

CS FOR HOUSE BILL NO. 238(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 5/7/97

Referred: Finance

Sponsor(s): REPRESENTATIVES VEZEY, Foster, Ivan

A BILL

FOR AN ACT ENTITLED

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

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

5 *** Section 1.** AS 27.30.010(a) is amended to read:

6 (a) **Except as provided in AS 27.30.012, the** [THE] commissioner shall grant
7 to a person described in (d) of this section an exploration incentive credit for the
8 eligible costs of each of the following exploration activities that are performed on or
9 for the benefit of land in the state for the purpose of determining the existence,
10 location, extent, or quality of a locatable or leasable mineral or coal deposit, regardless
11 of whether the land is state-owned land:

- 12 (1) surveying by geophysical or geochemical methods;
13 (2) drilling exploration holes;
14 (3) conducting underground exploration;

- 1 (4) surface trenching and bulk sampling; [OR]
 2 (5) **geological mapping; or**
 3 **(6)** performing other exploratory work, including aerial photographs,
 4 geological and geophysical logging, sample analysis, and metallurgical testing.

5 * **Sec. 2.** AS 27.30 is amended by adding a new section to read:

6 **Sec. 27.30.012. Credit for certain additional mapping or surveying**
 7 **activities.** (a) For the eligible costs incurred in conducting geological mapping or
 8 geophysical or geochemical surveying when a mining operation is not initiated based
 9 on that mapping or surveying activity, an exploration incentive credit may not be
 10 certified for the eligible costs of an exploration activity set out in AS 27.30.010(a)(1)
 11 or (5)

12 (1) unless the person requesting the taking of the credit has first
 13 obtained a determination that

14 (A) the surveying information described under
 15 AS 27.30.010(a)(1) and the results of the geological mapping described under
 16 AS 27.30.010(a)(5), as appropriate, are of value to the state because they do
 17 not duplicate existing data and meet appropriate general or technical standards
 18 applicable to mapping or surveying of state land; the determination of value to
 19 the state and of compliance with standards under this subparagraph may be
 20 made on the basis of a review made

21 (i) by the department; or

22 (ii) at the discretion of the department, by a professional
 23 geologist certified or eligible for certification under AS 08.02.011,
 24 functioning as a consultant to the department; if a review is to be made
 25 by a professional geologist, the geologist must be a person acceptable
 26 to both the department and the person requesting the taking of the
 27 credit, and the geologist's services shall be retained under a contract
 28 entered into by the person requesting the taking of the credit that is
 29 approved by the department;

30 (B) the surveying information recovered and geological mapping
 31 obtained were first recovered or obtained after the effective date of this Act or,

1 if earlier first recovered or obtained, the department determines that the value
2 of the data to the public is substantial and that the data is specifically eligible
3 for a credit under this chapter; and

4 (C) the surveying information described under
5 AS 27.30.010(a)(1) and the results of the geological mapping described under
6 AS 27.30.010(a)(5) have been made available to the public or will be made
7 available to the public

8 (i) by publication in a recognized professional journal
9 acceptable to the department;

10 (ii) by publication by the person seeking the credit in a
11 manner and at a price acceptable to the department; or

12 (iii) in a manner that is otherwise acceptable to the
13 department; or

14 (2) if, based on material submitted to the commissioner, the
15 commissioner determines that the state will not accept the exploration activity data
16 obtained from the mapping or surveying because that data duplicates existing data,
17 does not conform to appropriate general or technical standards applicable to mapping
18 or surveying of state land, does not comply with the standard of (1)(B) of this
19 subsection, or cannot be made available to the public under (1)(C) of this subsection.

20 (b) The deadlines set out in AS 27.30.020 for the submission of requests for
21 an exploration incentive credit, for certification of expenditures relating to an
22 application for the credit, and for approval or disapproval of the taking of the credit
23 do not apply to a credit based solely on activity that qualifies for a credit authorized
24 by this section.

25 (c) A credit may not be

26 (1) obtained under this section for eligible costs that are paid for or
27 reimbursed to the person by the federal government or the state; or

28 (2) applied for and obtained under this section for eligible costs that are
29 eligible for the credit authorized by AS 27.30.010, whether or not the credit authorized
30 by that section is requested or whether or not the credit authorized by that section is
31 denied by the commissioner or taken by the person.

1 * **Sec. 3.** AS 27.30.030(a) is amended to read:

2 (a) In a tax year or royalty payment period, subject to (c) of this section and
3 the respective limitations of this subsection, the person may apply the credit, the taking
4 of which was approved under AS 27.30.020(2), against

5 (1) taxes payable by the person

6 (A) under AS 43.65; application of the credit under this
7 subparagraph may not exceed the lesser of

8 (i) 50 percent of the person's tax liability under
9 AS 43.65 for the tax year that is related to production from the mining
10 operation at which the exploration activities occurred, as shown under
11 (b) of this section; or

12 (ii) 50 percent of the person's total tax liability under
13 AS 43.65 for the tax year;

14 (B) under AS 43.20; when the claim of the credit does not
15 contain eligible costs of surveying information described under
16 AS 27.30.010(a)(1) or the results of geological mapping described under
17 AS 27.30.010(a)(5), or when the claim of the credit contains eligible costs
18 of surveying information described under AS 27.30.010(a)(1) or the results
19 of geological mapping described under AS 29.30.010(a)(5) and the
20 surveying information or results of geological mapping cannot be certified
21 by the commissioner as eligible costs under AS 27.30.012, application of the
22 credit under this subparagraph may not exceed the lesser of

