

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

February 23, 2016

1:03 p.m.

MEMBERS PRESENT

Representative Benjamin Nageak, Co-Chair
Representative David Talerico, Co-Chair
Representative Mike Hawker, Vice Chair
Representative Bob Herron
Representative Craig Johnson
Representative Kurt Olson
Representative Paul Seaton
Representative Andy Josephson

MEMBERS ABSENT

Representative Geran Tarr

COMMITTEE CALENDAR

HOUSE BILL NO. 253

"An Act requiring the electronic filing of a tax return or report with the Department of Revenue; establishing a civil penalty for failure to electronically file a return or report; relating to exemptions from the mining license tax; relating to the mining license tax rate; relating to mining license application, renewal, and fees; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 253

SHORT TITLE: ELCTRNC TAX RETURN;MINING LIC. TAX & FEES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/16	(H)	READ THE FIRST TIME - REFERRALS
01/19/16	(H)	RES, FIN
02/15/16	(H)	RES AT 1:00 PM BARNES 124
02/15/16	(H)	Heard & Held
02/15/16	(H)	MINUTE(RES)
02/17/16	(H)	RES AT 1:00 PM BARNES 124
02/17/16	(H)	Heard & Held
02/17/16	(H)	MINUTE(RES)

02/19/16 (H) RES AT 1:00 PM BARNES 124
02/19/16 (H) Heard & Held
02/19/16 (H) MINUTE(RES)
02/23/16 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

BRONK JORGENSEN
Fortymile Mining District
Chicken, Alaska

POSITION STATEMENT: Provided his organization's concerns regarding the potential impacts that HB 253 could have on placer miners in Alaska.

KAREN MATTHIAS, Managing Consultant
Council of Alaska Producers (CAP)
Anchorage, Alaska

POSITION STATEMENT: Provided her organization's concerns regarding the potential impacts that HB 253 could have on large metal mines and major metal development mines in Alaska.

DEANTHA CROCKETT, Executive Director
Alaska Miners Association (AMA)
Anchorage, Alaska

POSITION STATEMENT: Provided her organization's concerns regarding the potential impacts that HB 253 could have on the mining industry.

ACTION NARRATIVE

[1:03:22 PM](#)

CO-CHAIR DAVID TALERICO called the House Resources Standing Committee meeting to order at 1:03 p.m. Representatives Hawker, Johnson, Seaton, Josephson, Herron, Nageak, and Talerico were present at the call to order. Representative Olson arrived as the meeting was in progress.

HB 253-ELCTRNC TAX RETURN;MINING LIC. TAX & FEES

[1:04:19 PM](#)

CO-CHAIR TALERICO announced that the only order of business would be HOUSE BILL NO. 253, "An Act requiring the electronic filing of a tax return or report with the Department of Revenue; establishing a civil penalty for failure to electronically file

a return or report; relating to exemptions from the mining license tax; relating to the mining license tax rate; relating to mining license application, renewal, and fees; and providing for an effective date."

[1:05:20 PM](#)

BRONK JORGENSEN, Fortymile Mining District, provided his organization's concerns regarding the potential impacts that HB 253 could have on placer miners in Alaska. He paraphrased from the following written testimony [original punctuation provided]:

I would like to thank the Committee for letting the Mining District testify on HB 253 today.

The Fortymile Mining District was established on the Fortymile Bar of the Fortymile River on March 25th, 1898 under the 1866 Mining Act and the 1872 General Mining Act. The District is the oldest and longest standing Mining District in the State of Alaska. We encompass approximately six thousand square miles. Since 1898, the District has been actively engaged with Governmental agencies to promote family placer mines and create a healthy and vibrant environment for all user groups of the Fortymile River watershed.

Currently we have just over a 100 family placer miners that make up the Mining District. This group along with all placer miners in the state are currently facing an unprecedented obstacle in dealing with regulatory agencies like the BLM [US Bureau of Land Management, EPA [US Environmental Protection Agency], DEC [Department of Environmental Conservation], and US Army ... [Corps] of Engineers.

