

**SB**

**153**

<TARGET><BILL>SB 153</BILL><SUBJECT>SB  
153</SUBJECT><COMM>SRES27</COMM></TARGET>

# ALASKA STATE LEGISLATURE



SENATOR JOE THOMAS

## Senate Bill 153:

"An Act relating to a gas storage facility; relating to the tax credit for a gas storage facility; relating to the powers and duties of the Alaska Oil and Gas Conservation Commission; relating to the regulation of natural gas storage as a utility; relating to the powers and duties of the director of the division of lands and to lease fees for a gas storage facility on state land; and providing for an effective date."

The cost of energy is crippling Interior Alaska's economy. The ever increasing expense of heating homes and operating businesses during the long, cold, dark winter hurts the ability of Interior Alaskans to put food on the table today and plan for the future. The Fairbanks community spends over \$600 million per year on space heating, pays the highest natural gas prices in the country and does not receive the state energy incentives or subsidies available to residents and communities in other regions of our state.

Senate Bill 153 incents the private sector's delivery of lower cost natural gas to Interior Alaska by extending tax credits available for natural gas storage in Cook Inlet to a liquid natural gas trucking project for the Interior. A new credit for construction of gas storage tanks makes this program more flexible to fit the varying needs of gas delivery throughout the state. This legislation applies to tanked storage with a minimum volume of one million gallons. The amount of the credit is limited to 50% of construction costs up to \$15 million. This allows areas of Alaska that do not have depleted gas reservoirs available, as Cook Inlet does, to still receive the same monetary incentive as Southcentral despite the higher capital costs per volume associated with constructing above ground tanks for storing LNG.

SB 153 would allow Golden Valley Electric Association, Flint Hills Refinery or another gas supplier to take concrete steps toward delivering sizeable volumes of trucked natural gas to the Interior. All money from these credits for tanked storage would be under the oversight of the Regulatory Commission of Alaska, ensuring that any savings are passed along to the rate payer thereby lowering costs and keeping more dollars in the local community.

I urge you to join me in lowering Interior Alaska's energy costs by supporting Senate Bill 153.

27-LS1187N  
Bullock  
2/1/12

**CS FOR SENATE BILL NO. 153( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SEVENTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): SENATORS THOMAS, Coghill**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to a gas storage facility; relating to the tax credit for a gas storage**  
2 **facility and the expansion of a gas storage facility; relating to the powers and duties of**  
3 **the Alaska Oil and Gas Conservation Commission; relating to the regulation of natural**  
4 **gas storage as a utility; relating to the powers and duties of the director of the division of**  
5 **lands and to lease fees for a gas storage facility on state land; and providing for an**  
6 **effective date."**

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

8 **\* Section 1. AS 31.05.032(b) is amended to read:**

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

11 (1) the working gas storage capacity of the facility on the date the  
12 facility commences commercial operation or the increase in working gas storage  
13 capacity established after December 31, 2010, for a gas storage facility that was in

1 operation before January 1, 2011, on the date the increased capacity commences  
2 commercial operation, rounded to the nearest

3 (A) 500,000,000 cubic feet for nontank storage; or

4 (B) 1,000,000 gallons for tank storage;

5 (2) whether the gas storage facility is capable of withdrawing a  
6 minimum of 10,000,000 cubic feet of gas a day; and

7 (3) that the facility qualifies as a gas storage facility for the purposes of  
8 this section.

9 \* **Sec. 2.** AS 38.05 is amended by adding a new section to read:

10 **Sec. 38.05.096. Exemption from rental payments on land leased for certain**  
11 **gas storage facilities.** (a) A person leasing state land for a gas storage facility other  
12 than a gas storage facility subject to AS 38.05.180(u) may request an exemption from  
13 lease payments as provided in this section. The exemption is applicable for the periods  
14 described in (b) of this section.

15 (b) The exemption is available for the calendar year in which the gas storage  
16 facility commences commercial operation and for each of the nine calendar years  
17 immediately following the first year of commercial operation. However, an exemption  
18 is not applicable for the calendar year after the facility ceases commercial operation or  
19 for any subsequent calendar year.

20 (c) The lessee shall provide the director with any information the director  
21 requests to determine whether the lessee qualifies for the exemption.

22 (d) Information related to state land leased for a gas storage facility qualifying  
23 for the exemption in this section is public information and may be furnished to the  
24 Regulatory Commission of Alaska. On request, the director shall provide the name of  
25 each person using state land leased for a gas storage facility, the years for which an  
26 exemption was granted, and the amount of the exemption.

27 (e) A person receiving an exemption for a payment under this section that  
28 contracts to store gas for a utility regulated under AS 42.05 shall reduce the storage  
29 price to reflect the value of the exemption.

30 (f) In this section, "ceases commercial operation," "commences commercial  
31 operation," and "gas storage facility" have the meanings given in AS 31.05.032.

1 \* **Sec. 3.** AS 42.05.990(3) is amended to read:

2 (3) "natural gas storage facility" means a facility that receives natural  
3 gas volumes from customers, holds the gas volumes in a reservoir, **tank, or depleted**  
4 **or nearly depleted pool,** and delivers the gas volumes to the customer; in this  
5 paragraph, "facility" includes

6 (A) all parts of the facility from the point at which the natural  
7 gas volumes are received by the facility from the customer to the point at  
8 which the natural gas volumes are delivered by the facility to the customer;  
9 **and**

10 (B) [A FACILITY CONSISTING OF A RESERVOIR,  
11 EITHER UNDERGROUND OR ABOVEGROUND, AND] one or more of the  
12 following components of the facility:

13 (i) pipe;

14 (ii) compressor stations;

15 (iii) station equipment;

16 (iv) injection and extraction wells;

17 (v) on-site or remote monitoring, supervision, and  
18 control facilities;

19 (vi) gas processing plants and gas treatment plants, but  
20 not including a liquefied natural gas or manufacturing plant or facility;

21 (vii) other equipment necessary to receive, place into  
22 **storage** [THE RESERVOIR], monitor, remove from **storage** [THE  
23 RESERVOIR, PROCESS], and deliver natural gas;

24 \* **Sec. 4.** AS 43.20.046(a) is amended to read:

25 (a) **Except as provided in (m) of this section, a** [A] person that is an owner  
26 of a gas storage facility described in (b) of this section that commences commercial  
27 operation after December 31, 2010, and before January 1, 2016, may apply a  
28 refundable credit against a tax liability that may be imposed on the person under this  
29 chapter for the taxable year in which the gas storage facility commences commercial  
30 operation. **A tax credit under this section is in addition to any other credit under**  
31 **this chapter for which the person is eligible.** The tax credit under this section **for a**

1                   **(1) nontank storage facility** shall be an amount equal to \$1.50 for  
 2 each 1,000 cubic feet of working gas storage capacity that is certified under  
 3 AS 31.05.032 less any amount of credit received under this section taken in earlier tax  
 4 years for that capacity; ~~the~~ [. THE] total amount of the credit that may be received for  
 5 a single **nontank** [GAS] storage facility under this section may not exceed the lesser  
 6 of \$15,000,000 or 25 percent of the costs incurred to establish the gas storage facility;

7                   **(2) tank storage facility shall be the lesser of \$15,000,000 or 50**  
 8 **percent of the cost incurred to establish the tank storage facility** [. THE TAX  
 9 CREDIT IN THIS SECTION IS IN ADDITION TO ANY OTHER CREDIT UNDER  
 10 THIS CHAPTER FOR WHICH THE PERSON IS ELIGIBLE].

11 \* **Sec. 5.** AS 43.20.046(b) is amended to read:

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

13                   (1) must have a working gas storage capacity of at least

14                   **(A) 500,000,000 cubic feet of gas other than cushion gas for**

15                   **nontank storage; or**

16                   **(B) 1,000,000 gallons for tank storage;**

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

20                   (3) may not have been in operation as a gas storage facility before  
 21 January 1, 2011, **unless the credit is based on the expansion of a gas storage**  
 22 **facility under (m) of this section;**

23                   (4) must be regulated under AS 42.05 as a utility and be available to  
 24 furnish the service of natural gas storage to the public for compensation; in this  
 25 paragraph, "service of natural gas storage" has the meaning given in AS 42.05.990;  
 26 and

27                   (5) if located on state land and leased or subject to a lease under **AS 38**  
 28 **[AS 38.05.180]**, must be in compliance with the terms of the lease.

29 \* **Sec. 6.** AS 43.20.046(d) is amended to read:

30                   (d) A person entitled to a tax credit under this section that is greater than the  
 31 person's tax liability under this chapter may request a refund **or payment** in the

1 amount of the unused portion of the tax credit.

2 \* Sec. 7. AS 43.20.046(e) is amended to read:

3 (e) The department may use available money in the oil and gas tax credit fund  
4 established in AS 43.55.028 to make the refund or payment applied for under (d) of  
5 this section in whole or in part if the department finds that (1) the claimant does not  
6 have an outstanding liability to the state for unpaid delinquent taxes under this title;  
7 and (2) after application of all available tax credits, the claimant's total tax liability  
8 under this chapter for the calendar year in which the claim is made is zero. In this  
9 subsection, "unpaid delinquent tax" means an amount of tax for which the department  
10 has issued an assessment that has not been paid and, if contested, has not been finally  
11 resolved in the taxpayer's favor.

12 \* Sec. 8. AS 43.20.046(h) is amended to read:

13 (h) If the gas storage facility or the expanded portion of the gas storage  
14 facility for which a credit was received under this section ceases commercial  
15 operation during the nine calendar years immediately following the calendar year in  
16 which the gas storage facility or the expanded portion of the gas storage facility  
17 commences commercial operation, the tax liability under this chapter of the person  
18 who claimed the credit shall be increased, and a person not subject to the tax under  
19 this chapter that received a payment under (d) of this section shall be liable to the  
20 state in the amount determined in this subsection. The amount of the increase in  
21 tax liability or liability to the state

22 (1) for a person subject to the tax under this chapter, shall be  
23 determined and assessed for the taxable year in which the gas storage facility ceases  
24 commercial operation, regardless of whether the gas storage facility subsequently  
25 resumes commercial operation; [AND]

26 (2) for a person not subject to the tax due under this chapter, shall  
27 be determined and assessed as of December 31 of the calendar year in which the  
28 gas storage facility or the expanded portion of the gas storage facility ceases  
29 commercial operation, regardless of whether the gas storage facility or the  
30 expanded portion of the gas storage facility subsequently resumes commercial  
31 operation; and

1                   (3) is equal to the total amount of the credit taken or received as a  
2 payment under (d) of this section, as applicable, multiplied by a fraction, the  
3 numerator of which is the difference between 10 and the number of calendar years for  
4 which the gas storage facility or the expanded portion of the gas storage facility  
5 was eligible for a tax credit under this section and the denominator of which is 10.

