

SENATE BILL NO. 134**IN THE LEGISLATURE OF THE STATE OF ALASKA****EIGHTEENTH LEGISLATURE - FIRST SESSION****BY SENATORS MILLER, Pearce****Introduced: 2/24/93****Referred: O&G, JUD, FIN****A BILL****FOR AN ACT ENTITLED**

1 "An Act establishing credits for purchasers of state royalty oil for expenditures
2 made by those purchasers on qualifying capital investments to be applied against
3 liquidated purchase arrearages established in contracts, settlements, or final
4 judgments; and providing for an effective date."

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

6 * **Section 1.** AS 38.05.183 is amended by adding a new subsection to read:

7 (i) The provisions of this subsection apply to oil taken by the state as its
8 royalty share that is thereafter sold by the state to a purchaser. The payment due the
9 state by the purchaser for the sale of the royalty oil is subject to the following:

10 (1) notwithstanding (f) of this section and the terms of any contract,
11 judgment, or settlement agreement disposing of a pricing or valuation controversy
12 arising out of additional or delinquent payments alleged by the state to be due on the
13 royalty oil purchase, the purchaser of the state royalty oil may claim as a credit against
14 any liquidated purchase arrearage the gross value of the purchaser's investment in a

1 capital project in the state; the purchaser shall file the claim of the credit with the
2 commissioner of commerce and economic development under procedures the
3 commissioner establishes; subject to the limitations of this subsection, the credit
4 authorized by this subsection shall be allowed

5 (A) if the purchaser's investment in the capital project is made
6 after the effective date of this subsection and the purchaser was not, on the
7 effective date of this subsection, already committed to the investment

8 (i) by a financing arrangement or other form of binding
9 contractual commitment entered into before the effective date of this
10 subsection; or

11 (ii) by law or by a lawful government order; and

12 (B) unless the commissioner finds, by clear and convincing
13 evidence, that the investment for which the credit is claimed will not yield
14 benefits to the economy of the state that are commensurate with the amount of
15 the credit;

16 (2) the credit authorized by this subsection

17 (A) shall first be taken against the outstanding balance of the
18 liquidated purchase arrearage; if the amount of the credit that the purchaser
19 may claim exceeds the outstanding balance of the liquidated purchase
20 arrearage, notwithstanding any other provision of law, the purchaser may take
21 the credit against any other obligation that the purchaser may owe the state;

22 (B) may not exceed the total of all liquidated purchase
23 arrearages outstanding against the purchaser, together with interest, if
24 applicable;

25 (3) a purchaser of state royalty oil who is eligible for a credit
26 authorized by this subsection

27 (A) may, on written request to the commissioner, obtain from
28 the commissioner a determination of the eligibility of a proposed investment
29 in a capital project for the credit authorized by this subsection; the purchaser
30 may obtain the determination if the purchaser applies to the commissioner for
31 the determination before the purchaser commits to the investment by a

1 financing arrangement or other form of binding contractual commitment or
2 commences construction of the capital project; if the commissioner receives a
3 written request under this subparagraph, the commissioner shall provide the
4 purchaser with a determination of the investment's eligibility for a credit not
5 later than 60 days after receipt of the request;

6 (B) may claim the credit only after construction of the capital
7 project that is the basis of the credit is, in the judgment of the commissioner,
8 substantially completed;

9 (C) must claim the credit within the latest of

10 (i) 10 years of the effective date of this subsection;

11 (ii) the 10th anniversary date of the contract, settlement,
12 or final judgment that is the basis of the liquidated purchase arrearage
13 under which the credit is claimed; or

14 (iii) the last day of the period in which all payments are
15 due the state under the contract, settlement, or final judgment that is the
16 basis of the liquidated purchase arrearage under which the credit is
17 claimed;

18 (D) may not claim the credit authorized by this subsection for
19 a capital project until entry of the final judgment or the effective date of the
20 contract or settlement agreement that is the basis of the liquidated purchase
21 arrearage;

22 (4) if a purchaser of state royalty oil claims the credit authorized by
23 this subsection against a liquidated purchase arrearage based on an entry of a final
24 judgment against the purchaser,

25 (A) payment due the state under the final judgment is deferred
26 for the duration of any period set out in (3)(C) of this subsection during which
27 the purchaser may claim the credit, and the state may not execute upon the
28 final judgment during that time; and

29 (B) the balance of the judgment, less any credit allowed by the
30 commissioner under this subsection, plus interest as allowed by AS 09.30.070
31 is due and payable by the purchaser not later than 60 days after the last day on

1 which the purchaser may claim the credit under (3)(C) of this subsection;
2 (5) in this subsection,

3 (A) "commissioner" means the commissioner of commerce and
4 economic development;

5 (B) "liquidated purchase arrearage" means the amount
6 determined to be due the state based on additional or delinquent payments
7 alleged by the state to be due and payable by the purchaser of state royalty oil
8 on a royalty oil purchase agreement as a result of any pricing or valuation
9 controversy if the controversy has been resolved between the state and the
10 purchaser by contract, settlement, or final judgment and the amount due the
11 state has been determined and is set out in the document resolving the
12 controversy.

13 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).