

SENATE CS FOR CS FOR HOUSE BILL NO. 61(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 5/9/03

Referred: Finance

Sponsor(s): REPRESENTATIVES CHENAULT, Kohring, Wolf, Crawford, Lynn

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing an exploration and development incentive tax credit for operators**
2 **and working interest owners directly engaged in the exploration for and development of**
3 **gas for sale and delivery without reference to volume from a lease or property in the**
4 **state; 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. 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 that is an operator or working interest owner
10 directly engaging in the exploration for and development of gas may apply as a credit
11 against the state tax liability that may be imposed on the taxpayer under this chapter,
12 for a tax year beginning after 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 June 30, 2003; and

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

14 (c) The credit per tax year allowed by (a) of this section may not exceed 50
15 percent of the taxpayer's total tax liability under this chapter, but shall be calculated
16 before the application of any other credits allowed under this chapter. An unused
17 portion of the credit for the tax year

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

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

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

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

31 (1) may not convey, assign, or transfer the credit to another taxpayer or

1 business entity unless the conveyance, assignment, or transfer of the credit is part of
2 the conveyance, assignment, or transfer of the taxpayer's business;

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

7 (A) disposes of the qualified capital investment;

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

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

10 (f) A taxpayer is not entitled to a credit under this section for expenditures that
11 are made or incurred for the qualified capital investment or for qualified services made
12 for exploration and development of gas that occur in the area of Alaska lying north of
13 68 degrees North latitude or that are made or incurred to transport gas from reserves
14 located in the area of Alaska lying north of 68 degrees North latitude.

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

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

23 (i) In this section,

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

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

31 (B) property that is placed in use under a capitalized lease or an

1 operating lease; and

2 (C) the following property used for the exploration and
3 development of gas:

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

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

8 (iii) roads, docks and other port facilities, and helicopter
9 pads;

10 (iv) maintenance equipment and facilities, and
11 maintenance camps and other related facilities; and

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

16 (2) "qualified services"

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

19 (B) does not include lease operating expenses.

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

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

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

31 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 REPORT ON EFFECT OF GAS EXPLORATION AND DEVELOPMENT TAX
 3 CREDIT. Not later than November 30, 2008, the Department of Revenue shall prepare and
 4 publish a report on the effect of the gas exploration and development tax credit authorized by
 5 AS 43.20.043, added by sec. 1 of this Act. The department shall advise the legislature of the
 6 availability of the report and, within the first 10 days of the First Regular Session of the
 7 Twenty-Sixth Alaska State Legislature, transmit copies of the report to the chairs or co-chairs
 8 of the House and Senate Resources Committees and the chairs or co-chairs of the House and
 9 Senate Special Committees on Oil and Gas, if established. The report must address

10 (1) the number of successful gas discoveries for which a tax credit is provided
 11 under AS 43.20.043;

12 (2) the volume or amount of new gas reserves brought into production for
 13 which a tax credit is provided under AS 43.20.043;

14 (3) the total credits allowed under AS 43.20.043 that are applied to the tax
 15 liability through the date of preparation of the report;

16 (4) the total credits applied for under AS 43.20.043 that are not yet approved
 17 as of the date of preparation of the report;

18 (5) royalties obtained and oil and gas property production taxes paid from new
 19 gas production and anticipated from gas production for production for which credits are
 20 allowed under AS 43.20.043; and

21 (6) any other information that, in the judgment of the commissioner of
 22 revenue, would evaluate the effectiveness of the gas exploration and development tax credit
 23 authorized under AS 43.20.043.

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

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