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HOUSE CS FOR CS FOR SENATE BILL NO. 185(O&G) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Amended: 5/19/03

Offered: 5/18/03

Sponsor(s): SENATORS WAGONER, Wilken, Ben Stevens, Dyson

REPRESENTATIVES Chenault, Kohring

A BILL

FOR AN ACT ENTITLED

1 **"An Act providing for a reduction of royalty on certain oil produced from Cook Inlet**
2 **submerged land, and for a credit for certain exploration expenses against oil and gas**
3 **properties production taxes on oil and gas produced from a lease or property in the**
4 **state."**

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

6 *** Section 1.** AS 31.05.030 is amended by adding a new subsection to read:

7 (j) The commission shall certify to the Department of Natural Resources the
8 volume of oil production from a field or platform for the purposes of
9 AS 38.05.180(f)(6)(A), (C), (E), and (G).

10 *** Sec. 2.** AS 38.05.180(f) is amended by adding a new paragraph to read:

11 (6) notwithstanding and in lieu of a requirement in the leasing method
12 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases
13 unitized as described in (p) of this section, leases subject to an agreement described in
14 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of

1 an oil field located offshore in Cook Inlet on which an oil production platform
 2 specified in (A), (C), or (E) of this paragraph operates, or the lessee of all or part of the
 3 field located offshore in Cook Inlet and described in (G) of this paragraph,

4 (A) shall pay a royalty of five percent on oil produced from the
 5 platform if oil production that equaled or exceeded a volume of 1,200 barrels a
 6 day declines to less than that amount for a period of at least one calendar
 7 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for
 8 as long as the volume of oil produced from the platform remains less than
 9 1,200 barrels a day; the provisions of this subparagraph apply to

10 (i) Dolly;

11 (ii) Grayling;

12 (iii) King Salmon;

13 (iv) Steelhead; and

14 (v) Monopod;

15 (B) shall pay a royalty calculated under this subparagraph if the
 16 volume of oil produced from the platform that was certified by the Alaska Oil
 17 and Gas Conservation Commission under (A) of this paragraph later increases
 18 to 1,200 or more barrels a day and remains at 1,200 or more barrels a day for a
 19 period of at least one calendar quarter; until the royalty rate determined under
 20 this subparagraph applies, the royalty continues to be calculated under (A) of
 21 this paragraph; on and after the first day of the month following the month the
 22 increased production exceeds the period specified in this subparagraph, the
 23 royalty payable under this subparagraph is

24 (i) for production of at least 1,200 barrels a day but not
 25 more than 1,300 barrels a day - seven percent;

26 (ii) for production of more than 1,300 barrels a day but
 27 not more than 1,400 barrels a day - 8.5 percent;

28 (iii) for production of more than 1,400 barrels a day but
 29 not more than 1,500 barrels a day - 10 percent; and

30 (iv) for production of more than 1,500 barrels a day -
 31 12.5 percent;

1 (C) shall pay a royalty of five percent on oil produced from the
 2 platform if oil production that equaled or exceeded a volume of 975 barrels a
 3 day declines to less than that amount for a period of at least one calendar
 4 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for
 5 as long as the volume of oil produced from the platform remains less than 975
 6 barrels a day; the provisions of this subparagraph apply to

- 7 (i) Baker;
- 8 (ii) Dillon;
- 9 (iii) XTO.A; and
- 10 (iv) XTO.C;

11 (D) shall pay a royalty calculated under this subparagraph if the
 12 volume of oil produced from the platform that was certified by the Alaska Oil
 13 and Gas Conservation Commission under (C) of this paragraph later increases
 14 to 975 or more barrels a day and remains at 975 or more barrels a day for a
 15 period of at least one calendar quarter; until the royalty rate determined under
 16 this subparagraph applies, the royalty continues to be calculated under (C) of
 17 this paragraph; on and after the first day of the month following the month the
 18 increased production exceeds the period specified in this subparagraph, the
 19 royalty payable under this subparagraph is

- 20 (i) for production of at least 975 barrels a day but not
 21 more than 1,100 barrels a day - seven percent;
- 22 (ii) for production of more than 1,100 barrels a day but
 23 not more than 1,200 barrels a day - 8.5 percent;
- 24 (iii) for production of more than 1,200 barrels a day but
 25 not more than 1,350 barrels a day - 10 percent; and
- 26 (iv) for production of more than 1,350 barrels a day -
 27 12.5 percent;

28 (E) shall pay a royalty of five percent on oil produced from the
 29 platform if oil production that equaled or exceeded a volume of 750 barrels a
 30 day declines to less than that amount for a period of at least one calendar
 31 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for

