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Bullock  
3/24/11

**CS FOR SENATE BILL NO. 85( )**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATORS WAGONER, Stevens, McGuire, Huggins, Dyson, Giessel, Menard**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act providing for a tax credit applicable to the oil and gas production tax based on**  
2 **the capital cost of developing new oil and gas production; establishing the Oil and Gas**  
3 **Competitiveness Review Board; and providing for an effective date."**

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

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

6 (g) A taxpayer that obtains a credit for a qualified capital investment or cost  
7 incurred for qualified services under this section may not also claim a tax credit or  
8 royalty modification for the same qualified capital investment or cost incurred for  
9 qualified services under AS 38.05.180(i), AS 41.09.010, AS 43.55.023, [OR]  
10 43.55.025, or 43.55.026. However, a taxpayer may elect not to obtain a credit under  
11 this section in order to qualify for a credit provided under AS 38.05.180(i),  
12 AS 41.09.010, AS 43.55.023, [OR] 43.55.025, or 43.55.026.

13 **\* Sec. 2.** AS 43.55 is amended by adding a new section to read:

14 **Sec. 43.55.026. Development cost credit.** (a) This section applies to a credit

1 for a qualified development expenditure incurred before 2018 and before the start of  
2 sustained production that is taxable under AS 43.55.011(e). The qualified development  
3 expenditure must be incurred for development outside of the Cook Inlet sedimentary  
4 basin and outside of the Point Thomson unit established under AS 38.05.180(p) as the  
5 area of the Point Thomson unit existed on December 31, 2010. The qualified  
6 development expenditure must be for the development of a

7 (1) lease or property that, as of December 31, 2010, contains land that  
8 is not or previously had not been within a unit or is not or had not previously been  
9 involved directly in sustained production; or

10 (2) pool that, as of December 31, 2010, is not directly involved in or  
11 had not previously been involved directly in sustained production.

12 (b) The total amount of the credits under this section is equal to 100 percent of  
13 the qualified development expenditures that are incurred after the completion of the  
14 first well drilled that discovers a pool capable of commercial production from the lease  
15 or property and before the start of sustained production, less the amount of credits  
16 taken under AS 43.55.023(a) and (b). In consultation with the Alaska Oil and Gas  
17 Conservation Commission, the department shall determine the date

18 (1) on which the first well drilled discovered a pool capable of  
19 production; and

20 (2) of the start of sustained production from the pool, lease, or  
21 property.

22 (c) A credit under this section may be applied against the tax levied by  
23 AS 43.55.011(e) for the pool, lease, or property that is the basis for the credit until the  
24 credit for qualified development expenditures has been fully applied.

25 (d) A qualified development expenditure that is taken as a credit under this  
26 section may not be used as an expenditure for which a credit may be taken under  
27 AS 43.20.043. A credit under AS 43.55.023 may not be taken against the tax levied by  
28 AS 43.55.011(e) for the pool, lease, or property that is the basis for a credit during the  
29 same month in which a credit is taken under this section.

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

1 any calendar year.

2 (f) The department shall adopt regulations describing the procedures for  
3 determining the amount of the credit, record keeping, verification of the accuracy of  
4 the credit claimed, allocating expenditures to a pool eligible for a credit under (a)(2) of  
5 this section, and other regulations necessary to administer this section.

6 (g) If a pool, lease, or property for which a credit may be taken under this  
7 section subsequently becomes a part of a unit, or a pool that is in a unit first begins  
8 sustained production after December 31, 2010, the credit may be applied only against  
9 the tax levied by AS 43.55.011(e) for the production of oil and gas attributable to the  
10 pool, lease, or property that qualified for the credit. For the purpose of applying the  
11 credit, the tax shall be allocated to the pool, lease, or property that qualified for the  
12 credit in proportion to the volume of production from that pool lease or property  
13 within the unit.

14 (h) In this section,

15 (1) "pool" has the meaning given in AS 31.05.170;

16 (2) "qualified development expenditure" means an expenditure, other  
17 than an expenditure for exploring for new oil or gas reserves, that may be recognized  
18 as a qualified capital expenditure as defined in AS 43.55.023;

19 (3) "sustained production" has the meaning given in AS 43.55.025(l).

