

Offered: 6/25/83  
Referred: Finance

Original sponsors: Hayes and Szymanski

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 SENATE CS FOR CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 258 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL

6 For an Act entitled: "An Act establishing a special investment tax credit;  
7 and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds  
10 and declares that

11 (1) development of gas processing facilities in the state will  
12 promote full and stable employment, promote the creation of export markets  
13 for the natural energy resources of the state, and promote the long-term  
14 development of other natural resources in the state;

15 (2) it is in the statewide public interest, and is declared to  
16 be a public purpose, to promote the prosperity and general welfare of all  
17 citizens of the state by stimulating the development of gas processing  
18 facilities in the state;

19 (3) it is further in the statewide public interest, and is  
20 declared to be a public purpose, to promote the exploration, drilling of  
21 wells, development, and mining of minerals and other natural deposits  
22 (other than oil and gas) in the state, to assist the state by diversifying  
23 its economy, to make it less dependent on oil and gas, provide increased  
24 employment opportunities and provide an incentive for investment in the  
25 state; and

26 (4) the establishment of a special investment tax credit is  
27 necessary in order to promote and accomplish the objectives listed in (1) -  
28 (3) of this section.

29 \* Sec. 2. AS 43.20.021(d) is amended to read:

1 (d) Where a credit allowed under the Internal Revenue Code is  
2 also allowed in computing Alaska income tax, it is limited to 18  
3 percent for corporations of the amount of credit determined for fed-  
4 eral income tax purposes which is attributable to Alaska. This limi-  
5 tation does not apply to the credits allowed by AS 43.20.036(j) and  
6 (k).

7 \* Sec. 3. AS 43.20.036(b) is repealed and reenacted to read:

8 (b) For purposes of calculating the income tax payable under  
9 this chapter, the taxpayer may apply as a credit against tax liability  
10 the investment credit allowed as to federal taxes under 26 U.S.C. 38  
11 (Internal Revenue Code) upon only the first \$20,000,000 of qualified  
12 investment, other than qualified investment for the special investment  
13 tax credits under (j) - (1) of this section, put into use in the state  
14 for each taxable year. This limitation does not apply to the amounts  
15 invested in equipment that meets the definition of a certified pollu-  
16 tion control facility as defined in 26 U.S.C. 169(d) (Internal Revenue  
17 Code) as in effect on June 19, 1975, except that the date specified in  
18 26 U.S.C. 169(d) (Internal Revenue Code) as a condition of qualifying  
19 a certified pollution control facility for a deduction does not apply.  
20 A taxpayer entitled to the special investment tax credits under (j) -  
21 (1) of this section is allowed the investment tax credit upon only the  
22 first \$250,000,000 of qualified investment put into use in the pro-  
23 jects specified in those subsections in the state for each taxable  
24 year. A taxpayer claiming the special investment tax credits under  
25 (j) - (1) of this section may not claim additional investment tax  
26 credits under this subsection.

27 \* Sec. 4. AS 43.20.036 is amended by adding new subsections to read:

28 (j) Subject to (1) of this section for purposes of calculating  
29 income tax payable under this chapter the taxpayer may apply as a

1 credit against a tax liability for each taxable year up to 100 percent  
2 of the investment credit allowed as to federal taxes under 26 U.S.C.  
3 38 (Internal Revenue Code) on qualified investment put into use in the  
4 state for a gas processing project. For the purposes of this para-  
5 graph, "gas processing project" means the integrated plant facilities  
6 and equipment, including pollution control equipment, used for (1)  
7 conditioning, fractionation, storage and handling of gas, (2) prepara-  
8 tion of consumer or transportation gas, or (3) processing a product,  
9 other than crude oil, of an oil or gas well, into liquefied natural  
10 gas, methanol, ammonia, urea, olefins, propanes, butanes, polymers and  
11 intermediate hydrocarbon products. It does not include a pipeline  
12 from oil and gas wells to or from a plant and facilities. A credit  
13 may not be allowed under this subsection for an investment credit that  
14 is allowed as to federal taxes for leased property by reason of 26  
15 U.S.C. 168(f)(8) (Internal Revenue Code).