Family placer operators on Federal Lands are being inundated by Instructional Memoranda's, reinterpretation of regulations and forcing any new or revised plans of operations to comply with a complicated "REM [Reclamation Effectiveness Monitoring] Policy" for reclamation, along with a new BLM policy of being forced out of using the State of Alaska Bond Pool. The State Bond pool is an extremely important asset to our placer miners on both state and federal mining claims.

Placer mining in the Fortymile is a clean process, no acid leaching or other chemicals are used, just water and hard work. The overall footprint is minimal to the extent that the 1986 Environmental impact statement [EIS] showed that collectively all placer mining in the Fortymile District would have no significant impact. The number of acres that the EIS assumed in 1986 would be mined by 1996 hasn't even been reached today and we are 30 years out. Total all placer activity in the Fortymile is smaller than an Iowa Farm.

I bring this up to show the economic power of our family placer mining and the minimal area it takes to do so.

Family Placer Mines are a huge force in driving the Alaska economy especially in rural Alaska where there is very little other economic activity. I would like to point to the McDowell report that was done on the Economic Impact of Placer Mining in Alaska. A couple highlights from the report.

- Family Placer Mines have been steadily increasing on average over the last decade.
- 88% of all expenditures made by placer miners are spent in the state of Alaska.
- Total Impacts: 1700 jobs in Alaska, \$65 million of labor income in Alaska and \$150 Million in Total spending on goods and services.

In this house bill,

- The Requirement for Electronic Filing of Mining License Tax Returns. We believe we will problem for our members. The exemption for this should be in statute and allow exemptions for operations with less than 10 employees or a tax liability of under \$10,000.
 - Many of our members don't have internet or can barely run a computer.
 - I personally tried to use the current electronic system. I'm probably one of the more tech savvy operators and I stopped and used the good old paper system, because it is difficult and problematic to use.
- This bill is eliminating the Requirement to file returns in Juneau. This is a positive step for

family placers. Placer miners should be able to file their tax returns and pay their tax at State DNR [Department of Natural Resources] information offices in Fairbanks and Anchorage just like Rental Fees, water license fees and APMA [Application for Permits to Mine in Alaska] fees. This eliminates worry and hassle that returns are timely filed.

- It is purposed that we Increase Mining License Fee of from \$0 to \$50.
 - This \$50 annual fee may not seem like a big thing but it actually is. Currently it is estimated this will bring in only \$25,000. This \$25,000 is a minor amount of money that will have a significant impact on family placer miners.
 - In order for a placer operator to get permitted, they have to pay the following regulator fees and all these fees add up and make it more difficult for us to operate:
 - o APMA fee of \$150 for one year. Alaska Placer Miners Application.
 - o Non refundable Bonding fees can be as much as \$370 per year.
 - o Temporary Water License is \$50 per year.
 - o BLM Camping fees every year for dredgers is \$250
 - o State Mining Claim Rental Fees and Federal Maintenance fees every year cost most of our miners a minimum of \$300 per year.

In the end the \$50 dollars will have a significant impact, and if it is the straw that breaks the camels back on just one or two family operations, it is not worth it.

Anything you do that adds to the burdon of family placer mines with have a negative effect on both our family miner and the state economy. CACFA the Citizens Advisory Commission on Federal Areas has been a huge asset to the Mining District in dealing with ANILCA and Federal Agencies.

The Fortymile District would like to be positive and what we need to be doing is helping family placer operations so they can be successful and add revenue to our state.

I encourage all of you to remember that the trickledown effect in the economy of losing just a couple family placer mines has a significant impact on the general state economy. Let's try to work on reducing the regulator paperwork and encourage more people to go out and develop small placer operations.

As at State we need to be making it easier to comply and meet regulations. We need to keep the bond pool strong, and pursue our State rights under ANICLA. Continuing to move forward on issues like the navigable waters, RS2477 and we need to support and fund CACFA. In the long term these things will help our overall long term fiscal issues.

Thank you for giving me the time to address the committee.

[1:13:54 PM](#)

REPRESENTATIVE SEATON referred to Mr. Jorgenson's comment that the state bond pool money had not been used up, and asked for details as to where the bond pool is and what it is used for.

MR. JORGENSEN replied that the bond pool is something every federal operator has to use and any state operator that disturbs over five acres of ground. In the event a miner defaults, the bond pool money can then be used to reclaim the land and remove equipment.

