e) during the calendar year preceding the calendar year in which
14 the application is made was not more than 50,000 BTU equivalent barrels; and

15 **(6)** [(7)] the purchase is consistent with this section and regulations
16 adopted under this section.

17 * **Sec. 21.** AS 43.55.028(g) is amended to read:

18 (g) The department may adopt regulations to carry out the purposes of this
19 section, including standards and procedures to allocate available money among
20 applications for purchases **under this chapter and claims for refunds under**
21 **AS 43.20.046 when the total amount of the applications for purchase and claims**
22 **for refund exceed** [WHICH EXCEEDS] the amount of available money in the fund.
23 **The regulations adopted by the department may not, when allocating available**
24 **money in the fund under this section, distinguish an application for the purchase**
25 **of a credit certificate issued under AS 43.55.023(n) or a claim for refund under**
26 **AS 43.20.046.**

27 * **Sec. 22.** AS 44.23.020(e) is amended to read:

28 (e) There is established within the Department of Law the function of public
29 advocacy for regulatory affairs. The attorney general shall participate as a party in a
30 matter that comes before the Regulatory Commission of Alaska when the attorney
31 general determines that participation is in the public interest. **When considering**

1 **whether participation is in the public interest, the attorney general shall consider**
2 **the issues the Regulatory Commission of Alaska must take into consideration**
3 **under AS 42.05.141(d).**

4 * **Sec. 23.** This Act takes effect immediately under AS 01.10.070(c).