6 \* **Sec. 9.** AS 43.20.046(i) is amended to read:

7                   (i) The issuance of a refund or payment under this section does not limit the  
8 department's ability to later audit or adjust the claim if the department determines, as a  
9 result of the audit, that the person that claimed the credit was not entitled to the  
10 amount of the credit. The tax liability of the person receiving the credit under this  
11 chapter and that is subject to the tax imposed under this chapter is increased by  
12 the amount of the credit that exceeds that to which the person was entitled; a person  
13 that receives the credit and that is not subject to the tax imposed under this  
14 chapter is liable to the state for the amount of the credit that exceeds that to  
15 which the person was entitled. If the tax liability is increased or a person not  
16 subject to the tax imposed under this chapter is liable to the state under this  
17 subsection, the increase in tax liability or the liability to the state bears interest  
18 under AS 43.05.225 from the date the refund or payment was issued.

19 \* **Sec. 10.** AS 43.20.046(j) is amended to read:

20                   (j) A person taking a tax credit under this section or receiving a payment  
21 under (d) of [CLAIMING A TAX CREDIT UNDER] this section for a gas storage  
22 facility or expanded portion of a gas storage facility that ceases commercial  
23 operation within nine calendar years immediately following the calendar year in which  
24 the gas storage facility or expanded portion of the gas storage facility commences  
25 commercial operation shall notify the department in writing of the date the gas storage  
26 facility or expanded portion of the gas storage facility ceased commercial  
27 operation. The notice must be filed with the return for the taxable year in which the  
28 gas storage facility ceases commercial operation.

29 \* **Sec. 11.** AS 43.20.046(k) is amended to read:

30                   (k) A refund or payment under this section does not bear interest.

31 \* **Sec. 12.** AS 43.20.046 is amended by adding new subsections to read:

1 (m) Notwithstanding (a) of this section, a person that is an owner of a gas  
2 storage facility that commenced commercial operation before January 1, 2011, that  
3 expanded the gas storage facility after December 31, 2010, and that commences  
4 commercial operations after December 31, 2010, and before January 1, 2016, in the  
5 expanded portion of the gas storage facility may apply a refundable credit against a tax  
6 liability that may be imposed on the person under this chapter for the taxable year in  
7 which the expanded portion of the gas storage facility commences commercial  
8 operation. The amount of the credit shall be determined under (a)(1) and (2) of this  
9 section, but shall be based only on the capacity in the expanded portion of the gas  
10 storage facility and cost incurred to expand the gas storage facility after December 31,  
11 2010.

12 (n) In this section, "expanded portion of the gas storage facility" means the  
13 increase in capacity after December 31, 2010, of a gas storage facility that commenced  
14 commercial operations before January 1, 2011.

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

16 (a) The oil and gas tax credit fund is established as a separate fund of the state.  
17 The purpose of the fund is to purchase transferable tax credit certificates issued under  
18 AS 43.55.023 and production tax credit certificates issued under AS 43.55.025 and to  
19 pay refunds and payments claimed under AS 43.20.046.

20 \* **Sec. 14.** AS 43.55.028(g) is amended to read:

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

29 \* **Sec. 15.** This Act takes effect immediately under AS 01.10.070(c).

## Sectional Analysis for Committee Substitute for SB 153\I

**Section 1.** Amends AS 31.05.032(b) to create a new 1,000,000 gallon threshold for new or expanded above ground natural gas tank storage that can be certified by the AOGCC as eligible to apply for the credit under 43.20.046.

**Section 2.** Creates a new section under AS 38.05.096 that allows eligible above ground natural gas tank storage facilities, sited on state lands, to request an exemption from rental payments. To qualify, the tank must have a storage capacity of at least 1,000,000 gallons. The exemption could extend for up to ten years following the commencement of commercial operations as long as the facility continues to operate. Information regarding the rental exemption is deemed to be "public" and is available to the RCA upon request. A person receiving a rental exemption must adjust the storage charge downward to reflect this state benefit and pass it through to the storage customers. The intent of this new section of law is to mirror the existing benefit offered to natural gas storage operations that are eligible to apply for a rental payment exemption under AS 38.05.180(u).

**Section 3.** Amends the definition of "natural gas storage facility" and "facility" in AS 42.05.990(3) to assure that tank storage, or storage in a depleted or nearly depleted pool are afforded the same benefit that geologic natural gas storage already enjoys.

**Section 4.** Amends the existing gas storage facility tax credit in AS 43.20.046 by bifurcating it into two separate credits. The first will apply to non-tank facilities (geologic storage). This benefit is capped at fifteen million dollars or 25 percent of the facility development cost whichever is less. The second is a new credit for a tank storage facility which will be capped at fifteen million dollars or 50 percent of the development cost whichever is less. This restructuring retains existing language that assures that a tax credit under AS 43.20.046 is in addition to any other credits for which the storage facility is eligible for under this chapter.

**Section 5.** Amends the terms of what storage qualifies for a tax credit or payment under AS 43.20.046(b) by adding a 1,000,000 gallon threshold for above ground storage similar to the language in section 1 of the legislation and including the potential for expansion of a new facility allowing for flexibility of who and how this project moves forward.

**Sections 6 and 7.** Amends AS 43.20.046(d)-(e) to add "or payment" for non-profit companies that are not subject to tax under this chapter. Legislative Legal expressed concern that there could be some question whether a "tax credit" would work for tax exempt storage operators. Addition of the words "or payment" extinguishes this ambiguity.

**Section 8.** Amends 43.20.046(h) to set forth how a company not subject to tax under this chapter, but received payments under this chapter shall be assessed for liability if its gas storage facility ceases commercial operations during the nine calendar years immediately following the calendar year in which the gas storage facility commenced commercial operations.

**Section 9.** Amends 43.20.046(i) to clarify that a person that receives a payment under AS 42.20.046 that the person was not entitled to must repay the state with interest determined under AS 43.05.225. This interest shall be calculated from the date the erroneous payment was made. The restructured language assures that storage operators that are subject to state corporate income tax and non-profit storage operators that are exempt from state income tax are treated equally.

**Sections 10-14** make a number of conforming language changes to accommodate addition of the word "payment" in section 6 of the legislation for a new or expanded LNG storage facility..

**Section 15.** Established an immediate effective date for the legislation.

# FISCAL NOTE

**STATE OF ALASKA**  
**2012 LEGISLATIVE SESSION**

Bill Version SB 153  
 Fiscal Note Number \_\_\_\_\_  
 ( ) Publish Date \_\_\_\_\_

Identifier (file name) SB153-DCCED-RCA-02-03-12 Dept. Affected DCCED  
 Title Natural Gas Storage Tax Credit/Regulation Appropriation Regulatory Commission of Alaska  
 Allocation Regulatory Commission of Alaska  
 Sponsor Senator Thomas  
 Requester Senate Resources OMB Component Number 2417

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>	<b>FY13</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>
Personal Services	0.0		0.0	0.0	0.0	0.0	0.0
Travel	0.0		0.0	0.0	0.0	0.0	0.0
Services	0.0		0.0	0.0	0.0	0.0	0.0
Commodities	0.0		0.0	0.0	0.0	0.0	0.0
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>FUND SOURCE</b>		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1141	RCA Rcpts (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>POSITIONS</b>							
Full-time							
Part-time							
Temporary							

<b>CHANGE IN REVENUES</b>							

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required;  
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version

Prepared by T. W. Patch, Chairman  
 Division Regulatory Commission of Alaska  
 Approved by JoEllen Hanrahan, Director Administrative Services  
Commerce, Community, and Economic Development

Phone 276-6222  
 Date/Time 2/3/2012 3:30 p.m.  
 Date 2/3/2012

**FISCAL NOTE**

**STATE OF ALASKA  
2012 LEGISLATIVE SESSION**

**BILL NO. SB 153**

**Analysis**

This legislation is relating to a gas storage facility; relating to the tax credit for a gas storage facility; relating to the powers and duties of the Alaska Oil and Gas Conservation Commission; relating to the regulation of natural gas storage as a utility; relating to the powers and duties of the director of the division of lands and to lease fees for a gas storage facility on state land; and providing for an effective date.

The RCA expects to implement the provisions of this legislation with existing resources.

# FISCAL NOTE

STATE OF ALASKA cost # codes  
 2012 LEGISLATIVE SESSION

Bill Version SB153  
 Fiscal Note Number \_\_\_\_\_  
 Publish Date \_\_\_\_\_

Identifier (file name) SB153-DOA-AOGCC-1-14-12 Dept. Affected Administration  
 Title Natural Gas Storage Tax Credit/Regulation Appropriation Alaska Oil and Gas Cons. Comm.  
 Allocation Alaska Oil and Gas Conservation  
 Commission \_\_\_\_\_  
 Sponsor Senator Thomas  
 Requester Senate Resources OMB Component Number 21

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE** (Thousands of Dollars)

1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS**

Full-time							
Part-time							
Temporary							

**CHANGE IN REVENUES**

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Estimated SUPPLEMENTAL (FY12) operating costs \_\_\_\_\_ (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs \_\_\_\_\_ (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version.

Prepared by Dan Seamount, Commissioner  
 Division Alaska Oil and Gas Conservation Commission  
 Approved by John Cramer, Deputy Commissioner  
Department of Administration

Phone 907-793-1227  
 Date/Time 1/14/12 4:00 PM  
 Date 1/14/2012

**FISCAL NOTE**

**STATE OF ALASKA  
2012 LEGISLATIVE SESSION**

**BILL NO. SB153** \_\_\_\_\_

**Analysis**

This bill will provide an exemption/tax credit/refund/payment of liabilities on land leased for certain gas storage facilities, under certain criteria.