REPRESENTATIVE SEATON surmised that the payment into the state bond pool

MR. JORGENSEN interjected that it is still funded by the small miners in that every year miners pay \$37.50 and it goes for managing the pool and continuing to grow it. He noted that the issue for federal operators is that BLM is claiming the bond pool isn't strong enough and BLM is using that to force federal operators to use their financial guarantee system, which essentially means putting up a \$500,000 to \$1 million bond. From his operation he estimated it to be approximately five to six times the cost.

REPRESENTATIVE SEATON asked how much money is currently in the bond pool.

MR. JORGENSEN responded that it is approximately \$1.1 million.

[1:15:39 PM](#)

REPRESENTATIVE JOSEPHSON asked how many of the hundred families are making a living principally on placer mining.

MR. JORGENSEN estimated that approximately one-half of the operators are principally placer miners.

REPRESENTATIVE JOSEPHSON asked for clarification regarding the \$37.50 per year payment.

MR. JORGENSEN explained that it is \$37.50 per acre, so the bigger the area left disturbed the more the miner pays. Until the state or federal agency signs off on the ground the miner must continue paying every year, although there is a refundable portion so that once it is completed the miner receives his/her refundable bond.

[1:16:36 PM](#)

CO-CHAIR TALERICO asked what has been the largest acreage disturbance for any one individual claim.

MR. JORGENSEN answered that the largest operator in the Fortymile has approximately 15-20 acres disturbed.

The committee took a brief at ease.

[1:17:32 PM](#)

KAREN MATTHIAS, Managing Consultant, Council of Alaska Producers (CAP), provided her organization's concerns regarding the potential impacts that HB 253 could have on large metal mines and major metal development mines in Alaska. She paraphrased from the following written testimony: [original punctuation provided]:

For the record, my name is Karen Matthias and I am the managing consultant of the Council of Alaska Producers (CAP). Thank you for this opportunity to testify on HB 253.

CAP is a non-profit trade association formed in 1992 and serves as a spokesperson for the large metal mines and major metal developmental projects in the state.

I watched the testimony of the Administration last week so I know you have been given an overview of the mining industry and an explanation of the current tax system. I will focus my comments on the impact of this bill on Alaska's 5 large metal mines and major projects and my colleague, Deantha Crockett of the Alaska Miners Association, will be speak to the broader industry which includes coal, placer mining and exploration.

CAP has two major concerns about HB 253:

1. How does the proposed 29% higher AMLT payment impact Alaska's current mines and projects?
2. Will it attract or deter investment to Alaska?

First, I would like to state CAP's position on fiscal sustainability.

As businesses that have had to make tough decisions to optimize operations, cutting budgets and positions over the past four years of declining mineral prices, CAP appreciates the depth of the State's fiscal challenge and concurs with many key elements of the Governor's fiscal plan for Alaska.

CAP's position has been consistent. To achieve fiscal sustainability and a stable investment climate, we support strategic reductions in the cost of government, use of the Permanent Fund earnings and broad based revenue measures to fill the remaining gap. However, CAP believes that targeting one or a few resource industries for tax increases is divisive, discourages investment and does little to balance the budget.

The fundamental question is what should Alaska's mineral tax policy be? Presumably we want to find the balance between a reasonable share for the state and a competitive rate for industry that attracts investment. Why? Because a robust, responsible mining industry contributes to Alaska's economic diversity by providing good jobs, procurement and contract

opportunities for local businesses, state and local government revenue and revenue sharing to Alaska Native Corporations.

I know the administration already touched on these points and underscored the importance of the mining industry to local communities, particularly in the Interior, Nome, Northwest Alaska and right here in Southeast.