20 \* **Sec. 3.** AS 43.55.180(a) is amended to read:

21 (a) The department shall study

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

30 (2) the effects of the tax rates under AS 43.55.011(i) on state revenue  
31 and on oil and gas exploration, development, and production on private land, and the

1 fairness of those tax rates for private landowners.

2 \* **Sec. 4.** AS 44.99 is amended by adding new sections to read:

3 **Article 06. Oil and Gas Competitiveness Review Board.**

4 **Sec. 44.99.600. Oil and Gas Competitiveness Review Board established. (a)**

5 The Oil and Gas Competitiveness Review Board is established.

6 (b) The board shall consist of nine members as follows:

7 (1) one senator appointed by the president of the senate;

8 (2) one representative appointed by the speaker of the house of  
9 representatives;

10 (3) five members of the public appointed by the governor, including  
11 one member who is a petroleum engineer, one member who is a geologist, one  
12 member who is an economist, and one member who is a member of an environmental  
13 or conservation group;

14 (4) the commissioner of natural resources or the commissioner's  
15 designee; and

16 (5) the commissioner of revenue or the commissioner's designee.

17 (c) The senator and representative appointed to the board under (b)(1) and (2)  
18 of this section shall be cochairs.

19 (d) Each legislative member serves for the duration of the legislature during  
20 which the member is appointed. Each public member serves for three years. An  
21 individual who has served on the board may be reappointed.

22 (e) A vacancy on the board shall be filled in the manner of the original  
23 appointment.

24 (f) A member of the board may be removed and replaced at the discretion of  
25 the person appointing that member.

26 (g) The public members of the board serve without compensation but shall  
27 receive per diem and travel expenses authorized for boards and commissions under  
28 AS 39.20.180.

29 (h) The board may enter into contracts for professional services and may  
30 employ staff for administrative support for the board.

31 **Sec. 44.99.610. Duties.** The duties of the board include the following:

1 (1) review historical, current, and potential levels of investment in the  
2 state's oil and gas sector;

3 (2) identify factors that affect investment in oil and gas exploration,  
4 development, and production in the state, including tax structure, rates, and credits;  
5 royalty requirements; infrastructure; workforce availability; and regulatory  
6 requirements;

7 (3) review the competitive position of the state to attract and maintain  
8 investment in the oil and gas sector in the state as compared to the competitive  
9 position of other regions with oil and gas resources;

10 (4) in order to facilitate the work of the board, establish procedures to  
11 accept and keep confidential information that is beneficial to the work of the board,  
12 including the creation of a secure data room and confidentiality agreements to be  
13 signed by individuals having access to the confidential information;

14 (5) make written findings and recommendations, together with  
15 suggested legislation, to the Alaska State Legislature before December 1 of each year,  
16 or as soon thereafter as practicable, regarding

17 (A) changes to the state's regulatory environment that would be  
18 conducive to encouraging increased investment while protecting the interests  
19 of the people of the state and the environment;

20 (B) changes to the state's fiscal regime that would be conducive  
21 to increased and ongoing long-term investment in and development of the  
22 state's oil and gas resources; and

23 (C) alternative means for increasing the state's ability to attract  
24 and maintain investment in and development of the state's oil and gas  
25 resources.

26 **Sec. 44.99.620. Information to be provided to board.** (a) The commissioner  
27 of natural resources, the commissioner of revenue, the commissioner of environmental  
28 conservation, and other commissioners and state agencies that have responsibility for  
29 and maintain information related to oil and gas investment and activity in the state  
30 shall, at the request of the board, provide information required by the board to carry  
31 out the duties described in AS 44.99.610.

1 (b) At the request of the board, and except for information that is confidential  
2 under AS 43.05.230, a commissioner may disclose to the board information that is  
3 otherwise confidential after each member of the board and each staff member for the  
4 board with access to the information signs a confidentiality agreement prepared by the  
5 commissioner making the disclosure. Information that is confidential under  
6 AS 43.05.230 may not be disclosed to the board.

7 **Sec. 44.99.630. Definition.** In AS 44.99.600 - 44.99.630, "board" means the  
8 Oil and Gas Competitiveness Review Board.

9 \* **Sec. 5.** AS 44.99.600, 44.99.610, 44.99.620, and 44.99.630, added by sec. 5 of this Act,  
10 are repealed June 30, 2021.

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