There would be a minimal amount of additional work for the Alaska Oil and Gas Conservation Commission (AOGCC) resulting from this bill and it could be managed with existing funds and staff members. Therefore, the AOGCC submits a zero fiscal note.

# Trucking Liquid Natural Gas to Interior Alaska Project Overview

Golden Valley Electric Association is teaming with Flint Hills Resources to investigate the potential of transporting liquid natural gas from the North Slope to Interior Alaska. The natural gas feedstock for this project is to come from a long-term supply contract on the North Slope. This raw gas would be processed and liquefied at a new facility on the North Slope. It would briefly be stored in a 1,000,000 gallon tank before being trucked to Interior Alaska via specialty trailers. The LNG product will be delivered to a 2,000,000 gallon storage tank located adjacent to the Flint Hills Refinery and the Golden Valley generation plant in North Pole. Here the product will be stored until it is warmed in a new re-gas facility and then made available as natural gas to end users.

The primary initial demand will come from GVEA's new gas turbine and the Flint Hills Refinery to heat North Slope crude oil obtained from the Trans Alaska Pipeline. **This primary demand equals roughly 7 billion cubic feet of gas per year.**

The partners on this project are looking into the possibility of running the delivery trucks off of LNG instead of diesel to bring additional cost savings to the project.

GVEA is reaching out to potential customers to determine if availability of this new resource can be used to help to reduce energy costs further in Interior Alaska. **Through additional capacity available under the gas supply contract from the North Slope producer, space heating and industrial uses could be addressed.**

To help refine the initial project cost numbers, GVEA and Flint Hills have secured the services of CB&I. **The initial work of this firm indicates that the total project cost will be roughly \$220,000,000 to \$245,000,000.** The project estimate currently contains historical cost data that has a margin of error of plus or minus 50 percent.

**The current price range is between \$12 and \$17 dollars per mcf of gas.** Additional work to reduce this uncertainty and thus narrow the range of the expected delivered price.

GVEA is very supportive of a pipeline eventually delivering natural gas to the Interior, the LNG trucking project can be developed immediately and with more certainty.

**The current schedule calls for first gas from the project to be delivered in early 2015.** As GVEA and Flint Hills continue to advance engineering on the concept, there is a possibility that delivery date can be moved forward.

Availability of additional LNG in Interior Alaska will also allow for an expansion of the current piped distribution system as well as initiation of other customer growth. This dynamic will improve the net present value calculations on a future pipeline operation since a larger customer base will be present to take gas off a pipeline immediately.

The main provisions of SB 153 are:

1. The quantitative description for working gas storage eligible for state assistance is modified in AS 31.05.032 and AS 43.20.046 to include a 1,000,000 gallon threshold for above ground LNG tankage.

**Rationale** – As HB 280 was debated and passed in 2010, strong statements were made that the bill was designed to assist the creation of natural gas storage statewide, although Cook Inlet and Interior Alaska were mentioned specifically.

As the legislation progressed, similar statements were made supporting the future need for storage in Fairbanks including comments from agency personnel.

*Marsha Davis – “Well Senator Wielechowski, I am sensitive to the comment that Representative Hawker made that we obviously don’t want to harm the interests in Fairbanks. But obviously if you’ve got gas, I guess the question would be would you ever store gas on the North Slope and then move it to **Fairbanks** or would the storage facilities physically be located someplace around **Fairbanks** for use by the utilities around **Fairbanks**, so you know we would be open to discussion as to how to work that issue with Representative Hawker.” (transcribed from the audio record at 04:24:00 pm of the Senate Resources Audio links for 4/5/2010)*

Although the legislation described a Gas Storage Facility as a “tank or a depleted or nearly depleted reservoir or pool in the state that is available for storage of gas” the quantitative description was written with only geologic storage in mind. As a result, the existing 500,000,000 cubic feet capacity requirement is far bigger than what a reasonable tank needs to be to support a LNG trucking operation to serve the Interior. In order to qualify for the credit under the existing law, GVEA would have to overbuild the LNG storage tank at considerable expense. Under Alaska regulatory law this added expense would be passed on to utility customers who already suffer from extremely high energy costs. Such an outcome would be counter to the intent of HB 280 which was to mitigate the cost of adding storage to the energy supply chain and assure that benefit flows through to Alaska consumers.

2. The ten year lease payment waiver provision of AS 38.05.180(u) is duplicated with the intent that it will also apply to state land leased for a natural gas storage operation under AS 38.35.120.

**Rationale** – At the time HB 280 was debated, the yearly lease cost for natural gas storage, built on state land, was a cost legislators felt they could reduce to relieve the financial burden of storage on consumers. At the time, legislators were not aware that a LNG trucking operation on the North Slope could secure land under AS 38.35. GVEA has since been advised by the State Pipeline Coordinator’s Office that AS 38.35 is available for this purpose and may assist with the timely construction of Interior related gas infrastructure by offering a preferable permitting process. Making the lease payment waiver provision applicable to AS 38.35 honors the intent of HB 280 by lowering the cost of storage resulting in savings that will be passed on to Interior residents.

3. The existing refundable tax credit applicable to eligible gas storage is modified to allow a “payment” to offset the cost of developing storage by an owner that is tax exempt.

**Rationale** – HB 280 established a tax credit to offset the cost of gas storage development that would be applied against the state income tax owed by the gas storage owner. Unfortunately the existing language is cumbersome for not-for-profit utilities that develop the gas storage themselves since they are exempt from state income tax. However, the legislative record indicates that utility ownership of storage was expected. Testimony was given to clarify that the following three storage scenarios were anticipated with the first two qualifying for the credit program and the third receiving no state benefit.

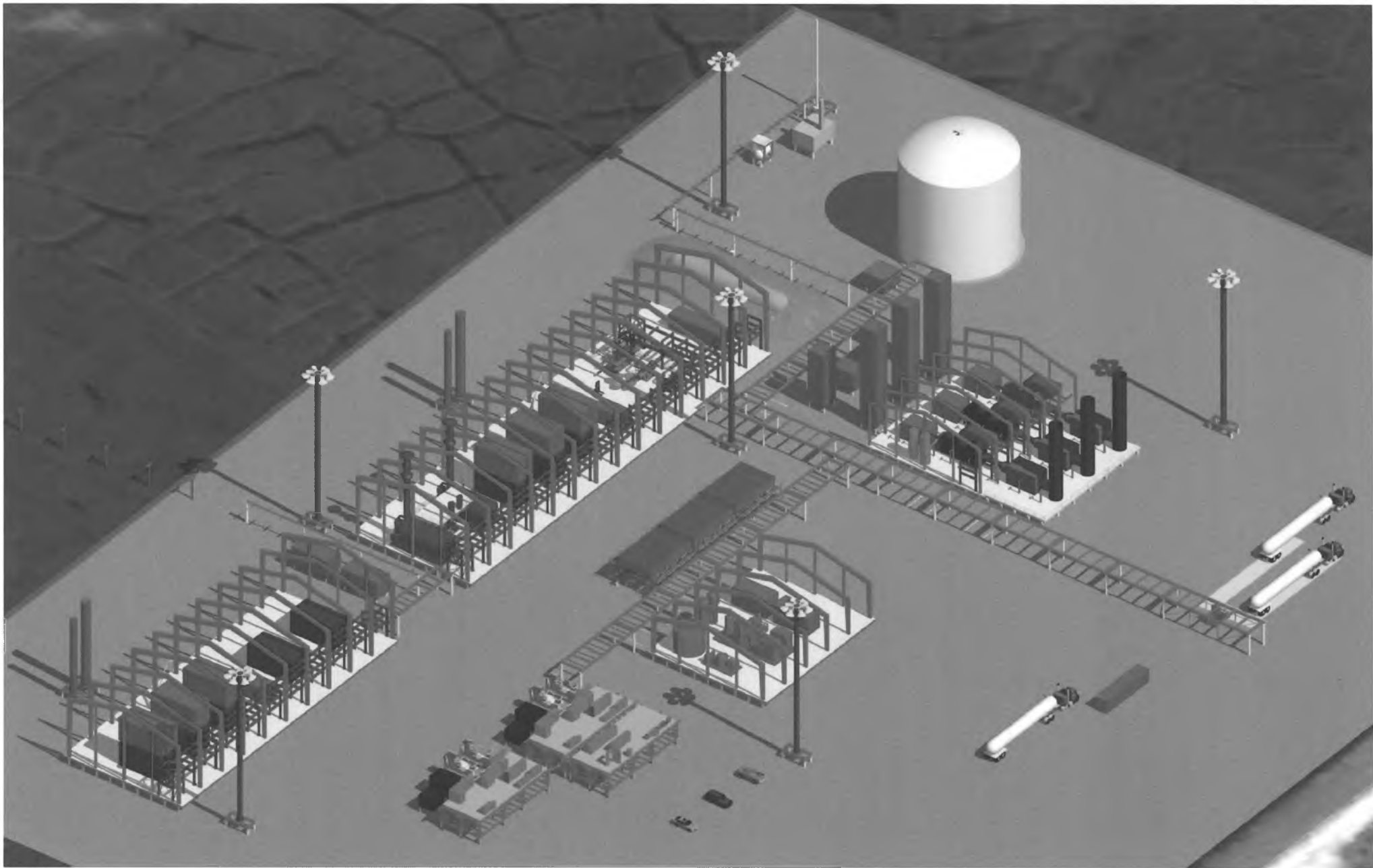
- a. A regulated public utility owns and operates storage.
- b. Open-access third-party storage is offered for a price.
- c. An investor builds storage for their own benefit which is not available on a third-party basis.