Proposed AMLT increase

In his State of the State address in January, Governor Walker said that if Alaska were a country, we would be the 8th most mineral rich nation in the world. But despite billions of dollars spent on dozens of exploration projects since the 1980s, we currently only have five large metal mines. Why? Simply put, it is very expensive and takes a long time to develop a mine in Alaska due to our state's lack of transportation and energy infrastructure. If our rich deposits were in Nevada closer to roads, rail and power, they would probably already be operating mines. The State's annual Mineral Industry Report recognizes the negative impact of declining metal prices and paints a grim picture: fewer jobs, lower net revenue and a significant drop in exploration spending. This prompts numerous questions from our industry. What is the rationale for raising the Alaska Mining License Tax (AMLT) at a time of low metal prices? We have not seen a detailed analysis from the Administration about the impact of a tax hike. CAP is concerned that it will affect the economic feasibility of mines that are under consideration or in permitting. Just one new large metal mine would bring more revenue to the state than this proposed increase.

CAP has members that are very concerned that at our current low metal prices it doesn't take much to tip into neutral or negative cash flow. Yes, the AMLT is based on net income, but at these prices, net income is low and a 29 [percent] higher tax payment would be a hard blow. The Department of Revenue has clearly illustrated how difficult things are for the industry in their estimation of the revenue impact of the higher tax rate. When the Governor rolled out his fiscal plan in December, Appendix A of his narrative

stated that the increase in AMLT would result in an additional \$12 million to the state. The fiscal note to this bill says \$5.9 million in 2018. The difference is a recalculation of estimated net income and the reality of low commodity prices.

CAP is also concerned that the tax increase will deter investment. The 2014 Fraser Institute Annual Survey of Mining Companies ranks Alaska 22nd out of 122 jurisdictions around the world in regard to mining taxation policy as approximately 70 [percent] of the respondents said that our tax policy encouraged or did not deter investment. At a time of increasing competition for few global exploration dollars, what will be the impact of the proposed AMLT increase on global perception of investing in Alaska?

Many people are surprised that our major competition are not countries in Africa and South America, but Canadian provinces and other US states like Arizona and Nevada which have more attractive investment climates. They offer both lower tax rates and more infrastructure which often means a better return on investment.

We should be encouraging, not discouraging new investment in Alaska. New mines, of which Donlin Gold is just one example, could potentially bring more revenue to the State of Alaska than the modest revenue to be gained by this measure.

3.5 year AMLT exemption for new mines

It is equally important to question the proposed elimination of the 3.5 year exemption of the AMLT for new mines. Is it fair to remove the exemption for mines that are currently under consideration or in permitting and whose economic models count on the exemption? Since no new large mines have received permits to start construction, it is clear that this change will not result in any new revenue in the near term. On the contrary, it sends a negative message to potential investors and possibly tips the scale for economic feasibility of some developing projects so it could actually have a negative impact on future state revenue. Surely this is not the goal of the State of

Alaska. Please consider amending the bill to remove this proposal.

In closing I want to emphasize that CAP's position on fiscal sustainability has been consistent:

- The State of Alaska cannot cut its way out of the budget deficit, however additional cost-containment and efficiencies are still needed.
- Use of the Permanent Fund earnings is a viable option to fill the greatest portion of the deficit.
- No one industry should be singled out to cover the remaining gap.
- As Alaskan businesses willing to do our share, CAP would be supportive of broad based measures to address any remaining deficit.

Thank you for the opportunity to provide these comments. We urge you to look closely at the impact of this bill on Alaska's ability to be competitive and encourage investment in the mining sector. Many Alaskan communities and thousands of Alaska miners and their families depend on a healthy mining industry.

[1:25:47 PM](#)

REPRESENTATIVE JOHNSON commented that he has often heard targeted taxes and explained that the process of the legislature is not targeting taxes, but rather breaking the taxes out to where policy committees, such as the House Resources Standing Committee, the House Labor and Commerce Standing Committee, the House Special Committee on Fisheries, and the House Transportation Standing Committee, can address the policies. He further explained that when all of these, on their merits or not, get to the House Finance Committee they will be merged into a package that should be broad-based and not singling anyone out. Representative Johnson offered the following:

I want to be real clear that this is not an attempt to single out a single industry. This is an attempt to allow the public to weigh in, and for committees to get a more in-depth look. If we were to take this to Finance, you'd have two minutes to testify, every tax person would be up there, public testimony once. And we're probably hearing more on revenue bills now because of the way it's been broken up. And it was a conscious decision made just to do that so that we

could pay particular attention to all of these. So ... to characterize targeting, I know it may seem that way, but I want to be very clear that this is part of a package that's been broken out so that all the legislators will have a chance. I was talking to someone today and I think there are only three legislators ... or majority members that will not sit on a committee that hears a tax bill, as opposed to just 11 in Finance. And in the minority, I think there's another three that don't sit on committees. So of all 60 legislators, only six will not sit on a committee that hears some kind of a revenue bill. So, we're much better today handling it this way than we would have been if we'd just sent it up to Finance and watched it on TV. And so this is an attempt to make sure that we're able to drill down. So, I want to dispel any preconception that we're targeting anyone.