1 as long as the volume of oil produced from the platform remains less than 750
2 barrels a day; the provisions of this subparagraph apply to

3 (i) Granite Point;

4 (ii) Anna; and

5 (iii) Bruce;

6 (F) shall pay a royalty calculated under this subparagraph if the
7 volume of oil produced from the platform that was certified by the Alaska Oil
8 and Gas Conservation Commission under (E) of this paragraph later increases
9 to 750 or more barrels a day and remains at 750 or more barrels a day for a
10 period of at least one calendar quarter; until the royalty rate determined under
11 this subparagraph applies, the royalty continues to be calculated under (E) of
12 this paragraph; on and after the first day of the month following the month the
13 increased production exceeds the period specified in this subparagraph, the
14 royalty payable under this subparagraph is

15 (i) for production of at least 750 barrels a day but not
16 more than 850 barrels a day - seven percent;

17 (ii) for production of more than 850 barrels a day but
18 not more than 1,000 barrels a day - 8.5 percent;

19 (iii) for production of more than 1,000 barrels a day but
20 not more than 1,200 barrels a day - 10 percent; and

21 (iv) for production of more than 1,200 barrels a day -
22 12.5 percent;

23 (G) shall pay a royalty of five percent on oil produced from the
24 field if oil production that equaled or exceeded a volume of 750 barrels a day
25 declines to less than that amount for a period of at least one calendar quarter,
26 as certified by the Alaska Oil and Gas Conservation Commission, for as long
27 as the volume of oil produced from the field remains less than 750 barrels a
28 day; the provisions of this subparagraph apply to the West McArthur River
29 field;

30 (H) shall pay a royalty calculated under this subparagraph if the
31 volume of oil produced from the field that was certified by the Alaska Oil and

1 Gas Conservation Commission under (G) of this paragraph later increases to
 2 750 or more barrels a day and remains at 750 or more barrels a day for a period
 3 of at least one calendar quarter; until the royalty rate determined under this
 4 subparagraph applies, the royalty continues to be calculated under (G) of this
 5 paragraph; on and after the first day of the month following the month the
 6 increased production exceeds the period specified in this subparagraph, the
 7 royalty payable under this subparagraph is

8 (i) for production of at least 750 barrels a day but not
 9 more than 850 barrels a day - seven percent;

10 (ii) for production of more than 850 barrels a day but
 11 not more than 1,000 barrels a day - 8.5 percent;

12 (iii) for production of more than 1,000 barrels a day but
 13 not more than 1,200 barrels a day - 10 percent; and

14 (iv) for production of more than 1,200 barrels a day -
 15 12.5 percent; and

16 (I) may obtain the benefits of the royalty adjustments set out in
 17 (A) - (H) of this paragraph only if the commissioner determines that the
 18 reduction in production from the platform or the field is

19 (i) based on the average daily production during the
 20 calendar quarter based on reservoir conditions; and

21 (ii) not the result of short-term production declines due
 22 to mechanical or other choke-back factors, temporary shutdowns or
 23 decreased production due to environmental or facility constraints, or
 24 market conditions.

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

26 **Sec. 43.55.025. Oil and gas exploration tax credit.** (a) Subject to the terms
 27 and conditions of this section, on oil and gas produced on or after July 1, 2004, a
 28 credit against the tax due under this chapter is allowed in an amount equal to

29 (1) 20 percent of the total exploration expenditures that qualify under
 30 (b) and (c) of this section, 20 percent of the total exploration expenditures that qualify
 31 under (b) and (d) of this section, or both, for a total credit that does not exceed 40

1 percent of the total exploration expenditures; or

2 (2) 40 percent of the total exploration expenditures that qualify under
3 (b) and (e) of this section, for a total production tax credit that does not exceed 40
4 percent of the total qualified exploration expenditures.

5 (b) To qualify for the production tax credit under (a) of this section, an
6 exploration expenditure must be incurred for work performed on or after July 1, 2003,
7 and before July 1, 2007, and

8 (1) may be for seismic or geophysical exploration costs not connected
9 with a specific well;

10 (2) if for an exploration well,

11 (A) must be incurred by an explorer that holds an interest in the
12 exploration well for which the production tax credit is claimed;

13 (B) may be for either an oil or gas discovery well or a dry hole;
14 and

15 (C) must be for goods, services, or rentals of personal property
16 reasonably required for the surface preparation, drilling, casing, cementing,
17 and logging of an exploration well, and, in the case of a dry hole, for the
18 expenses required for abandonment if the well is abandoned within 18 months
19 after the date the well was spudded;

20 (3) may not be for testing, stimulation, or completion costs;
21 administration, supervision, engineering, or lease operating costs; geological or
22 management costs; community relations or environmental costs; bonuses, taxes, or
23 other payments to governments related to the well; or other costs that are generally
24 recognized as indirect costs or financing costs; and

25 (4) may not be incurred for an exploration well or seismic exploration
26 that is included in a plan of exploration or a plan of development for any unit on
27 May 13, 2003.