To fulfill this legislative intent it may be possible for a utility owned storage facility to qualify under existing Alaska law which states:

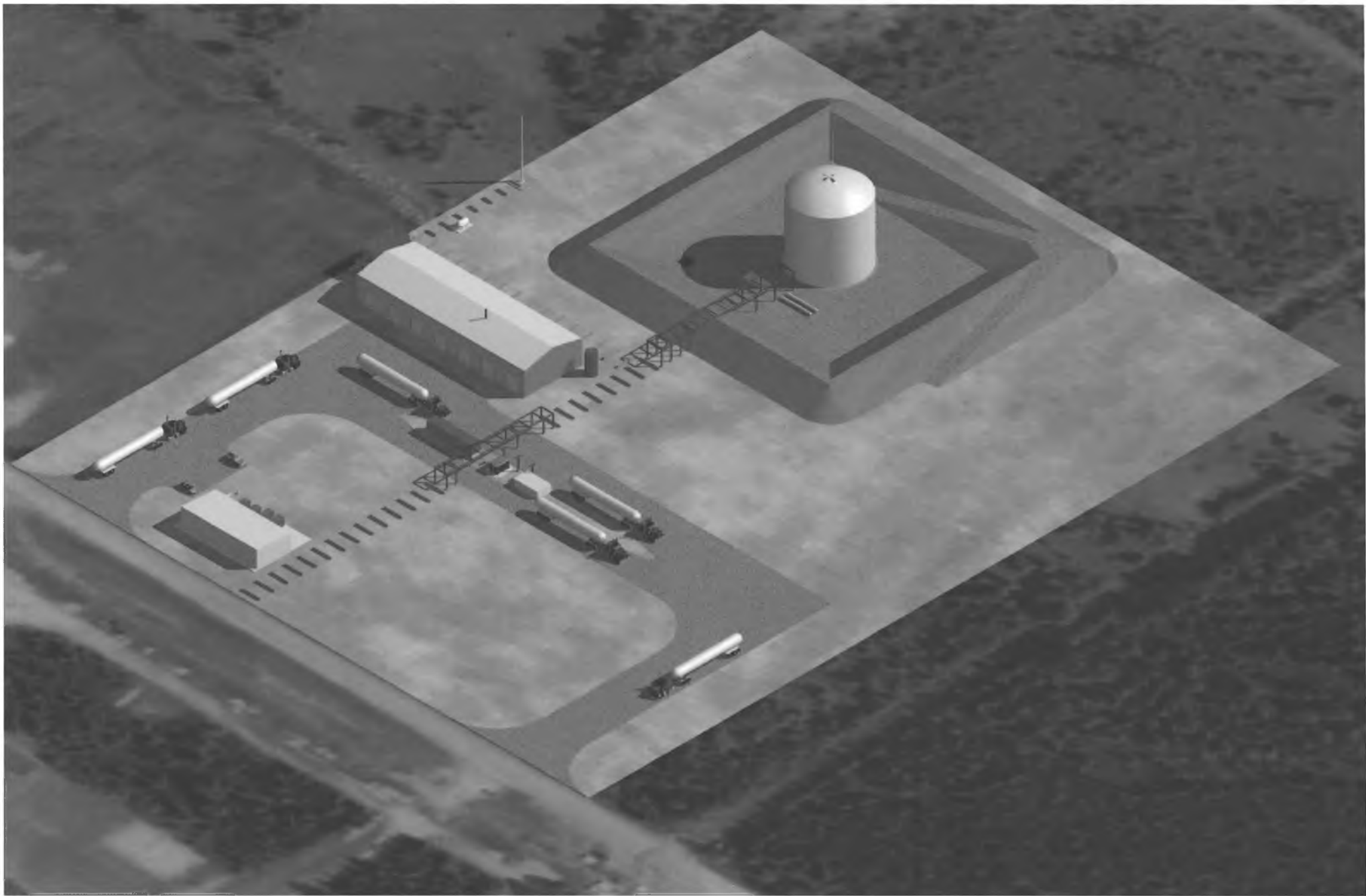
AS 43.20.046(d) A person entitled to a tax credit under this section that is greater than the person’s tax liability under this chapter may request a refund in the amount of the unused portion of the tax credit.

However, the Legislative Division of Legal and Research Services suggested modifications to the tax credit provision that clarify any ambiguity on this issue.

4. Senator Thomas and Representative Thompson intend to propose a change to the bill that would limit the potential state storage credit or payment to \$15,000,000 or 50% of the infrastructure cost; whichever is less.



**Facility Description:** Sour gas pipeline to facility, gas pretreatment, heavies separation and storage, LNG liquefaction and storage, LNG truck loading, LNG truck fueling, LPG truck loading, gas blending, power generation and associated systems -- building, structural supports, piping, electrical, instrumentation & controls, all adequate for arctic climate conditions.



**Facility Description:** LNG truck receiving and offloading, LNG storage, LNG truck fueling, HP & LP vaporization and sendout for separate users (usage) and associated systems -- building, structural supports, piping, electrical, instrumentation & controls adequate for the environmental conditions expected.

# FISCAL NOTE

STATE OF ALASKA cost # codes  
 2012 LEGISLATIVE SESSION

Bill Version SB153  
 Fiscal Note Number \_\_\_\_\_  
 Publish Date \_\_\_\_\_

Identifier (file name) SB153-DOA-AOGCC-1-14-12 Dept. Affected Administration  
 Title Natural Gas Storage Tax Credit/Regulation Appropriation Alaska Oil and Gas Cons. Comm.  
 Allocation Alaska Oil and Gas Conservation  
 Sponsor Senator Thomas Commission \_\_\_\_\_  
 Requester Senate Resources OMB Component Number 2010

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>	<b>FY13</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							
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Estimated SUPPLEMENTAL (FY12) operating costs \_\_\_\_\_ (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs \_\_\_\_\_ (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version.

Prepared by Dan Seamount, Commissioner  
 Division Alaska Oil and Gas Conservation Commission  
 Approved by John Cramer, Deputy Commissioner  
Department of Administration

Phone 907-793-1227  
 Date/Time 1/14/12 4:00 PM  
 Date 1/14/2012

FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. SB153

**Analysis**

This bill will provide an exemption/tax credit/refund/payment of liabilities on land leased for certain gas storage facilities, under certain criteria.

There would be a minimal amount of additional work for the Alaska Oil and Gas Conservation Commission (AOGCC) resulting from this bill and it could be managed with existing funds and staff members. Therefore, the AOGCC submits a zero fiscal note.

# FISCAL NOTE

**STATE OF ALASKA**  
**2012 LEGISLATIVE SESSION**

Bill Version SB 153  
 Fiscal Note Number \_\_\_\_\_  
 ( ) Publish Date \_\_\_\_\_

Identifier (file name) SB153-DOR-TAX-02-07-12 Dept. Affected Revenue  
 Title Natural Gas Storage Tax Credit/Regulation Appropriation Taxation and Treasury  
 Allocation Tax Division  
 Sponsor Senators Thomas and Coghill  
 Requester Senate Resources Committee OMB Component Number 2476

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>	<b>FY13</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>FUND SOURCE</b>		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>POSITIONS</b>							
Full-time							
Part-time							
Temporary							

<b>CHANGE IN REVENUES</b>	***	***	***	***	***	***	***

Estimated SUPPLEMENTAL (FY12) operating costs \_\_\_\_\_ (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs \_\_\_\_\_ (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**Why this fiscal note differs from previous version (if initial version, please note as such)**

This is the initial version of the bill.

Prepared by Cherie Nienhuis, Commercial Analyst  
 Division Tax  
 Approved by Jerry Burnett, Director Administrative Services  
Department of Revenue

Phone 907-269-1019  
 Date/Time 2/7/12; 10am  
 Date 2/7/2012

## FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. SB 153

### Analysis

\*\*\*The revenue impact of this bill is indeterminate.

This bill makes several amendments to the corporate income tax credit authorized at AS 43.20.046 and exempts certain gas storage facilities from lease rental payments. Significant amendments include the following:

1. A new section is added that exempts from lease rental payments the gas storage facilities identified in this bill. Therefore, the revenue impact should include only the additional natural gas storage facilities that may be added under this bill. The revenue impact of this provision is indeterminate at this time.
2. The definition of "natural gas storage facility" has been changed to differentiate tanks and depleted or nearly depleted pools, and distinctions have been made in the volumes that qualify for each type of storage facility. Nontank storage must have a working capacity of at least 500 million cubic feet of gas and tank storage must have a capacity of at least 1 million gallons. One cubic foot of gas equals about 7.4805 gallons; therefore 1 million gallons equals 133,681 cubic feet (or 133.681 thousand cubic feet) of gas.
3. The basis for the maximum tax credit has been changed from the lesser of \$15 million or 25% of the costs to incurred to establish a gas facility, to a maximum of \$15 million, earned at a rate of \$1.50 per 1,000 cubic feet of working gas storage capacity. With this change, a 10 million gallon storage facility would earn a tax credit of approximately \$2,000, regardless of how much it cost to establish the facility (10 million gallons divided by 7.4805 gallons per cubic foot, divided by 1,000, times \$1.50).
4. In the case of a gas storage facility ceasing commercial operation during the nine calendar years following the year that the facility commences commercial operation, the liability to the state must be assessed as of December 31 of the year that the facility ceases operation. For practical purposes, this means that audits must be completed on the facility operations in the year that the operation is ceased. As written, a change of this nature would place a greater burden on the auditors to initiate and conclude an audit in a much shorter timeframe for these operations.

The bill has an immediate effective date.

The Department of Revenue anticipates that it would be able to administer the provisions of this bill with existing resources.

# FISCAL NOTE

**STATE OF ALASKA**  
**2012 LEGISLATIVE SESSION**

Bill Version SB 153  
 Fiscal Note Number \_\_\_\_\_  
 () Publish Date \_\_\_\_\_

Identifier (file name) SB153-DNR-O&G-02-03-12 Dept. Affected Department of Natural Resources  
 Title Natural Gas Storage Tax Credit/Regulation Appropriation Oil & Gas  
 Allocation Oil & Gas  
 Sponsor Senator Thomas  
 Requester Senate Resources Committee OMB Component Number 439

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>	<b>FY13</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>FUND SOURCE</b>		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>POSITIONS</b>							
Full-time							
Part-time							
Temporary							

<b>CHANGE IN REVENUES</b>	***	***	***	***	***	***	***

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**Why this fiscal note differs from previous version (if initial version, please note as such)**

Not applicable, Initial Version

Prepared by William C. Barron, Director  
 Division Division of Oil and Gas  
 Approved by Daniel S. Sullivan, Commissioner  
Department of Natural Resources

Phone 907-269-8800  
 Date/Time 2/3/12 5:00 PM  
 Date \_\_\_\_\_

## FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. SB 153

### Analysis

SB 153 extends provisions encouraging gas storage in subsurface gas storage to also cover tank storage. Section 2 provides that the lessee of a surface lease for gas storage can receive a 10 year exemption from making lease payments. Sections 4 and 5 extend the Alaska corporate income tax credit for subsurface gas storage facilities to tank storage, requiring that a tank be able to store 1,000,000 gallons of gas to qualify.