REPRESENTATIVE JOHNSON reiterated that it is important that people understand the motives and why the legislature is doing it in this manner in that it is not singling people out. Rather, the goal is to get more in-depth and receive some of the information that Ms. Matthias has requested, as well.

[1:27:58 PM](#)

REPRESENTATIVE SEATON offered his appreciation for Representative Johnson's explanation because there is a proposed fisheries tax increase of 33 percent and he comes from the fishing industry. He pointed out that elimination of \$400 million in tax credits in the oil and gas industry is a significant portion that is being considered, as well. With regard to the 3.5 year exemption for large mines, he asked how that half year of an annual tax is not collected; for example, whether it is 50 percent of the third or fourth year.

MS. MATTHIAS deferred to the Department of Revenue (DOR) for an answer in that she is unsure of the accounting.

REPRESENTATIVE SEATON surmised that the testimony of Ms. Matthias isn't necessarily on the half year, but rather the industry would like to be exempt from tax for some number of years after the mine is profitable.

MS. MATTHIAS replied that currently the exemption is 3.5 years, which the mines would like to stay because a proposal to remove it entirely is problematic. She said she understands the half-

year possibly creates accounting challenges for DOR. With regard to targeting taxes, she said she appreciates Representative Johnson's and Representative Seaton's explanation and the work this committee is performing to review policy and impact. She noted that of all of the business community it is the resources industries - fishing, tourism, mining, and oil and gas - that have been targeted in terms of the four bills proposing to raise taxes. From a mining industry perspective, it feels like mining has been singled out with three other resource industries for a large proportion of this discussion.

[1:31:28 PM](#)

REPRESENTATIVE HAWKER asked whether Ms. Matthias or anyone in a managerial position in the industry had any contact with DOR before the bill was introduced, as far as what DOR may be thinking of doing and the consequences on the industry.

MS. MATTHIAS responded yes, CAP was contacted in late November by the administration who asked for an opportunity to provide information on its proposals. The DOR and someone from the governor's office met with her board in November and said they were interested in the board's view and also provided an overview which at the time was still much more general. Prior to actually seeing the proposed bill, CAP followed up the meeting with a letter to Commissioner Hoffbeck in late November expressing much of her testimony today, such as CAP's understanding of the fiscal situation, its support to be part of the solution, and its concern regarding targeting taxes. Ms. Matthias advised that after reviewing the proposed bill, CAP then followed up with another letter.

[1:32:52 PM](#)

MS. MATTHIAS, in response to Representative Hawker, advised that once CAP had more information on the bill itself CAP followed up with another letter.

REPRESENTATIVE HAWKER concluded that CAP did have an opportunity to respond and express its concerns. He asked whether there was any further dialogue between the agency and CAP before the bill was introduced.

MS. MATTHIAS answered that to the best of her knowledge, no.

REPRESENTATIVE HAWKER asked whether, to the knowledge of Ms. Matthias, the Department of Revenue in preparing this bill

performed any sort of impact analysis as to how it might affect the industry, such as jobs, people, and revenues involved.

MS. MATTHIAS replied no, she did not see any economic analysis or impact study.

[1:33:47 PM](#)

REPRESENTATIVE HAWKER opined that one of the claims in introducing this bill is that it will take more money from the mining industry and everything will be fine. He inquired whether he is correct in recalling that Ms. Matthias testified that the opposite might happen and the state could actually have a decrease in revenues.

MS. MATTHIAS responded that that was in regard to her points about the 3.5 year exemption for the mining license tax. In the event it helps to tip the economic feasibility of a project that then doesn't go into production, then there is less revenue for the state through the Alaska Mining License Tax (AMLT), through the corporate tax, less jobs, and impact for local communities.

