SENATE BILL NO. 85

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY SENATORS WAGONER, Stevens, McGuire, Huggins, Dyson, Giessel, Menard

Introduced: 2/7/11
Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

"An Act providing for a tax credit applicable to the oil and gas production tax based on the cost of developing new oil and gas production; and providing for an effective date."

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

*** Section 1.** AS 43.20.043(g) is amended to read:

(g) A taxpayer that obtains a credit for a qualified capital investment or cost incurred for qualified services under this section may not also claim a tax credit or royalty modification for the same qualified capital investment or cost incurred for qualified services under AS 38.05.180(i), AS 41.09.010, AS 43.55.023, [OR] 43.55.025**<u>, or 43.55.026</u>**. However, a taxpayer may elect not to obtain a credit under this section in order to qualify for a credit provided under AS 38.05.180(i), AS 41.09.010, AS 43.55.023, [OR] 43.55.025**<u>, or 43.55.026</u>**.

*** Sec. 2.** AS 43.55.023(a) is amended to read:

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

(1) notwithstanding that a qualified capital expenditure may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under AS 38.05.180(i), AS 41.09.010, AS 43.20.043, [OR] AS 43.55.025**, or 43.55.026**, a producer or explorer that incurs a qualified capital expenditure may also elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of 20 percent of that expenditure; however, not more than half of the tax credit may be applied for a single calendar year;

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

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

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

*** Sec. 3.** AS 43.55 is amended by adding a new section to read:

Sec. 43.55.026. Development cost credit. (a) This section applies to a credit for a qualified expenditure incurred before the date of production of oil or gas in paying quantities for a lease or property that is taxable under AS 43.55.011(e) and that contains land that, as of December 31, 2010, is not or previously had not been within a unit or produced oil or gas in paying quantities.

(b) The amount of the credit under this section is equal to 100 percent of the qualified development expenditures that are incurred after the completion of the first well drilled that discovers a pool capable of commercial production from the lease or property and before the commencement of production in paying quantities. The department, in consultation with the

(1) Alaska Oil and Gas Conservation Commission, shall determine the date on which the first well drilled discovered a pool capable of production from a lease or property for which the credit is taken; and

(2) Department of Natural Resources, shall determine the date of the commencement of production in paying quantities from the lease or property for

which the credit is taken.

(c) The credit under this section may be applied against the tax due under AS 43.55.011(e) during the five-year period immediately following the date of the commencement of production in paying quantities, or, if the credit is fully applied before the end of the five-year period, until the date the credits for qualified development expenditures have been fully applied against the tax due under AS 43.55.011(e), whichever occurs first. A credit for a qualified expenditure expires if not taken within five years after the date of the commencement of production in paying quantities and may not be applied to the tax due under AS 43.55.011(e) for the production of oil or gas from a lease or property not eligible for the credit under this section.

(d) A qualified development expenditure that is taken as a credit under this section may not be used as an expenditure for which a credit may be taken under AS 43.20.043 or AS 43.55.023. A credit under AS 43.55.023 may not be taken against the tax due under AS 43.55.011(e) during the same month in which a credit is taken under this section.

(e) A credit or portion of a credit under this section is not transferable and may not be used to reduce a person's tax liability under AS 43.55.011(e) to below zero for any calendar year.

(f) The department shall adopt regulations describing the procedures for determining the amount of the credit, record keeping, verification of the accuracy of the credit claimed, and other regulations necessary to administer this section.

(g) If a lease or property for which a credit may be taken under this section subsequently becomes a part of a unit under AS 38.05.180(p), the credit may be applied only against the tax due under AS 43.55.011(e) for the production of oil and gas attributable to the lease or property that qualified for the credit.

(h) In this section,

(1) "production in paying quantities" means production of oil and gas in quantities sufficient to recover the cost of operating and marketing, although the quantity may be insufficient to recover the cost of drilling;

(2) "qualified development expenditure" means an expenditure, other

than an expenditure for exploring for new oil or gas reserves, that may be recognized as a

(A) qualified capital expenditure as defined in AS 43.55.023; or

(B) lease expenditure under AS 43.55.165 if oil or gas had been produced from the lease or property at the time the qualified development expenditure was incurred.

*** Sec. 4.** AS 43.55.180(a) is amended to read:

(a) The department shall study

(1) the effects of the provisions of this chapter on oil and gas exploration, development, and production in the state, on investment expenditures for oil and gas exploration, development, and production in the state, on the entry of new producers into the oil and gas industry in the state, on state revenue, and on tax administration and compliance, giving particular attention to the tax rates provided under AS 43.55.011, the tax credits provided under **<u>AS 43.55.023 - 43.55.026</u>** [AS 43.55.023 - 43.55.025], and the deductions for and adjustments to lease expenditures provided under AS 43.55.160 - 43.55.170; and

(2) the effects of the tax rates under AS 43.55.011(i) on state revenue and on oil and gas exploration, development, and production on private land, and the fairness of those tax rates for private landowners.

*** Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).