There is no anticipated fiscal impact to the Division of Oil and Gas. The application of tax credits will have an indeterminate impact on the revenues acquired by the Division.

SB 153 also allows a business entity not subject to the Alaska Corporate Income tax to receive the credit in the form of a cash payment. In addition, for both surface and subsurface storage, the credit under AS 43.20.046(a) can also now exceed 25% of the storage facility cost as long as the total credit for a single facility does not exceed \$15 million.

To the extent new markets are not accessed, the impact of the credit is indeterminate. The credit might not increase the netback value of the gas for royalty purposes because a gas storage facility is regulated under this section, with the value of the credit likely passed on to the consumer. The State's royalty value also might be more or less for gas removed from a lease and put into storage versus gas removed from the lease and sold.

# FISCAL NOTE

**STATE OF ALASKA**  
**2012 LEGISLATIVE SESSION**

Bill Version SB 153  
 Fiscal Note Number \_\_\_\_\_  
 () Publish Date \_\_\_\_\_

Identifier (file name) SB153-DNR-MLW-02-07-12 Dept. Affected Department of Natural Resources  
 Title Natural Gas Storage Tax Credit/Regulation Appropriation Land & Water Resources  
 Allocation Mining Land & Water  
 Sponsor Sen. Thomas  
 Requester Senate Resources OMB Component Number 3002

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous	(12.5)							
<b>TOTAL OPERATING</b>	<b>(12.5)</b>	<b>0.0</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

<b>FUND SOURCE</b>		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF	(12.5)						
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
<b>TOTAL</b>		<b>(12.5)</b>	<b>0.0</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

<b>POSITIONS</b>								
Full-time		0						
Part-time		0						
Temporary		0						

<b>CHANGE IN REVENUES</b>	<b>(12.5)</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>
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Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**Why this fiscal note differs from previous version (if initial version, please note as such)**

Initial Version

Prepared by Brent Goodrum, Director  
 Division Mining Land & Water  
 Approved by Daniel S. Sullivan, Commissioner  
Department of Natural Resources

Phone (907) 269-8625  
 Date/Time 02-07-2012/12:00  
 Date 2/7/2012

FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. SB 153

**Analysis**

SB 153 creates an exemption from land lease payments (for leases issued under AS 38.05.070-105), for up to ten calendar years from date of issuance, for lands leased for gas storage facilities (other than under AS 38.05.180(u)).

This lease payment exemption will reduce revenues equal to the lease payments due to the state related to these types of leases for the years the exemption is allowed. Currently there is one qualifying lease with an annual rent of \$12,500 based on the fair market value of the land leased. The total fiscal impact of this proposed legislation after FY 13 is indeterminate because the number of gas storage leases that may be issued in the future is unknown. Future leases may be issued under oil and gas leases issued under AS 38.05.180.

The legislation will have no effect on the lease issuance or maintenance operations of the department.

# ALASKA STATE LEGISLATURE



SENATOR JOE THOMAS

## Senate Bill 153:

"An Act relating to a gas storage facility; relating to the tax credit for a gas storage facility; relating to the powers and duties of the Alaska Oil and Gas Conservation Commission; relating to the regulation of natural gas storage as a utility; relating to the powers and duties of the director of the division of lands and to lease fees for a gas storage facility on state land; and providing for an effective date."

The cost of energy is crippling Interior Alaska's economy. The ever increasing expense of heating homes and operating businesses during the long, cold, dark winter hurts the ability of Interior Alaskans to put food on the table today and plan for the future. The Fairbanks community spends over \$600 million per year on space heating, pays the highest natural gas prices in the country and does not receive the state energy incentives or subsidies available to residents and communities in other regions of our state.

Senate Bill 153 incents the private sector's delivery of lower cost natural gas to Interior Alaska by extending tax credits available for natural gas storage in Cook Inlet to a liquid natural gas trucking project for the Interior. A new credit for construction of gas storage tanks makes this program more flexible to fit the varying needs of gas delivery throughout the state. This legislation applies to tanked storage with a minimum volume of one million gallons. The amount of the credit is limited to 50% of construction costs up to \$15 million. This allows areas of Alaska that do not have depleted gas reservoirs available, as Cook Inlet does, to still receive the same monetary incentive as Southcentral despite the higher capital costs per volume associated with constructing above ground tanks for storing LNG.

SB 153 would allow Golden Valley Electric Association, Flint Hills Refinery or another gas supplier to take concrete steps toward delivering sizeable volumes of trucked natural gas to the Interior. All money from these credits for tanked storage would be under the oversight of the Regulatory Commission of Alaska, ensuring that any savings are passed along to the rate payer thereby lowering costs and keeping more dollars in the local community.

I urge you to join me in lowering Interior Alaska's energy costs by supporting Senate Bill 153.

The main provisions of HB 289 and SB 153 are:

1. The quantitative description for working gas storage eligible for state assistance is modified in AS 31.05.032 and AS 43.20.046 to include a 1,000,000 gallon threshold for above ground LNG tankage.

**Rationale** – As HB 280 was debated and passed in 2010, strong statements were made that the bill was designed to assist the creation of natural gas storage statewide, although Cook Inlet and Interior Alaska were mentioned specifically.

As the legislation progressed, similar statements were made supporting the future need for storage in Fairbanks including comments from agency personnel.

*Marsha Davis – “Well Senator Wielechowski, I am sensitive to the comment that Representative Hawker made that we obviously don't want to harm the interests in Fairbanks. But obviously if you've got gas, I guess the question would be would you ever store gas on the North Slope and then move it to Fairbanks or would the storage facilities physically be located someplace around Fairbanks for use by the utilities around Fairbanks, so you know we would be open to discussion as to how to work that issue with Representative Hawker.” (transcribed from the audio record at 04:24:00 pm of the Senate Resources Audio links for 4/5/2010)*

Although the legislation described a Gas Storage Facility as a “tank or a depleted or nearly depleted reservoir or pool in the state that is available for storage of gas” the quantitative description was written with only geologic storage in mind. As a result, the existing 500,000,000 cubic feet capacity requirement is far bigger than what a reasonable tank needs to be to support a LNG trucking operation to serve the Interior. In order to qualify for the credit under the existing law, GVEA would have to overbuild the LNG storage tank at considerable expense. Under Alaska regulatory law this added expense would be passed on to utility customers who already suffer from extremely high energy costs. Such an outcome would be counter to the intent of HB 280 which was to mitigate the cost of adding storage to the energy supply chain and assure that benefit flows through to Alaska consumers.

2. The ten year lease payment waiver provision of AS 38.05.180(u) is duplicated with the intent that it will also apply to state land leased for a natural gas storage operation under AS 38.35.120.

**Rationale** – At the time HB 280 was debated, the yearly lease cost for natural gas storage, built on state land, was a cost legislators felt they could reduce to relieve the financial burden of storage on consumers. At the time, legislators were not aware that a LNG trucking operation on the North Slope could secure land under AS 38.35. GVEA has since been advised by the State Pipeline Coordinator's Office that AS 38.35 is available for this purpose and may assist with the timely construction of Interior related gas infrastructure by offering a preferable permitting process. Making the lease payment waiver provision applicable to AS 38.35 honors the intent of HB 280 by lowering the cost of storage resulting in savings that will be passed on to Interior residents.

3. The existing refundable tax credit applicable to eligible gas storage is modified to allow a “payment” to offset the cost of developing storage by an owner that is tax exempt.

**Rationale** – HB 280 established a tax credit to offset the cost of gas storage development that would be applied against the state income tax owed by the gas storage owner. Unfortunately the existing language is cumbersome for not-for-profit utilities that develop the gas storage themselves since they are exempt from state income tax. However, the legislative record indicates that utility ownership of storage was expected. Testimony was given to clarify that the following three storage scenarios were anticipated with the first two qualifying for the credit program and the third receiving no state benefit.

- a. A regulated public utility owns and operates storage.
- b. Open-access third-party storage is offered for a price.
- c. An investor builds storage for their own benefit which is not available on a third-party basis.

To fulfill this legislative intent it may be possible for a utility owned storage facility to qualify under existing Alaska law which states:

AS 43.20.046(d) A person entitled to a tax credit under this section that is greater than the person’s tax liability under this chapter may request a refund in the amount of the unused portion of the tax credit.

However, the Legislative Division of Legal and Research Services suggested modifications to the tax credit provision that clarify any ambiguity on this issue.

4. Senator Thomas and Representative Thompson intend to propose a change to the bill that would limit the potential state storage credit or payment to \$15,000,000 or 50% of the infrastructure cost; whichever is less.

## **Sectional Analysis for Sponsor Substitute for SB 153**

### **\B version dated 1.16.12**

**Section 1.** Amends AS 31.05.032(b) to create as new 1,000,000 gallon threshold for above ground natural gas tank storage that can be certified by the AOGCC as eligible to apply for exemptions from land lease payments under AS 38.05.096 or AS 38.05.180(u) and tax credits or payments under AS 43.20.046.

**Section 2.** Creates a new section under AS 38.05.096 that allows eligible above ground natural gas tank storage facilities, sited on state lands, to request an exemption from rental payments. To qualify, the tank must have a storage capacity of at least 1,000,000 gallons. The exemption could extend for up to ten years following the commencement of commercial operations as long as the facility continues to operate. Information regarding the rental exemption is deemed to be “public” and is available to the RCA upon request. A person receiving a rental exemption must adjust the storage charge downward to reflect this state benefit and pass it through to the storage customers. The intent of this new section of law is to mirror the existing benefit offered to natural gas storage operations that are eligible to apply for a rental payment exemption under AS 38.05.180(u).