23 (i) an amount equal to the amount determined under
24 (A)(i) of this paragraph; or

25 (ii) 50 percent of the person's total tax liability under
26 AS 43.20 for the tax year; [AND]

27 (C) under AS 43.20; when the claim of the credit contains
28 eligible costs of either surveying information described under
29 AS 27.30.010(a)(1) or the results of geological mapping described under
30 AS 27.30.010(a)(5) and the surveying information or results of geological
31 mapping are certified as eligible costs by the commissioner under

1 AS 27.30.012, application of the credit under this subparagraph may not
 2 exceed the greater of

3 (i) an amount equal to the amount determined under

4 (A)(i) of this paragraph; or

5 (ii) 50 percent of the person's total tax liability under

6 AS 43.20 for the tax year; and

7 (2) mineral production royalty payments payable by the person under
 8 AS 38.05.135 - 38.05.175 and 38.05.212 for production from the mining operation at
 9 which the exploration activities occurred; application of the credit under this paragraph
 10 may not exceed 50 percent of the person's mineral production royalty payment liability
 11 from the mining operation at which the exploration activities occurred.

12 * **Sec. 4.** AS 27.30.030(b) is amended to read:

13 (b) If the person applies the credit against the person's tax liability under
 14 (a)(1)(A)(i), [OR] (a)(1)(B)(i), or (a)(1)(C)(i) of this section, the commissioner of
 15 revenue shall disallow application of the credit under that provision unless the person
 16 files with the person's tax return an accounting of the person's mining operation
 17 activities for each mining operation that is included in the tax return and as to which
 18 the credit is being applied. The accounting of mining operation activities required by
 19 this subsection shall be made

20 (1) on a form prescribed by the Department of Revenue; on the form,
 21 the person shall

22 (A) identify the mining operations for which the credit is
 23 claimed; and

24 (B) set out the gross income attributable to the mining
 25 operations and other information about the mining operations that the
 26 Department of Revenue may require;

27 (2) without regard to an exemption to which the person may be entitled
 28 under AS 43.65.010(a).

29 * **Sec. 5.** AS 27.30.050 is amended to read:

30 **Sec. 27.30.050. Limit on application of credit. (a) The grant of all**
 31 **exploration incentive credits for a mining operation under AS 27.30.010, including**

1 credits authorized by AS 27.30.012 for geological mapping or geophysical or
 2 geochemical surveying when a mining operation is not initiated, made to a person
 3 described in AS 27.30.010(d) may not exceed \$20,000,000.

4 (b) An exploration incentive credit for a mining operation [MAY NOT
 5 EXCEED \$20,000,000 AND] must be applied within 15 tax years or royalty payment
 6 periods after the taking of the credit is approved under AS 27.30.020(2), but the tax
 7 years or royalty payment periods in which the credit is applied need not be

8 (1) the tax year or royalty payment period in which the person first
 9 incurs liability for payment of tax or royalty based on the person's activity that is the
 10 basis of the claim of the exploration incentive credit; or

11 (2) consecutive periods.

12 * Sec. 6. AS 27.30.090(a) is amended to read:

13 (a) Except as to information the disclosure of which has been authorized
 14 by AS 27.30.012, the [THE] commissioner shall keep the exploration activity data
 15 provided under AS 27.30.020 confidential for 36 months after receipt by the
 16 department.

17 * Sec. 7. AS 27.30.099(2) is amended to read:

18 (2) "eligible costs" means all expenses incurred by a person
 19 described in AS 27.30.010(d) in conducting geological mapping or geophysical and
 20 geochemical surveying without regard to whether a mining operation is initiated
 21 based on the mapping or surveying activities and, in addition, [MEAN] the costs
 22 incurred for activities in direct support of exploration activity conducted at the mining
 23 operation of the exploration activity for the purpose of determining the existence,
 24 location, extent, or quality of a mineral or coal deposit; when used with reference to
 25 activities in direct support of exploration activity conducted at the mining
 26 operation, the term

27 (A) includes

28 (i) the costs of obtaining the approvals, permits, licenses,
 29 and certificates for an exploration activity set out in AS 27.30.010(a)
 30 [AS 27.30.010(a)(1) - (5)];

31 (ii) direct labor costs and the cost of benefits for

1 employees directly associated with work described in AS 27.30.010(a)
 2 [AS 27.30.010(a)(1) - (5)];

3 (iii) the cost of renting or leasing equipment from parties
 4 not affiliated with the person requesting and taking the credit;

5 (iv) the reasonable costs of owning, maintaining, and
 6 operating equipment;

7 (v) insurance and bond premiums associated with the
 8 activities set out in (i) - (iv) of this subparagraph;

9 (vi) payments to consultants and independent
 10 contractors; and

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

15 (B) does not include return on investment, insurance or bond
 16 premiums not covered under (A)(v) of this paragraph, or any other expense that
 17 the person has not incurred to complete work described in AS 27.30.010(a)
 18 [AS 27.30.010(a)(1) - (5)];

19 * **Sec. 8.** AS 27.30.099(3) is amended to read:

20 (3) "exploration activity data" includes, as applicable,

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

23 (B) chemical analytical data, [AND] noninterpretive geophysical
 24 data, and geological mapping;

25 (C) aerial photographs or a topographic or geologic map
 26 showing the location of the drill holes, sample locations, or the other
 27 exploration activities undertaken;

28 * **Sec. 9.** This Act is retroactive to January 1, 1997, and applies to activities that qualify
 29 for the exploration incentive credit authorized by AS 27.30.012, added by sec. 2 of this Act,
 30 that are undertaken after December 31, 1996.

31 * **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).