

AMENDMENT #4

OFFERED IN THE HOUSE  
TO: CSHB 110(FIN)

BY REPRESENTATIVE GARA

1 Page 1, lines 1 - 8: (title amendment)

2 Delete all material and insert:

3 **""An Act relating to a tax credit applicable to the oil and gas production tax**  
4 **based on capital expenditures; relating to the alternative tax credit for oil and gas**  
5 **exploration; and providing for an effective date.""**

6

7 Page 1, line 10, through page 20, line 26:

8 Delete all material and insert:

9 **\*\* Section 1.** AS 43.55.023(a) is amended to read:

10 (a) A producer or explorer may take a tax credit for a qualified capital  
11 expenditure as follows:

12 (1) except as limited by (p) of this section, notwithstanding that a  
13 qualified capital expenditure may be a deductible lease expenditure for purposes of  
14 calculating the production tax value of oil and gas under AS 43.55.160(a), unless a  
15 credit for that expenditure is taken under AS 38.05.180(i), AS 41.09.010,  
16 AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a qualified capital  
17 expenditure may also elect to apply a tax credit against a tax levied by  
18 AS 43.55.011(e) in the amount of 20 percent of that expenditure; however, not more  
19 than half of the tax credit may be applied for a single calendar year;

20 (2) a producer or explorer may take a credit for a qualified capital  
21 expenditure incurred in connection with geological or geophysical exploration or in  
22 connection with an exploration well only if the producer or explorer

23 (A) agrees, in writing, to the applicable provisions of

1 AS 43.55.025(f)(2);

2 (B) submits to the Department of Natural Resources all data  
3 that would be required to be submitted under AS 43.55.025(f)(2).

4 \* **Sec. 2.** AS 43.55.023(d) is amended to read:

5 (d) Except as limited by (i) **and (p)** of this section, a person that is entitled to  
6 take a tax credit under this section that wishes to transfer the unused credit to another  
7 person or obtain a cash payment under AS 43.55.028 may apply to the department for  
8 transferable tax credit certificates. An application under this subsection must be in a  
9 form prescribed by the department and must include supporting information and  
10 documentation that the department reasonably requires. The department shall grant or  
11 deny an application, or grant an application as to a lesser amount than that claimed and  
12 deny it as to the excess, not later than 120 days after the latest of (1) March 31 of the  
13 year following the calendar year in which the qualified capital expenditure or carried-  
14 forward annual loss for which the credit is claimed was incurred; (2) the date the  
15 statement required under AS 43.55.030(a) or (e) was filed for the calendar year in  
16 which the qualified capital expenditure or carried-forward annual loss for which the  
17 credit is claimed was incurred; or (3) the date the application was received by the  
18 department. If, based on the information then available to it, the department is  
19 reasonably satisfied that the applicant is entitled to a credit, the department shall issue  
20 the applicant two transferable tax credit certificates, each for half of the amount of the  
21 credit. The credit shown on one of the two certificates is available for immediate use.  
22 The credit shown on the second of the two certificates may not be applied against a tax  
23 for a calendar year earlier than the calendar year following the calendar year in which  
24 the certificate is issued, and the certificate must contain a conspicuous statement to  
25 that effect. A certificate issued under this subsection does not expire.

26 \* **Sec. 3.** AS 43.55.023 is amended by adding a new subsection to read:

27 (p) The amount of credit for a capital expenditure under (a) of this section for  
28 an expenditure that is also a lease expenditure under AS 43.55.165 is reduced by the  
29 amount necessary so that the tax benefit percentage is not more than 85 percent of the  
30 capital expenditure. The amount of credit for a capital expenditure under (a) of this  
31 section that may not be taken because of the limitation in this subsection may not be

1 applied in a later calendar year under (c) of this section and may not be included in an  
 2 application for a tax credit certificate under (d) of this section. In this subsection, "tax  
 3 benefit percentage" means the sum of the average monthly tax rate under  
 4 AS 43.55.011(e) for the calendar year in which the credit is taken and the percentage  
 5 of the capital expenditure that may be taken as a credit under (a) of this section.