**Section 3.** Amends the definition of “natural gas storage facility” and “facility” in AS 42.05.990(3) to assure that tank storage, or storage in a depleted or nearly depleted pool are afforded the same benefit that geologic natural gas storage already enjoys.

**Section 4.** Amends the existing gas storage facility tax credit in AS 43.20.046 by bifurcating it into two separate credits. The first will apply to non-tank facilities (geologic storage). This benefit is capped at fifteen million dollars or 25 percent of the facility development cost whichever is less. The second is a new credit for a tank storage facility which will be capped at fifteen million dollars or 50 percent of the development cost whichever is less. This restructuring retains existing language that assures that a tax credit under AS 43.20.046 is in addition to any other credits for which the storage facility is eligible for under this chapter.

**Section 5.** Amends the terms of what storage qualifies for a tax credit or payment under AS 43.20.046(b) by adding a 1,000,000 gallon threshold for above ground storage similar to the language in section 1 of the legislation.

**Sections 6 and 7.** Amends AS 43.20.046(d)-(e) to add “or payment” for non-profit companies that are not subject to tax under this chapter. Legislative Legal expressed concern that there could be some question whether a “tax credit” would work for tax exempt storage operators. Addition of the words “or payment” extinguishes this ambiguity.

**Section 8.** Amends AS 43.20.046(h) to set forth how a company not subject to tax under this chapter, but received payments under this chapter shall be assessed for liability if its gas storage facility ceases commercial operations during the nine calendar years immediately following the calendar year in which the gas storage facility commenced commercial operations.

**Section 9.** Amends 43.20.046(i) to clarify that a person that receives a payment under AS 42.20.046 that the person was not entitled to must repay the state with interest determined under AS 43.05.225. This interest shall be calculated from the date the erroneous payment was made. The restructured language assures that storage operators that are subject to state corporate income tax and non-profit storage operators that are exempt from state income tax are treated equally.

**Sections 10-13** make a number of conforming language changes to accommodate addition of the word “payment” in section 6 of the legislation.

**Section 14.** Established an immediate effective date for the legislation.

27-LS1187\B  
Bullock  
1/16/12

**SPONSOR SUBSTITUTE FOR SENATE BILL NO. 153**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SEVENTH LEGISLATURE - SECOND SESSION**

**BY SENATOR THOMAS**

**Introduced:**  
**Referred:**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to a gas storage facility; relating to the tax credit for a gas storage**  
2 **facility; relating to the powers and duties of the Alaska Oil and Gas Conservation**  
3 **Commission; relating to the regulation of natural gas storage as a utility; relating to the**  
4 **powers and duties of the director of the division of lands and to lease fees for a gas**  
5 **storage facility on state land; and providing for an effective date."**

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

7 **\* Section 1.** AS 31.05.032(b) is amended to read:

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

10 (1) the working gas storage capacity of the facility on the date the  
11 facility commences commercial operation rounded to the nearest

12 **(A) 500,000,000 cubic feet for nontank storage; or**

13 **(B) 1,000,000 gallons for tank storage;**

1 (2) whether the gas storage facility is capable of withdrawing a  
2 minimum of 10,000,000 cubic feet of gas a day; and

3 (3) that the facility qualifies as a gas storage facility for the purposes of  
4 this section.

5 \* **Sec. 2.** AS 38.05 is amended by adding a new section to read:

6 **Sec. 38.05.096. Exemption from rental payments on land leased for certain**  
7 **gas storage facilities.** (a) A person leasing state land for a gas storage facility other  
8 than a gas storage facility subject to AS 38.05.180(u) may request an exemption from  
9 lease payments as provided in this section. The exemption is applicable for the periods  
10 described in (b) of this section.

11 (b) The exemption is available for the calendar year in which the gas storage  
12 facility commences commercial operation and for each of the nine calendar years  
13 immediately following the first year of commercial operation. However, an exemption  
14 is not applicable for the calendar year after the facility ceases commercial operation or  
15 for any subsequent calendar year.

16 (c) The lessee shall provide the director with any information the director  
17 requests to determine whether the lessee qualifies for the exemption.

18 (d) Information related to state land leased for a gas storage facility qualifying  
19 for the exemption in this section is public information and may be furnished to the  
20 Regulatory Commission of Alaska. On request, the director shall provide the name of  
21 each person using state land leased for a gas storage facility, the years for which an  
22 exemption was granted, and the amount of the exemption.

23 (e) A person receiving an exemption for a payment under this section that  
24 contracts to store gas for a utility regulated under AS 42.05 shall reduce the storage  
25 price to reflect the value of the exemption.

26 (f) In this section, "ceases commercial operation," "commences commercial  
27 operation," and "gas storage facility" have the meanings given in AS 31.05.032.

28 \* **Sec. 3.** AS 42.05.990(3) is amended to read:

29 (3) "natural gas storage facility" means a facility that receives natural  
30 gas volumes from customers, holds the gas volumes in a reservoir, **tank, or depleted**  
31 **or nearly depleted pool,** and delivers the gas volumes to the customer; in this

1 paragraph, "facility" includes

2 (A) all parts of the facility from the point at which the natural  
3 gas volumes are received by the facility from the customer to the point at  
4 which the natural gas volumes are delivered by the facility to the customer;

5 **and**

6 (B) [A FACILITY CONSISTING OF A RESERVOIR,  
7 EITHER UNDERGROUND OR ABOVEGROUND, AND] one or more of the  
8 following components of the facility:

9 (i) pipe;

10 (ii) compressor stations;

11 (iii) station equipment;

12 (iv) injection and extraction wells;

13 (v) on-site or remote monitoring, supervision, and  
14 control facilities;

15 (vi) gas processing plants and gas treatment plants, but  
16 not including a liquefied natural gas or manufacturing plant or facility;

17 (vii) other equipment necessary to receive, place into  
18 **storage** [THE RESERVOIR], monitor, remove from **storage** [THE  
19 RESERVOIR, PROCESS], and deliver natural gas;

20 \* **Sec. 4.** AS 43.20.046(a) is amended to read:

21 (a) A person that is an owner of a gas storage facility described in (b) of this  
22 section that commences commercial operation after December 31, 2010, and before  
23 January 1, 2016, may apply a refundable credit against a tax liability that may be  
24 imposed on the person under this chapter for the taxable year in which the gas storage  
25 facility commences commercial operation. **A tax credit under this section is in**  
26 **addition to any other credit under this chapter for which the person is eligible.**

27 The tax credit under this section **for a**

28 **(1) nontank storage facility** shall be an amount equal to \$1.50 for  
29 each 1,000 cubic feet of working gas storage capacity that is certified under  
30 AS 31.05.032 less any amount of credit received under this section taken in earlier tax  
31 years for that capacity; **the** [. THE] total amount of the credit that may be received for

1 a single nontank [GAS] storage facility under this section may not exceed the lesser  
2 of \$15,000,000 or 25 percent of the costs incurred to establish the gas storage facility;

3 (2) tank storage facility shall be the lesser of \$15,000,000 or 50  
4 percent of the cost incurred to establish the tank storage facility [. THE TAX  
5 CREDIT IN THIS SECTION IS IN ADDITION TO ANY OTHER CREDIT UNDER  
6 THIS CHAPTER FOR WHICH THE PERSON IS ELIGIBLE].

7 \* **Sec. 5.** AS 43.20.046(b) is amended to read:

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

9 (1) must have a working gas storage capacity of at least

10 (A) 500,000,000 cubic feet of gas other than cushion gas for  
11 nontank storage; or

12 (B) 1,000,000 gallons for tank storage;

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

16 (3) may not have been in operation as a gas storage facility before  
17 January 1, 2011;

18 (4) must be regulated under AS 42.05 as a utility and be available to  
19 furnish the service of natural gas storage to the public for compensation; in this  
20 paragraph, "service of natural gas storage" has the meaning given in AS 42.05.990;  
21 and

22 (5) if located on state land and leased or subject to a lease under AS 38  
23 [AS 38.05.180], must be in compliance with the terms of the lease.

24 \* **Sec. 6.** AS 43.20.046(d) is amended to read:

25 (d) A person entitled to a tax credit under this section that is greater than the  
26 person's tax liability under this chapter may request a refund or payment in the  
27 amount of the unused portion of the tax credit.

28 \* **Sec. 7.** AS 43.20.046(e) is amended to read:

29 (e) The department may use available money in the oil and gas tax credit fund  
30 established in AS 43.55.028 to make the refund or payment applied for under (d) of  
31 this section in whole or in part if the department finds that (1) the claimant does not

1 have an outstanding liability to the state for unpaid delinquent taxes under this title;  
2 and (2) after application of all available tax credits, the claimant's total tax liability  
3 under this chapter for the calendar year in which the claim is made is zero. In this  
4 subsection, "unpaid delinquent tax" means an amount of tax for which the department  
5 has issued an assessment that has not been paid and, if contested, has not been finally  
6 resolved in the taxpayer's favor.

7 \* **Sec. 8.** AS 43.20.046(h) is amended to read:

8 (h) If the gas storage facility for which a credit was received under this section  
9 ceases commercial operation during the nine calendar years immediately following the  
10 calendar year in which the gas storage facility commences commercial operation, the  
11 tax liability under this chapter of the person who claimed the credit shall be increased,  
12 **and a person not subject to the tax under this chapter that received a payment**  
13 **under (d) of this section shall be liable to the state in the amount determined in**  
14 **this subsection.** The amount of the increase in tax liability **or liability to the state**

15 (1) **for a person subject to the tax under this chapter,** shall be  
16 determined and assessed for the taxable year in which the gas storage facility ceases  
17 commercial operation, regardless of whether the gas storage facility subsequently  
18 resumes commercial operation; [AND]

19 (2) **for a person not subject to the tax due under this chapter, shall**  
20 **be determined and assessed as of December 31 of the calendar year in which the**  
21 **gas storage facility ceases commercial operation, regardless of whether the gas**  
22 **storage facility subsequently resumes commercial operation; and**

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

28 \* **Sec. 9.** AS 43.20.046(i) is amended to read:

29 (i) The issuance of a refund **or payment** under this section does not limit the  
30 department's ability to later audit or adjust the claim if the department determines, as a  
31 result of the audit, that the person that claimed the credit was not entitled to the

1 amount of the credit. The tax liability of the person receiving the credit under this  
2 chapter and that is subject to the tax imposed under this chapter is increased by  
3 the amount of the credit that exceeds that to which the person was entitled; a person  
4 that receives the credit and that is not subject to the tax imposed under this  
5 chapter is liable to the state for the amount of the credit that exceeds that to  
6 which the person was entitled. If the tax liability is increased or a person not  
7 subject to the tax imposed under this chapter is liable to the state under this  
8 subsection, the increase in tax liability or the liability to the state bears interest  
9 under AS 43.05.225 from the date the refund or payment was issued.