28 (c) To be eligible for a 20 percent production tax credit, exploration
29 expenditures must

30 (1) qualify under (b) of this section; and

31 (2) be for an exploration well that is located and drilled in such a

1 manner that the bottom hole is located not less than three miles away from the bottom
 2 hole of a preexisting suspended, completed, or abandoned oil or gas well; in this
 3 paragraph, "preexisting" means a well that was spudded more than 150 days but less
 4 than 35 years before the exploration well was spudded.

5 (d) To be eligible for an additional 20 percent production tax credit, an
 6 exploration expenditure must

7 (1) qualify under (b) of this section; and

8 (2) be for an exploration well that is located not less than 25 miles
 9 outside of the outer boundary, as delineated on July 1, 2003, of any unit that is under a
 10 plan of development.

11 (e) To be eligible for the 40 percent production tax credit in (a) of this section,
 12 the exploration expenditure must

13 (1) qualify under (b) of this section;

14 (2) be for seismic exploration; and

15 (3) have been conducted outside the boundaries of a production unit or
 16 an exploration unit; however, the amount of the expenditure that is otherwise eligible
 17 under this subsection is reduced proportionately by the portion of the seismic
 18 exploration activity that crossed into a production unit or an exploration unit.

19 (f) For a production tax credit under this section,

20 (1) an explorer shall, in a form prescribed by the department and
 21 within six months of the completion of the exploration activity, claim the credit and
 22 submit information sufficient to demonstrate to the department's satisfaction that the
 23 claimed exploration expenditures qualify under this section;

24 (2) an explorer shall agree, in writing,

25 (A) to notify the Department of Natural Resources, within 30
 26 days after completion of seismic or geophysical data processing, completion of
 27 a well, or filing of a claim for credit, whichever is the latest, for which
 28 exploration costs are claimed, of the date of completion and submit a report to
 29 that department describing the processing sequence and providing a list of data
 30 sets available;

31 (B) to provide to the Department of Natural Resources, within

1 30 days after the date of a request, specific data sets, ancillary data, and reports
2 identified in (A) of this paragraph;

3 (C) that, notwithstanding any provision of AS 38, information
4 provided under this paragraph will be held confidential by the Department of
5 Natural Resources for 10 years following the completion date, at which time
6 that department will release the information after 30 days' public notice;

7 (3) if more than one explorer holds an interest in a well or seismic
8 exploration, each explorer may claim an amount of credit that is proportional to the
9 explorer's cost incurred;

10 (4) the department may exercise the full extent of its powers as though
11 the explorer were a taxpayer under this title, in order to verify that the claimed
12 expenditures are qualified exploration expenditures under this section; and

13 (5) if the department is satisfied that the explorer's claimed
14 expenditures are qualified under this section, the department shall issue to the explorer
15 a production tax credit certificate for the amount of credit to be allowed against
16 production taxes due under this chapter.

17 (g) An explorer may transfer, convey, or sell its production tax credit
18 certificate to any person, and any person who receives a production tax credit
19 certificate may also transfer, convey, or sell the certificate.

20 (h) A producer that purchases a production tax credit certificate may apply the
21 credits against its production tax liability under this chapter. Regardless of the price
22 the producer paid for the certificate, the producer may receive a credit against its
23 production tax liability for the full amount of the credit, but for not more than the
24 amount for which the certificate is issued. A production tax credit allowed under this
25 section may not be applied more than once.

26 (i) For a production tax credit under this section,

27 (1) the amount of the credit that may be applied against the production
28 tax for each tax month may not exceed the total production tax liability of the taxpayer
29 applying the credit for the same month; and

30 (2) an amount of the production tax credit that is greater than the total
31 tax liability of the taxpayer applying the credit for a tax month may be carried forward

1 and applied against the taxpayer's production tax liability in one or more immediately
2 following months.

3 (j) Notwithstanding any other provision of this title, of AS 31.05, or of
4 AS 40.25.100, the department shall provide to the Department of Natural Resources
5 information submitted with a claim under this section to support the eligibility of an
6 exploration expenditure, including seismic exploration data and well data, and any
7 information described in (f)(2) of this section received by the department.

8 (k) In this section, "explorer" means a person who, in exploring for new oil or
9 gas reserves, incurs expenditures.