6 \* **Sec. 4.** AS 43.55.025(a) is amended to read:

7 (a) Subject to the terms and conditions of this section **and except as limited**  
 8 **by (n) of this section**, a credit against the production tax levied by AS 43.55.011(e) is  
 9 allowed for exploration expenditures that qualify under (b) of this section in an  
 10 amount equal to **50** [ONE OF THE FOLLOWING:

11 (1) 30] percent of the total exploration expenditures **except that the**  
 12 **amount of the credit is** [THAT QUALIFY ONLY UNDER (b) AND (c) OF THIS  
 13 SECTION;

14 (2) 30 PERCENT OF THE TOTAL EXPLORATION  
 15 EXPENDITURES THAT QUALIFY ONLY UNDER (b) AND (d) OF THIS  
 16 SECTION;

17 (3) 40 PERCENT OF THE TOTAL EXPLORATION  
 18 EXPENDITURES THAT QUALIFY UNDER (b), (c), AND (d) OF THIS SECTION;

19 (4) 40 PERCENT OF THE TOTAL EXPLORATION  
 20 EXPENDITURES THAT QUALIFY ONLY UNDER (b) AND (e) OF THIS  
 21 SECTION; OR

22 (5)] 80, 90, or 100 percent, or a lesser amount described in (l) of this  
 23 section, of the total exploration expenditures described in (b)(1) and (2) of this section  
 24 and not excluded by (b)(3) and (4) of this section that qualify only under (l) of this  
 25 section.

26 \* **Sec. 5.** AS 43.55.025(b) is amended to read:

27 (b) To qualify for the production tax credit under (a) of this section, an  
 28 exploration expenditure must be incurred for work performed after June 30, 2008, and  
 29 before July 1, **2021** [2016], and

30 (1) may be for seismic or other geophysical exploration costs not  
 31 connected with a specific well;

1 (2) if for an exploration well,

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

4 (B) may be for either a well that encounters an oil or gas  
5 deposit or a dry hole;

6 (C) must be for a well that has been completed, suspended, or  
7 abandoned at the time the explorer claims the tax credit under (f) of this  
8 section; and

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

14 (3) may not be for administration, supervision, engineering, or lease  
15 operating costs; geological or management costs; community relations or  
16 environmental costs; bonuses, taxes, or other payments to governments related to the  
17 well; costs, including repairs and replacements, arising from or associated with fraud,  
18 wilful misconduct, gross negligence, criminal negligence, or violation of law,  
19 including a violation of 33 U.S.C. 1319(c)(1) or 1321(b)(3) (Clean Water Act); or  
20 other costs that are generally recognized as indirect costs or financing costs; and

21 (4) may not be incurred for an exploration well or seismic exploration  
22 that is included in a plan of exploration or a plan of development for any unit before  
23 May 14, 2003.

24 \* **Sec. 6.** AS 43.55.025(k) is amended to read:

25 (k) Subject to the terms and conditions of this section, if a claim is filed under  
26 (f)(1) of this section before January 1, **2021** [2016], a credit against the production tax  
27 levied by AS 43.55.011(e) is allowed in an amount equal to five percent of an eligible  
28 expenditure under this subsection incurred for seismic exploration performed before  
29 July 1, 2003. To be eligible under this subsection, an expenditure must

30 (1) have been for seismic exploration that

31 (A) obtained data that the commissioner of natural resources

1 considers to be in the best interest of the state to acquire for public distribution;  
2 and

3 (B) was conducted outside the boundaries of a production unit;  
4 however, the amount of the expenditure that is otherwise eligible under this  
5 section is reduced proportionately by the portion of the seismic exploration  
6 activity that crossed into a production unit; and

7 (2) qualify under (b)(3) of this section.

8 \* **Sec. 7.** AS 43.55.025 is amended by adding a new subsection to read:

9 (n) Except for a credit for an exploration expenditure described in (l) of this  
10 section, the amount of credit for an exploration expenditure under (a) of this section  
11 for an expenditure that is also a lease expenditure under AS 43.55.165 is reduced by  
12 the amount necessary so that the tax benefit percentage is not more than 85 percent of  
13 the exploration expenditure. Except for a credit, other than a credit for an exploration  
14 expenditure described in (l) of this section, the amount of credit for an exploration  
15 expenditure under (a) of this section that may not be taken because of the limitation in  
16 this subsection may not be transferred, conveyed, or sold under (g) of this section. In  
17 this subsection, "tax benefit percentage" means the sum of the average monthly tax  
18 rate under AS 43.55.011(e) for the calendar year in which the credit is taken and the  
19 percentage of the exploration expenditure, other than an exploration expenditure  
20 described in (l) of this section, that may be taken as a credit under (a) of this section.

21 \* **Sec. 8.** AS 43.55.025(d), 43.55.025(e), and 43.55.025(m) are repealed.

22 \* **Sec. 9.** This Act takes effect January 1, 2012."