10 \* **Sec. 10.** AS 43.20.046(j) is amended to read:

11 (j) A person taking a tax credit under this section or receiving a payment  
12 under (d) of [CLAIMING A TAX CREDIT UNDER] this section for a gas storage  
13 facility that ceases commercial operation within nine calendar years immediately  
14 following the calendar year in which the gas storage facility commences commercial  
15 operation shall notify the department in writing of the date the gas storage facility  
16 ceased commercial operation. The notice must be filed with the return for the taxable  
17 year in which the gas storage facility ceases commercial operation.

18 \* **Sec. 11.** AS 43.20.046(k) is amended to read:

19 (k) A refund or payment under this section does not bear interest.

20 \* **Sec. 12.** AS 43.55.028(a) is amended to read:

21 (a) The oil and gas tax credit fund is established as a separate fund of the state.  
22 The purpose of the fund is to purchase transferable tax credit certificates issued under  
23 AS 43.55.023 and production tax credit certificates issued under AS 43.55.025 and to  
24 pay refunds and payments claimed under AS 43.20.046.

25 \* **Sec. 13.** AS 43.55.028(g) is amended to read:

26 (g) The department may adopt regulations to carry out the purposes of this  
27 section, including standards and procedures to allocate available money among  
28 applications for purchases under this chapter and claims for refunds and payments  
29 under AS 43.20.046 when the total amount of the applications for purchase and claims  
30 for refund exceed the amount of available money in the fund. The regulations adopted  
31 by the department may not, when allocating available money in the fund under this

- 1 section, distinguish an application for the purchase of a credit certificate issued under
- 2 AS 43.55.023(m) or a claim for refund under AS 43.20.046.
- 3 \* **Sec. 14.** This Act takes effect immediately under AS 01.10.070(c).

27-LS1187D  
Bullock  
3/5/12

**CS FOR SENATE BILL NO. 153( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-SEVENTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**

**Referred:**

**Sponsor(s): SENATORS THOMAS, Coghill**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to an above-ground liquefied natural gas storage facility; relating to**  
2 **the tax credit for an investment in an above-ground liquefied natural gas storage**  
3 **facility; relating to the regulation of gas storage as a utility; relating to the powers and**  
4 **duties of the director of the division of lands and to lease fees for a liquefied natural gas**  
5 **storage facility on state land; and providing for an effective date."**

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

7 **\* Section 1.** AS 38.05 is amended by adding a new section to read:

8 **Sec. 38.05.096. Exemption from rental payments on land leased for certain**  
9 **liquefied natural gas storage facilities.** (a) A person leasing state land for a liquefied  
10 natural gas storage facility other than a gas storage facility subject to AS 38.05.180(u)  
11 may request an exemption from lease payments as provided in this section. The  
12 exemption is applicable for the periods described in (b) of this section.

13 (b) The exemption is available for the calendar year in which the liquefied

1 natural gas storage facility commences commercial operation and for each of the nine  
2 calendar years immediately following the first year of commercial operation.  
3 However, an exemption is not applicable for the calendar year after the facility ceases  
4 commercial operation or for any subsequent calendar year.

5 (c) The lessee shall provide the director with any information the director  
6 requests to determine whether the lessee qualifies for the exemption.

7 (d) Information related to state land leased for a liquefied natural gas storage  
8 facility qualifying for the exemption in this section is public information and may be  
9 furnished to the Regulatory Commission of Alaska. On request, the director shall  
10 provide the name of each person using state land leased for a liquefied natural gas  
11 storage facility, the years for which an exemption was granted, and the amount of the  
12 exemption.

13 (e) A person receiving an exemption for a payment under this section that  
14 contracts to store liquefied natural gas for a utility regulated under AS 42.05 shall  
15 reduce the storage price to reflect the value of the exemption.

16 (f) In this section,

17 (1) "ceases commercial operation" and "commences commercial  
18 operation" have the meanings given in AS 31.05.032;

19 (2) "liquefied natural gas storage facility" means a tank that is  
20 available for the storage of liquefied natural gas.

21 \* **Sec. 2.** AS 42.05.990(3) is amended to read:

22 (3) "natural gas storage facility" means a facility that receives natural  
23 gas volumes either as gas or liquefied natural gas from customers, holds the gas  
24 volumes in a reservoir, tank, depleted or nearly depleted pool, or other above-  
25 ground containment structure, and delivers the gas volumes to the customer; in this  
26 paragraph, "facility" includes

27 (A) all parts of the facility from the point at which the natural  
28 gas volumes are received by the facility from the customer to the point at  
29 which the natural gas volumes are delivered by the facility to the customer;  
30 **and**

31 (B) [A FACILITY CONSISTING OF A RESERVOIR,

1 EITHER UNDERGROUND OR ABOVEGROUND, AND] one or more of the  
2 following components of the facility:

3 (i) pipe;

4 (ii) compressor stations;

5 (iii) station equipment;

6 (iv) injection and extraction wells;

7 (v) on-site or remote monitoring, supervision, and  
8 control facilities;

9 (vi) gas processing plants and gas treatment plants, but  
10 not including a liquefied natural gas or manufacturing plant or facility;

11 (vii) other equipment necessary to receive, place into  
12 storage [THE RESERVOIR], monitor, remove from storage [THE  
13 RESERVOIR], process, and deliver natural gas;

14 \* **Sec. 3.** AS 43.20 is amended by adding a new section to article 1 to read:

15 **Sec. 43.20.047. Above-ground liquefied natural gas storage facility tax**  
16 **credit.** (a) A person that is an owner of an above-ground liquefied natural gas storage  
17 facility described in (b) of this section that commences commercial operation before  
18 January 1, 2020, may apply a refundable credit against a tax liability that may be  
19 imposed on the person under this chapter or receive the amount of the credit in the  
20 form of a payment for the taxable year in which the liquefied natural gas storage  
21 facility commences commercial operation. The tax credit or payment under this  
22 section may not exceed the lesser of \$15,000,000 or 50 percent of the costs incurred to  
23 establish or expand the above-ground liquefied natural gas storage facility. The tax  
24 credit in this section is in addition to any other credit under this chapter for which the  
25 person is eligible.

26 (b) To qualify for the credit in this section, an above-ground liquefied natural  
27 gas storage facility

28 (1) must have a liquefied natural gas storage volume of not less than  
29 25,000 gallons of liquefied natural gas, or, if the credit is claimed for an expansion, the  
30 expansion must have increased the capacity of an existing above-ground liquefied  
31 natural gas storage facility by more than 25,000 gallons;

1 (2) may not have been in operation as an above-ground liquefied  
2 natural gas storage facility before January 1, 2011, unless the tax credit in this section  
3 is based on the expansion of the above-ground liquefied natural gas storage facility  
4 after December 31, 2011;

5 (3) must be regulated under AS 42.05 as a utility and be available to  
6 furnish the service of natural gas storage to customers, utilities, or industrial facilities;  
7 in this paragraph, "service of natural gas storage" has the meaning given in  
8 AS 42.05.990, except that, in this paragraph, the natural gas storage is limited to the  
9 service of liquefied natural gas storage;

10 (4) if located on state land and leased or subject to a lease under  
11 AS 38.05, must be in compliance with the terms of the lease; and

12 (5) must have commenced commercial operation on or before the date  
13 the person takes a credit under (a) of this section or applies for a payment under (a) of  
14 this section.

15 (c) To claim the credit or request a payment, a person shall submit to the  
16 department a certification of the capacity of the above-ground liquefied natural gas  
17 storage facility measured in gallons or the capacity of an expansion to an existing  
18 above-ground liquefied natural gas storage facility measured in gallons, the date that  
19 the liquefied natural gas storage facility commenced commercial operation, the date  
20 that any expansion to the facility commenced commercial operation, and other  
21 information required by the department.

22 (d) A person applying the credit under this section against a liability under this  
23 chapter shall claim the credit on the person's return. A person entitled to a tax credit  
24 under this section that is greater than the person's tax liability under this chapter may  
25 request a refund or payment in the amount of the unused portion of the tax credit.

26 (e) The department may use money available in the oil and gas tax credit fund  
27 established in AS 43.55.028 to make a refund or payment under (d) of this section in  
28 whole or in part if the department finds that (1) the claimant does not have an  
29 outstanding liability to the state for unpaid delinquent taxes under this title; and (2)  
30 after application of all available tax credits, the claimant's total tax liability under this  
31 chapter for the calendar year in which the claim is made is zero. In this subsection,

1 "unpaid delinquent tax" means an amount of tax for which the department has issued  
2 an assessment that has not been paid and, if contested, has not been finally resolved in  
3 the taxpayer's favor.

4 (f) For the purpose of determining the amount of the credit under this section,  
5 the costs incurred to establish an above-ground liquefied natural gas storage facility or  
6 to expand an above-ground liquefied natural gas storage facility shall be submitted to  
7 the department with verification by an independent certified public accountant,  
8 licensed in the state. The volume of working liquefied natural gas storage or volume of  
9 the expansion to an existing above-ground liquefied natural gas storage facility shall  
10 be verified by a professional engineer licensed in the state with relevant experience.

11 (g) A person may not receive a credit under this section for the acquisition of  
12 an above-ground liquefied natural gas storage facility for which a credit has been  
13 taken under this section.