[1:34:45 PM](#)

REPRESENTATIVE HAWKER asked Ms. Matthias to clearly state whether she has had any conversations with the Department of Revenue about the probability or likelihood of her concerns actually coming to be should HB 253 pass, as opposed to the department's presumptions that it is just dialing up a revenue spigot for the state.

MS. MATTHIAS replied:

There was a meeting, and I'm sorry I didn't mention this earlier. There was a meeting in January before the session started, I wasn't present, where representatives of CAP did express concerns about the ... current 3.5 year exemption for new projects and asked the Department of Revenue to really consider the implications before submitting the bill to the legislature. But we were told it was too late.

MS. MATTHIAS, responding further to Representative Hawker, reiterated that CAP was told it was too late, that the process had already begun.

REPRESENTATIVE HAWKER stated the following:

Mr. Chair, thank you. And my own editorial. You know I really don't care that the Finance Committee is going to assemble a bill. I personally need to see rational explanation in this committee before I'm willing to move any product forward.

[1:36:05 PM](#)

REPRESENTATIVE HERRON, in regard to if HB 253 goes forward, inquired as to what effect it is having and will have on the global perception of investing in Alaska.

MS. MATTHIAS responded that tomorrow there will be an opportunity to go through the whole mining industry update and that she has a number of slides regarding the Fraser Institute study that shows perception and it tracts where the investments go. The Fraser Institute looked closely at the question of investment attractiveness, policy perception, pure mineral potential, and mineral potential based on the current policies. She noted that Alaska's position over the last couple of years has been in decline. Policy perception is not just taxation but also regulation and other issues. She described this as a concern for the broader investment community, and part of the real issue is that commodity prices have been declining for the last four years so it is harder for companies to raise investment on the markets. Therefore, there is much greater global competition for fewer dollars and Alaska has seen its share of exploration spending go down significantly, and that is not perception, that's the reality. That shows that companies are looking at what's going on currently in Alaska and are making assessments about what might be coming in the future and some are choosing to put their money elsewhere.

REPRESENTATIVE HERRON asked whether this has changed since the bill was introduced and whether the bill has been noticed in the world.

MS. MATTHIAS answered that it certainly has been noticed by the members of CAP. Some members have headquarters in other countries and other parts of the United States, and they want to know what is happening and where things might go so that they can make decisions about how it will affect their current operations and plans for the future.

[1:39:01 PM](#)

REPRESENTATIVE HERRON referred to the limited conversation with the administration and the conversation before session started, and asked whether the administration explained the basis for the removal of the 3.5 year exemption.

MS. MATTHIAS answered no, that has been CAPs biggest question because it doesn't seem to make sense because no mines are about to go into production or have started construction. Therefore, eliminating this exemption will not result in increased revenue to the state in the near future simply because there are no mines poised to take advantage of that exemption. She specified that CAP has not received a clear answer as to why the administration would make a decision that doesn't bring in new revenue but does have the opportunity to discourage investment or to send a negative message to the investment community.

REPRESENTATIVE HERRON surmised that CAP has performed analysis on this issue and asked CAP to provide an answer as to the potential loss of revenue to the state if it deters investment and development.

MS. MATTHIAS replied that it is a tough to give a dollar figure because a number of mines are in advanced development such as, the Donlin Creek Project, Livengood Gold Project, Pebble Mine, and others, and there is a wide range of projects in the exploration phase. Obviously, she said, anyone exploring in Alaska is hoping to find a deposit to develop and turn into a producing mine. She explained that the change in attractiveness or concerns by the investment community about changes to the Alaska fiscal regime could impact any one of those because each one is different, they all have different models, and their ability to go ahead is determined on a number of different factors. She said she can't put a dollar figure on it but if the state lost one of those advanced projects from going forward there is a significant impact. Just one of those projects becoming a producing mine would raise so much more revenue for the State of Alaska than this particular increase.

REPRESENTATIVE HERRON disclosed that he is a partner in some gold claims and in speaking as a miner, opined that there is a shortage of explanations on why this was put forward. He said he echoes Representative Hawker in that this must be done carefully and today it is premature to advance it until more answers are forthcoming.

