

HOUSE BILL NO. 197

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES FOSTER, Vezey

Introduced: 2/27/95

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for exploration incentive credits for activities involving locatable
2 and leasable minerals and coal deposits on certain land in the state; and
3 providing for an effective date."

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

5 * **Section 1.** AS 27 is amended by adding a new chapter to read:

6 CHAPTER 30. EXPLORATION INCENTIVE CREDITS.

7 Sec. 27.30.010. EXPLORATION INCENTIVE CREDITS AUTHORIZED.

8 (a) The commissioner shall grant to a qualified applicant an exploration incentive
9 credit for each of the following activities performed on or for the benefit of land in the
10 state for the purpose of determining the existence, location, extent, feasibility of
11 development, or quality of a locatable or leasable mineral or coal deposit, regardless
12 of whether the land is state-owned land:

13 (1) surveying by geophysical or geochemical methods;

14 (2) drilling exploration holes;

1 (3) conducting underground exploration;
2 (4) surface trenching and bulk sampling; or
3 (5) performing other exploratory work, including aerial photographs,
4 geological and geophysical logging, sample analysis, and metallurgical testing.

5 (b) An exploration incentive credit granted under (a) of this section may be

6 (1) applied, at the discretion of the qualified applicant, against

7 (A) taxes payable under AS 43.20 and AS 43.65 that are related
8 to production from the site on which the exploration activities occur;

9 (B) mineral production royalty payments due the state under
10 AS 38.05.135 - 38.05.175 for production from the site on which the exploration
11 activities occur; and

12 (C) annual rent payable under AS 38.05.211 for the site on
13 which the exploration activities occur; and

14 (2) carried forward to a subsequent tax year or payment period, except
15 as limited by AS 27.30.030.

16 (c) An exploration incentive credit shall be granted under (a) of this section
17 to a qualified applicant if the qualified applicant provides the commissioner satisfactory
18 documentation of exploration activity conducted and of the eligible costs. For
19 purposes of this subsection, "satisfactory documentation of exploration activity"
20 includes, where applicable,

21 (1) a representative skeleton core for each hole cored or a
22 representative set of cuttings for each hole rotary drilled;

23 (2) chemical analytical data and noninterpretive geophysical data;

24 (3) aerial photographs or a topographic or geologic map showing the
25 location of the drill holes, sample locations, or the other exploration activities
26 undertaken; if the locations are shown on a map, the map must have a scale of not less
27 than one inch to the mile showing reference to a recognized coordinate system; and

28 (4) a cost breakdown showing amounts claimed by the applicant as an
29 exploration incentive under this subsection.

30 (d) Data provided to the commissioner under this section shall be kept
31 confidential for 36 months after receipt by the commissioner.

1 Sec. 27.30.020. LIMIT ON CREDITS. (a) The amount of the exploration
2 incentive credit for each site that may be taken during a tax year or royalty or rental
3 payment period may not exceed 50 percent of the combined amount payable by the
4 applicant as

5 (1) taxes payable under AS 43.20 and AS 43.65 that are related to
6 production from the site on which the exploration activities occur;

7 (2) mineral production royalty payments due the state under
8 AS 38.05.135 - 38.05.175 for production from the site on which the exploration
9 activities occur; and

10 (3) annual rent payable under AS 38.05.211 for the site on which the
11 exploration activities occur.

12 (b) Except as its use is limited by AS 27.30.030, a portion of a credit that is
13 not applied or used under (a) of this section may be carried forward to and applied
14 during a subsequent tax year or royalty payment period.

15 Sec. 27.30.030. USE OF CREDIT. An exploration incentive credit

16 (1) must be used within 15 years after it is granted under
17 AS 27.30.010; and

18 (2) may, for the purposes described in AS 27.30.010(b), be assigned
19 by the qualified applicant to the applicant's successor in interest for the site at which
20 the exploration activities occur if the successor in interest is a qualified applicant.

21 Sec. 27.30.040. RELATIONSHIP TO OTHER FUNDS. Amounts due the
22 permanent fund under AS 37.13.010 shall be calculated before the application of a
23 credit extended under AS 27.30.010.