14 (h) If the above-ground liquefied natural gas storage facility for which a credit  
15 was received under this section ceases commercial operation during the nine calendar  
16 years immediately following the calendar year in which the liquefied natural gas  
17 storage facility commences commercial operation, the tax liability under this chapter  
18 of the person who claimed the credit shall be increased, and a person not subject to the  
19 tax under this chapter that received a payment under (d) and (e) of this section shall be  
20 liable to the state in the amount determined in this subsection. The amount of the  
21 increase in tax liability or liability to the state

22 (1) for a person subject to the tax under this chapter, shall be  
23 determined and assessed for the taxable year in which the liquefied natural gas storage  
24 facility ceases commercial operation, regardless of whether the liquefied natural gas  
25 storage facility subsequently resumes commercial operation;

26 (2) for a person not subject to the tax due under this chapter, shall be  
27 determined and assessed as of December 31 of the calendar year in which the liquefied  
28 natural gas storage facility ceases commercial operation, regardless of whether the  
29 liquefied natural gas storage facility subsequently resumes commercial operation; and

30 (3) is equal to the total amount of the credit taken or received as a  
31 payment under (d) of this section, as applicable, multiplied by a fraction, the

1 numerator of which is the difference between 10 and the number of calendar years for  
2 which the liquefied natural gas storage facility was eligible for a tax credit under this  
3 section and the denominator of which is 10.

4 (i) The issuance of a refund under this section does not limit the department's  
5 ability to later audit or adjust the claim if the department determines, as a result of the  
6 audit, that the person that claimed the credit was not entitled to the amount of the  
7 credit. The tax liability of the person receiving the credit under this chapter is  
8 increased by the amount of the credit that exceeds that to which the person was  
9 entitled. If the tax liability is increased under this subsection, the increase bears  
10 interest at the rate set by AS 43.05.225 from the date the refund was issued.

11 (j) A person claiming a tax credit under this section for a liquefied natural gas  
12 storage facility that ceases commercial operation within nine calendar years  
13 immediately following the calendar year in which the liquefied natural gas storage  
14 facility commences commercial operation shall notify the department in writing of the  
15 date the liquefied natural gas storage facility ceased commercial operation. The notice  
16 must be filed with the return for the taxable year in which the liquefied natural gas  
17 storage facility ceases commercial operation.

18 (k) A refund under this section does not bear interest.

19 (l) In this section,

20 (1) "ceases commercial operation" means that the above-ground  
21 liquefied natural gas storage facility fails to add or withdraw 20 percent or more of its  
22 working capacity of liquefied natural gas during a calendar year after the calendar year  
23 in which the above-ground liquefied natural gas storage facility commences  
24 commercial operation;

25 (2) "commences commercial operation" means the first input of  
26 liquefied natural gas into a liquefied natural gas storage facility for purposes other than  
27 testing;

28 (3) "liquefied natural gas storage facility" means a gas storage facility  
29 in which liquefied natural gas is stored in a tank or other above-ground containment  
30 structure.

31 \* **Sec. 4.** AS 43.55.028(a) is amended to read:

1 (a) The oil and gas tax credit fund is established as a separate fund of the state.  
2 The purpose of the fund is to purchase transferable tax credit certificates issued under  
3 AS 43.55.023 and production tax credit certificates issued under AS 43.55.025 and to  
4 pay refunds and payments claimed under AS 43.20.046 or 43.20.047.

5 \* **Sec. 5.** AS 43.55.028(g) is amended to read:

6 (g) The department may adopt regulations to carry out the purposes of this  
7 section, including standards and procedures to allocate available money among  
8 applications for purchases under this chapter and claims for refunds and payments  
9 under AS 43.20.046 or 43.20.047 when the total amount of the applications for  
10 purchase and claims for refund exceed the amount of available money in the fund. The  
11 regulations adopted by the department may not, when allocating available money in  
12 the fund under this section, distinguish an application for the purchase of a credit  
13 certificate issued under AS 43.55.023(m) or a claim for refund under AS 43.20.046 or  
14 AS 43.20.047.

15 \* **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).

# ALASKA STATE LEGISLATURE



SENATOR JOE THOMAS

January 18, 2012

Senate Bill 153:

"An Act relating to a gas storage facility; relating to the tax credit for a gas storage facility; relating to the powers and duties of the Alaska Oil and Gas Conservation Commission; relating to the regulation of natural gas storage as a utility; relating to the powers and duties of the director of the division of lands and to lease fees for a gas storage facility on state land; and providing for an effective date."

Dear Senator Paskvan,

I respectfully request that you schedule "Senate Bill 153: An Act relating to a gas storage facility; relating to the tax credit for a gas storage facility; relating to the powers and duties of the Alaska Oil and Gas Conservation Commission; relating to the regulation of natural gas storage as a utility; relating to the powers and duties of the director of the division of lands and to lease fees for a gas storage facility on state land; and providing for an effective date." for a hearing before the Senate Resources Committee.

Senate Bill 153 incents the private sector's delivery of lower cost natural gas to Interior Alaska by extending tax credits available for natural gas storage in Cook Inlet to a liquid natural gas trucking project for the Interior. A new credit for construction of gas storage tanks makes this program more flexible to fit the varying needs of gas delivery around Alaska. This legislation applies to tanked storage with a minimum volume of one million gallons. The amount of the credit is limited to 50% of construction costs up to \$15 million. This allows areas of Alaska that do not have depleted gas reservoirs available, as Southcentral does, to still receive the same monetary incentive as Cook Inlet despite the higher capital costs per volume involved with constructing above ground tanks for storing LNG.

Thank you for your attention to this matter and quick scheduling. If you have any questions, please do not hesitate to contact my staff member, Grier Hopkins, at 465-3802.

Sincerely,

A handwritten signature in cursive script that reads "Joe Thomas".

Senator Joe Thomas

## **SB 153 Testimony**

**February 9, 2012**

- Brian Newton, CEO, Golden Valley Electric Association (GVEA)
- Luke Hopkins, Mayor, Fairbanks North Star Borough
- Doug Isaacson, Mayor, City of North Pole
- Jim Dodson, Fairbanks Economic Development Corporation
- Dan Britton, Fairbanks Natural Gas

**Senate Resources Committee**  
**Joe Paskvan, Co-Chair / March 12, 2012**

Let's call the meeting to order.

Let the record reflect that it is \_\_\_\_\_ p.m. on Monday, March 12.

Let the record reflect that there is a quorum. Present are

- Co-Chair Wagoner -- excused
- Senator Stedman
- Senator Stevens
- Senator Wielechowski
- Senator French
- Senator McGuire
- And myself, Senator Paskvan

During this hearing, the Committee has a full agenda.

First, we will hear a brief update from Senator Thomas and accept public testimony on Committee Substitute for Senate Bill 153, relating to NATURAL GAS STORAGE TAX CREDIT/REGULATION. The committee considered this legislation during two previous hearings – on February 9 and March 5. If it is the will of the Committee, it is my intent to move CSSB 153 from this committee today.

We will also hear, for the first time, four other pieces of legislation:

- SB 123 Alaska Mining Day (by Senator Giessel)
- SB 159 Susitna State Forest (by Senator Menard)
- SB 181 Closing Certain Land to Mineral Entry (by Senator Giessel)
- SB 205 Chinook Research and Restoration Endowment (by Senator Olson)

It is my intent to hear from the bill sponsors and invited testimony, allow for Committee questions, and then set these bills aside. We will begin public testimony on these bills Wednesday and Friday.

Welcome, Senator Thomas (and/or Grier Hopkins).

**Senate Resources Committee**  
**Joe Paskvan, Co-Chair**  
**Monday, March 5, 2012**

[After HB 185, Senator Wagoner will take an "at ease" to pass the gavel.]

The Senate Resources Committee first heard Senate Bill 153, relating to NATURAL GAS STORAGE TAX CREDIT and REGULATION, on February 9, 2012.

During that hearing, Senator Thomas presented the merits of the bill and supportive testimony was provided by:

- Brian Newton, CEO, Golden Valley Electric Association (GVEA)
- Luke Hopkins, Mayor, Fairbanks North Star Borough
- Doug Isaacson, Mayor, City of North Pole
- Jim Dodson, CEO, Fairbanks Economic Development Corporation
- Dan Britton, CEO, Fairbanks Natural Gas (FNG)

On February 9, the bill was heard, held, and set aside for additional work.

Today, we will have a new CS before the Committee.

May I please have a motion to bring the Committee Substitute for Senate Bill 153, Version D, before the Committee?

[MOVED]

Seeing no objection, Version D is now before the Senate Resources Committee.

It is my intent to hear the bill sponsor explain the changes to the bill and then set it aside. During the next hearing of this bill, the Committee will open public testimony and then, if it's the will of the committee, move it to the next committee of referral.

Welcome Senator Thomas and Mr. Hopkins. Please identify yourselves for the record and provide your testimony, beginning with an explanation of the changes in this Committee Substitute.

43.20.046. Gas storage facility tax credit.

(a) A person that is an owner of a gas storage facility described in (b) of this section that commences commercial operation after December 31, 2010, and before January 1, 2016, may apply a refundable credit against a tax liability that may be imposed on the person under this chapter for the taxable year in which the gas storage facility commences commercial operation. 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 the lesser of \$15,000,000 or 25 percent of the costs incurred to establish the gas storage facility. The tax credit in this section is in addition to any other credit under this chapter for which the person is eligible.

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

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

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

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

(4) must be regulated under AS 42.05 as a utility and be available to furnish the service of natural gas storage to the public for compensation; in this paragraph, "service of natural gas storage" has the meaning given in AS 42.05.990; and

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

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

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

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

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

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

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

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

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

(i) The issuance of a refund under this section does not limit the department's ability to later audit or adjust the claim if the department determines, as a result of the audit, that the person that claimed the credit was not entitled to the amount of the credit. The tax liability of the person receiving the credit under this chapter is increased by 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 refund was issued.

(j) A person claiming 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 for the taxable year in which the gas storage facility ceases commercial operation.

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

(l) 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.

History -

(Sec. 12 ch 16 SLA 2010)

Effective Date Notes -

Section 22, ch. 16, SLA 2010 makes this section effective May 13, 2010, in accordance with AS 01.10.070(c).