

**CS FOR HOUSE BILL NO. 61(O&G)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Offered: 3/14/03

Referred: Resources, Finance

Sponsor(s): REPRESENTATIVES CHENAULT, Kohring, Wolf

**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 gas for sale and delivery without**  
3 **reference to volume from a lease or property in the state; and providing for an effective**  
4 **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. Gas exploration and development tax credit.** (a) Subject to  
8 the terms and conditions of this section, and in addition to any other credit authorized  
9 to the taxpayer by this chapter, a taxpayer engaging in the exploration for and  
10 development of gas may apply as a credit against the state tax liability that may be  
11 imposed on the taxpayer under this chapter, for a tax year beginning after  
12 December 31, 2002,

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

14 (2) 10 percent of the annual cost incurred by the taxpayer for qualified

1 services in the state during each tax year for which a credit is allowable for a qualified  
2 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 total tax liability, including all taxes, but shall be calculated  
15 before the application of any other credits allowed under this chapter. An unused  
16 portion of the credit for the tax year

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

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

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

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

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

1 the conveyance, assignment, or transfer of the taxpayer's business;

2 (2) forfeits the credit to which the taxpayer is entitled during the tax  
3 year and any carryover of it under (c) of this section, but does not forfeit the portion of  
4 the credit that accrued in a previous taxable year that may be carried over under (c) of  
5 this section, if the taxpayer

6 (A) disposes of the qualified capital investment;

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

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

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

13 (g) A taxpayer who obtains a credit under this section may not claim a tax  
14 credit or royalty modification provided for under any other title. However, a taxpayer  
15 may, at the taxpayer's election, forgo a credit under this section in order to continue to  
16 qualify for a credit provided for in another title.

17 (h) For purposes of determining allowable credits under this section, the  
18 department shall allow only expenditures and payments that are not inconsistent with  
19 the expenditures that support claims for investment tax credits authorized under 26  
20 U.S.C. (Internal Revenue Code) for exploration and development of natural resources.

21 (i) In this section,

22 (1) "qualified capital investment" means a cash expenditure or binding  
23 payment agreement, as described in (b)(1) of this section, for real property or tangible  
24 personal property used in this state in the exploration and development of gas reserves  
25 in a gas reservoir for which there has not been commercial production if the reserves  
26 produce gas for sale and delivery; in this paragraph, "property" includes

27 (A) property used in the operation or maintenance of facilities  
28 for exploration or development of gas;

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

31 (C) the following property used for the exploration and

1 development of gas:

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

3 (ii) drilling rigs, wells, gathering lines and transmission  
4 lines, pumping stations, compressor stations, power plants, topping  
5 plants, and processing units;

6 (iii) roads, docks and other port facilities, and helicopter  
7 pads;

8 (iv) maintenance equipment and facilities, and  
9 maintenance camps and other related facilities; and

10 (v) communications facilities owned by a person whose  
11 principal business in the state is the exploration for or development of  
12 gas and whose operation of the communications facilities directly  
13 relates to the conduct of that business;

14 (2) "qualified services"

15 (A) means expenditures for labor, seismic, and other services  
16 that are directly applicable to a qualified capital investment;

17 (B) does not include lease operating expenses.

18 \* **Sec. 2.** AS 43.20.043 is repealed.

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

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

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

31 RETROACTIVITY. AS 43.20.043, added by sec. 1 of this Act, is retroactive to

1 January 1, 2003.

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

3 \* **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect immediately under

4 AS 01.10.070(c).