

HOUSE BILL NO. 61

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES CHENAULT, Kohring, Wolf

Introduced: 1/24/03

Referred: House Special Committee on Oil and Gas, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing an exploration and development incentive tax credit for persons**
2 **engaged in the exploration for and development of less than 150 barrels of oil or of gas**
3 **for sale and delivery without reference to volume from a lease or property in the state;**
4 **and providing for an effective date."**

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

6 * **Section 1.** AS 43.20 is amended by adding a new section to read:

7 **Sec. 43.20.043. Oil and gas exploration and development tax credit. (a)**

8 Subject to the terms and conditions of this section, and in addition to any other credit
9 authorized to the taxpayer by this chapter, a taxpayer engaging in the exploration for
10 and development of oil or gas may apply as a credit against the state tax liability that
11 may be imposed on the taxpayer under this chapter, for a tax year after December 31,
12 2002,

13 (1) 10 percent of the taxpayer's qualified capital investment; and

14 (2) 100 percent of the annual cost incurred by the taxpayer for

1 qualified services in the state during each tax year for which a credit is allowed for a
2 qualified capital investment under (1) of this subsection.

3 (b) Expenditures qualifying for the taxpayer's qualified investment credit
4 under (a)(1) of this section must be

5 (1) cash expenditures or binding payment agreements entered into after
6 December 31, 2002; and

7 (2) made for assets first placed in service in the state during the tax
8 year in which the credit is claimed; for purposes of this paragraph, "placed in service
9 in the state" means that the first use of the qualified investment is in this state; if the
10 property on which the claim of the credit is based has been used elsewhere in the tax
11 year of acquisition and is brought to this state during that year or a subsequent year,
12 the property does not qualify for the investment credit.

13 (c) The credit per tax year allowed by (a) of this section may not exceed 50
14 percent of the taxpayer's tax liability. An unused portion of the credit for the tax year

15 (1) may be carried forward into one or more of the following tax years,
16 except that the unused credit from one tax year may not be carried forward for more
17 than five following tax years;

18 (2) shall be applied to the taxpayer's tax liability under this chapter
19 during the following tax year before allowance of a credit allowed by (a) of this
20 section for that following tax year.

21 (d) To obtain the credit allowed by this section, the taxpayer shall, with the
22 taxpayer's tax return, submit, on a form prescribed and provided by the department,
23 information that demonstrates that the taxpayer is eligible for the credit and evidence
24 of the expenses that are the basis of the claim of the credit. The taxpayer has the
25 burden of demonstrating compliance with the requirements of this section to entitle the
26 taxpayer to the claim of and the amount of the credit.

27 (e) A taxpayer entitled to a credit under this section

28 (1) may not convey, assign, or transfer the credit to another taxpayer or
29 business entity unless the conveyance, assignment, or transfer of the credit is part of
30 the conveyance, assignment, or transfer of the taxpayer's business;

31 (2) forfeits the credit to which the taxpayer is entitled during the tax

1 year and any carryover of it under (c) of this section, but does not forfeit the portion of
 2 the credit that accrued in a previous taxable year that may be carried over under (c) of
 3 this section, if the taxpayer

4 (A) disposes of the qualified capital investment;

5 (B) takes the qualified investment out of service; or

6 (C) transfers the qualified investment out of this state.

7 (f) A taxpayer is not entitled to a credit under this section for expenditures
 8 made or incurred for the qualified capital investment or for qualified services made for
 9 exploration and development of oil or gas that occur in the area of Alaska lying north
 10 of 68 degrees North latitude.

11 (g) In this section,

12 (1) "qualified capital investment" means a cash expenditure or binding
 13 payment agreement, as described in (b)(1) of this section, for real property or tangible
 14 personal property used in this state in the exploration and development of oil and gas
 15 reserves if the reserves produce less than 150 barrels of oil a day or produce gas for
 16 sale and delivery; in this paragraph, "property" includes

17 (A) property used in the operation or maintenance of facilities
 18 for exploration or development of oil or gas;

19 (B) property that is placed in use under a capitalized lease or an
 20 operating lease; and

21 (C) the following property:

22 (i) machinery, appliances, supplies, and equipment;

23 (ii) drilling rigs, wells, gathering lines and transmission
 24 lines, pumping stations, compressor stations, power plants, topping
 25 plants, and processing units;

26 (iii) roads, tank farms, tanker terminals, docks and other
 27 port facilities, and air strips;

28 (iv) aircraft and motor vehicles owned by a person
 29 whose principal business in the state is the exploration for or
 30 development of gas or unrefined oil and whose operation of the aircraft
 31 or motor vehicle directly relates to the conduct of that business;

1 (v) maintenance equipment and facilities, and
 2 maintenance camps and other related facilities; and

3 (vi) communications facilities owned by a person
 4 whose principal business in the state is the exploration for or
 5 development of gas or unrefined oil and whose operation of the
 6 communications facilities directly relates to the conduct of that
 7 business;

8 (2) "qualified services" means expenditures for labor, seismic, and
 9 associated services related to a qualified capital investment.

10 * **Sec. 2.** AS 43.20.043 is repealed.

11 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
 12 read:

13 CLAIM OF OIL AND GAS EXPLORATION AND DEVELOPMENT TAX
 14 CREDIT CONTINUED. A taxpayer who, on the effective date of repeal of AS 43.20.043 by
 15 sec. 2 of this Act, claims the balance of any unused portion of the oil and gas exploration and
 16 development tax credit as a carry-forward under AS 43.20.043(c), may, notwithstanding the
 17 repeal of that subsection, continue to claim the balance of the credit until the claim of the
 18 credit is exhausted or until the tax year ending December 31, 2017, whichever occurs earlier.
 19 The provisions of AS 43.20.043 as they read on the day immediately preceding the effective
 20 date of the repeal of that section apply to the claim of the credit if carried forward under this
 21 section.

22 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
 23 read:

24 RETROACTIVITY. AS 43.20.043, added by sec. 1 of this Act, is retroactive to
 25 January 1, 2003.

26 * **Sec. 5.** Section 2 of this Act takes effect January 1, 2013.

27 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect immediately under
 28 AS 01.10.070(c).