

**CS FOR SENATE BILL NO. 134(O&G)****IN THE LEGISLATURE OF THE STATE OF ALASKA****EIGHTEENTH LEGISLATURE - FIRST SESSION****BY THE SENATE SPECIAL COMMITTEE ON OIL AND GAS****Offered: 4/2/93**  
**Referred: L&C, JUD, FIN****Sponsor(s): SENATORS MILLER, Pearce****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 directing the deposit into the Alaska permanent fund and the  
5 general fund of the portion of the liquidated purchase arrearage that must be  
6 paid in cash in order to obtain the credit; and providing for an effective date."

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

8 \* Section 1. AS 38.05.183 is amended by adding new subsections to read:

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

12 (1) notwithstanding (f) of this section and the terms of any contract,  
13 judgment, or settlement agreement disposing of a pricing or valuation controversy

1 arising out of additional or delinquent payments alleged by the state to be due on the  
2 royalty oil purchase, the purchaser of the state royalty oil may claim as a credit against  
3 any liquidated purchase arrearage a portion of the gross value of the purchaser's  
4 investment in a capital project in the state; the purchaser shall file the claim of the  
5 credit with the commissioner of commerce and economic development under  
6 procedures the commissioner establishes; subject to the limitations of this subsection,  
7 the credit authorized by this subsection shall be allowed

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

11 (i) by a financing arrangement or other form of binding  
12 contractual commitment entered into before the effective date of this  
13 subsection; or

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

15 (B) if the purchaser demonstrates to the commissioner, by clear  
16 and convincing evidence, that the investment for which the credit is claimed  
17 will yield benefits to the economy of the state that are greater than the amount  
18 of the credit allowed on that investment;

19 (2) the credit authorized by this subsection

20 (A) may not exceed 75 percent of the liquidated purchase  
21 arrearage, together with interest, if applicable; and

22 (B) may be approved only if the purchaser makes an investment  
23 of twice the amount of the credit claimed;

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

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

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

5 (B) may claim the credit only

6 (i) if, at the time a credit is claimed, and without regard  
7 to any payment previously made to the state under this subsection, the  
8 purchaser first pays the state an amount equal to one-third of the  
9 amount that the purchaser claims as the credit or if, under the contract,  
10 judgment, or settlement agreement disposing of the arrearage, the  
11 purchaser has committed to the payment of that amount not later than  
12 the last day that, under (C) of this paragraph, the purchaser may claim  
13 the credit; and

14 (ii) after construction of the capital project that is the  
15 basis of the credit is, in the judgment of the commissioner, substantially  
16 completed;

17 (C) must claim the credit within seven years of the effective  
18 date of this subsection;

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

23 (4) if a purchaser of state royalty oil claims the credit authorized by  
24 this subsection against a liquidated purchase arrearage based on an entry of a final  
25 judgment against the purchaser, except for the amount due the state under (3)(B)(i) of  
26 this subsection,

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

31 (B) the balance of the judgment, less any credit allowed by the

1 commissioner under this subsection, plus interest as allowed by AS 09.30.070  
2 is due and payable by the purchaser not later than 60 days after the last day on  
3 which the purchaser may claim the credit under (3)(C) of this subsection;

4 (5) in this subsection,

5 (A) "commissioner" means the commissioner of commerce and  
6 economic development;

7 (B) "liquidated purchase arrearage" means the amount  
8 determined to be due the state based on additional or delinquent payments  
9 alleged by the state to be due and payable by the purchaser of state royalty oil  
10 on a royalty oil purchase agreement entered into after December 31, 1977, and  
11 before January 1, 1993, as a result of any pricing or valuation controversy if  
12 the controversy has been resolved between the state and the purchaser by  
13 contract, settlement, or final judgment and the amount due the state has been  
14 determined and is set out in the document resolving the controversy;

15 (C) "purchaser" means a person who acquired royalty oil under  
16 a contract of sale in which the state expressly reserved the right to recalculate  
17 the price of the oil based on the outcome of any then-pending litigation relating  
18 to the determination of the oil's value.

19 (j) In accordance with AS 37.13.010(a)(3), all money received by the state  
20 under (i)(3)(B)(i) of this section shall be deposited into the Alaska permanent fund.  
21 The provisions of this subsection do not except from the deposit requirements of  
22 AS 37.13.010(a) any other amounts received by the state as payment of liquidated  
23 purchase arrearages for which a credit is not allowed under AS 38.05.183(i).

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