16 (k) Subject to (1) of this section for purposes of calculating  
17 income tax payable under this chapter the taxpayer may apply each  
18 taxable year as a credit against a tax liability up to 100 percent of  
19 the investment credit allowed as to federal taxes under 26 U.S.C. 38  
20 (Internal Revenue Code) on qualified investment put into use for a  
21 project in the state for each taxable year for exploration, drilling  
22 of wells, development, or mining of the minerals and other natural  
23 deposits listed in 26 U.S.C. 613(b)(Internal Revenue Code), except  
24 that the mining of sand or gravel is not eligible for credit unless it  
25 is ancillary to a mining development involving a qualified natural  
26 deposit other than sand or gravel. For the purpose of this sub-  
27 section, "mining" has the meaning given in 26 U.S.C. 613(c)(2)  
28 (Internal Revenue Code). A credit may not be allowed under this  
29 subsection for any investment credit that is allowed as to federal

1 taxes for leased property by reason of 26 U.S.C. 168(f)(8) (Internal  
2 Revenue Code).

3 (1) A taxpayer may not claim an investment tax credit under (j)  
4 or (k) of this section unless the project has been approved by the  
5 commissioner and the legislature if required under (o) of this section  
6 before investment by the taxpayer. To qualify for the credits, a  
7 taxpayer must apply to the department and present evidence at a public  
8 hearing conducted by the commissioner or an authorized representative.  
9 At the hearing, the taxpayer must show by a preponderance of evidence  
10 that the proposed project will provide an economic advantage to the  
11 state and that the project would not be viable without the granting of  
12 the special investment tax credits under (j) or (k) of this section.  
13 In demonstrating that the proposed project would provide an economic  
14 advantage to the state, the taxpayer must show that the investment  
15 would significantly diversify the local or state economy and that  
16 there exists within an area reasonably proximate to the site of the  
17 proposed project for which the investment is to be made at least three  
18 of the following: (1) a high level of unemployment; (2) an  
19 underutilized mineral, other than oil or gas; (3) an established  
20 infrastructure suitable for supporting the proposed project; (4)  
21 access to ice free ports; (5) substantial uncommitted reserves of  
22 natural gas. The department shall adopt regulations that establish  
23 the criteria for granting or denying the special investment tax  
24 credits. Evidence of investment in the proposed project before the  
25 making of an application to the department creates the rebuttable  
26 presumption that the project is viable without the granting of the  
27 credits. Following the hearing, the commissioner shall consider the  
28 evidence presented and may reject or approve the application in whole  
29 or in part subject to (o) of this section. If the application is

1       accepted, the commissioner shall establish the percentage of the  
2       federal investment tax credit to be allowed for the project under (j)  
3       or (k) of this section and may impose additional restrictions on the  
4       taxpayer under regulations adopted by the department. If the project  
5       of the taxpayer does not conform substantially to the project plan  
6       submitted with its original application, the department shall give  
7       notice to the taxpayer of the nonconformity and the withdrawal of the  
8       authorization or adjustments to the terms of the authorization which  
9       will become final unless the taxpayer appeals within 30 days of the  
10      date the notice was mailed by the department to the taxpayer's address  
11      of record. Where the department has withdrawn the authorization, the  
12      taxpayer shall be liable for and shall pay to the department the full  
13      amount of the special investment tax credits under (j) and (k) of this  
14      section that have been applied against a tax liability plus interest  
15      on the amount at the rate prescribed in AS 43.05.225 from the date the  
16      credit was applied until repaid. A taxpayer may appeal in writing a  
17      notice of adjustment or withdrawal of authorization, to the  
18      commissioner. The commissioner may uphold the original authorization,  
19      withdraw the authorization or make adjustments to the terms of the  
20      authorization. Subject to (o) of this section the decision of the  
21      commissioner shall be final unless reversed or modified by the courts.

22           (m) The credit per taxable year allowed by (j) and (k) of this  
23      section shall not exceed (1) 50 percent of the initial liability for  
24      tax attributable to income earned from the projects subject to the  
25      credits in (j) or (k) of this section, plus (2) 50 percent of the  
26      liability for tax attributable to income earned from the projects  
27      subject to the credits in (j) or (k) of this section. Any unused  
28      portion of the credit shall be subject to the carry-forward provisions  
29      contained in 26 U.S.C. 46(b)(3) (Internal Revenue Code).

1           (n) The credit allowed by (j) and (k) of this section shall be  
2 reported in the commissioner's annual report under AS 43.05.010(5).

3           (o) The commissioner may not grant a credit of 25 percent or  
4 more under (j) and (k) of this section without the prior approval of  
5 the legislature. The legislature may approve a grant under this  
6 subsection only by enacting legislation.

7       \* Sec. 5. If any provision of this Act, or the application of it to any  
8 taxpayer or circumstance is held invalid, the remainder of this Act and the  
9 application to other taxpayers or circumstances is invalid.

10       \* Sec. 6. AS 43.20.036(j) - (l) are repealed January 1, 1993.

11       \* Sec. 7. This Act takes effect January 1, 1984.