24 Sec. 27.30.050. REGULATIONS. The commissioner may adopt regulations
25 necessary to implement this chapter.

26 Sec. 27.30.090. DEFINITIONS. In this chapter,

27 (1) "eligible costs" mean the costs incurred for activities in direct
28 support of exploration activity conducted for the purpose of determining the existence,
29 location, extent, feasibility of development, or quality of a mineral or coal deposit; the
30 term

31 (A) includes

1 (i) direct labor costs, including the cost of benefits, for
2 employees directly associated with work described in
3 AS 27.30.010(a)(1) - (5);

4 (ii) the cost of renting or leasing equipment from
5 parties not affiliated with the applicant;

6 (iii) the reasonable costs of maintaining and operating
7 equipment;

8 (iv) payments to consultants and independent contractors
9 not affiliated with the applicant; and

10 (v) the general expense of operating the taxpayer's
11 business, including the costs of materials and supplies, if those expenses
12 and costs are directly attributable to the work described in
13 AS 27.30.010(a)(1) - (5);

14 (B) does not include noncash expenses such as depreciation and
15 reserves, interest or other costs of borrowed funds, return on investment,
16 insurance or bond premiums, or any other expense that is unreasonable or that
17 the applicant has not incurred to complete work described in
18 AS 27.30.010(a)(1) - (5);

19 (2) "geochemical methods" means soil, rock, water, air, vegetation, and
20 similar samples collected and their chemical analyses;

21 (3) "geophysical methods" means all geophysical data gathering
22 methods used in minerals exploration, including seismic, gravity, magnetic,
23 radiometric, radar, and electromagnetic and other remote sensing measurements;

24 (4) "qualified applicant" means

25 (A) a natural person who is at least 18 years of age;

26 (B) a partnership qualified to do business in the state;

27 (C) a corporation qualified to do business in the state;

28 (D) a limited liability company qualified to do business in the
29 state;

30 (E) a legal guardian or trustee of a qualified natural person
31 described in (A) of this paragraph; or

1 (F) any association of persons listed in (A) - (E) of this
2 paragraph.

3 * **Sec. 2.** AS 38.05.135(a) is amended to read:

4 (a) Except as otherwise provided, valuable mineral deposits in land belonging
5 to the state shall be open to exploration, development, and the extraction of minerals.
6 All land, together with tide, submerged, or shoreland, to which the state holds title to
7 or to which the state may become entitled, may be obtained by permit or lease for the
8 purpose of exploration, development, and the extraction of minerals. Except as
9 specifically limited by AS 38.05.135 - 38.05.181, land may be withheld from lease
10 application on a first-come, first-served basis, and offered only on a competitive bid
11 basis when determined by the commissioner to be in the best interests of the state.

12 **When authorized by AS 27.30.010, the commissioner shall allow an exploration**
13 **incentive credit for activities undertaken to determine the existence, location,**
14 **extent, feasibility of development, or quality of a locatable or leasable mineral or**
15 **coal deposit and in** [IN] unproven areas the commissioner may offer additional
16 incentives, including a reduction of royalty to a minimum of five percent in the case
17 of oil and gas, and other terms in and granting permit or lease for exploration and
18 development whenever it appears to be in the best interests of the state to do so.

19 * **Sec. 3.** AS 38.05.211(c) is amended to read:

20 (c) The rental for each year
21 **(1) is subject to the claim of the exploration incentive credit**
22 **authorized by AS 27.30; and**
23 **(2) after allowance of the credit claimed under (1) of this**
24 **subsection,** shall be credited against the production royalty under AS 38.05.212 as it
25 accrues for that year.

26 * **Sec. 4.** AS 38.05.212(b) is amended to read:

27 (b) The production royalty
28 **(1) is three percent of net income as determined under AS 43.65; and**
29 **(2) is subject to the exploration incentive credit authorized by**
30 **AS 27.30.**

31 * **Sec. 5.** AS 43.20 is amended by adding a new section to read:

1 Sec. 43.20.044. EXPLORATION INCENTIVE CREDIT. A taxpayer may
2 apply as a credit against the tax levied under this chapter the exploration incentive
3 credit authorized by AS 27.30.

4 * **Sec. 6.** AS 43.65.020(a) is amended to read:

5 (a) A person subject to tax under this chapter shall make a return stating
6 specifically the items of gross income from the property, including royalty received
7 and the deductions and credits allowed by this chapter **and the exploration incentive**
8 **credit authorized by AS 27.30**, and other information for carrying out this chapter
9 that the department prescribes. The return must show the mining license number and
10 must be signed by the taxpayer or an authorized agent of the taxpayer, under penalty
11 of unsworn falsification. If receivers, trustees, or assigns are operating the property
12 or business, they shall make returns for the person engaged in mining, or the recipient
13 of royalty in connection with mining property. The tax due on the basis of the returns
14 shall be collected in the same manner as if collected from the person of whose
15 business they have custody and control.

16 * **Sec. 7.** This Act is retroactive to January 1, 1995, and applies to activities that qualify
17 for the exploration incentive credit authorized by AS 27.30 that are undertaken after
18 December 31, 1994.

19 * **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).