[1:42:34 PM](#)

REPRESENTATIVE JOSEPHSON recounted that the House Labor and Commerce Standing Committee heard from the cigarette, alcohol, tourism, and oil and gas industries that they also have the same fear as the mining industry regarding the impact on economic incentives and that a climate of welcoming for the production will be impacted. He asked whether every industry could raise that argument, such that retirees could determine they are not retiring in Alaska because they are being threatened with an income tax.

MS. MATTHIAS responded that CAP's approach for a fiscal sustainability starts with cuts and efficiencies, and moves to the permanent fund earnings. She said CAP recognizes that neither of those will necessarily completely solve the problem and that there will potentially be a need for revenues to fill the remaining gap. She explained:

But we think that they should be broad-based and we are willing to part of that solution. But I think about ... some friends I have that have been laid off in oil and gas and mining in the past year. And the ... the first thing they did when they got that layoff notice was cut expenses so that they could make their savings last as long as possible while they looked for a new job that would bring in more revenue. And I think ... that's a very individual point of view but that's from a company perspective, that's all exactly what we have done in these times of low metal prices. I can tell you my companies have cut positions, they've frozen wages, they have reduced benefits, they have started ... requiring that their employees pay more share for their health care costs, none of those are easy or popular choices. But, that's what the companies have done because times are tough.

[1:44:51 PM](#)

REPRESENTATIVE JOSEPHSON asked whether Ms. Matthias knows the net income of the five major mines CAP represents.

MS. MATTHIAS answered she does not have the net income numbers as the tax information is proprietary. It is all given to DOR which amalgamates it for their publications, so DOR would be able to provide a total.

REPRESENTATIVE JOSEPHSON posed a scenario of five large mines with this proposal resulting in a \$5 million tax that was about

\$1 million per mine. He asked whether \$1 million a mine is meaningful in the view of worldwide competition given the size of the mines and the potentiality for return of higher commodity prices.

MS. MATTHIAS replied that the tax increase being discussed is the Alaska Mining License Tax (AMLT) which is based on net income. Currently, the reason the fiscal note is \$5.9 million is because commodity prices are very low, operating costs are high, and net income is low. She stressed that a change in the percentage could result in a very different total when commodity prices are high because, going back four or five years, there was a much larger payment to the state in AMLT because commodity prices were high, mines made money, and the state received more revenue. Therefore, she advised, it is not the right question because it is a percentage on net income and it changes every year.

[1:46:51 PM](#)

REPRESENTATIVE JOSEPHSON referred to the 3.5 year tax holiday, and opined that the opposing side of the coin that Ms. Matthias argued is the argument that, rather than interfering with new existing production, this would be something the industry could anticipate. He described it as a "no harm, no foul" tax in that, as Ms. Matthias testified, no revenue is coming in right now anyway. He asked whether there is an argument for that.

MS. MATTHIAS responded that removing the 3.5 year exemption of the tax today puts it on the books in the future. Therefore, when a new mine comes into production it would not have that opportunity. She pointed out that it is very important to consider some of the projects currently in advanced stages because they have invested hundreds of millions of dollars into exploration, and in some cases permitting. Those expenses are not deductible, they are an investment. When the companies go into production they are in debt by hundreds of millions of dollars that are not deductible from the net income that is assessed and determines the Alaska Mining License Tax. Also, she stressed, when a mine goes into production there are hiccups in that the ore body is unknown, and once mining actually starts there are things that must be changed, things that require fixes which means a mine's operations, initially, are not as efficient as they will be as the mine matures and the ore body is known and processes are in place. She argued that the ability to have a good return on profit in those first few years is tough and unforeseen things can happen initially. The Pogo Gold Mine in

its second year had a forest fire that closed down the road, thereby having a huge impact on Pogo in the second year. So, knowing there won't be an exemption from the Alaska Mining License Tax (AMLT) during the first 3.5 years would have an impact on a mine's economic feasibility.

1:49:37 PM

REPRESENTATIVE JOHNSON referred to the conversations that Ms. Matthias had with the administration, and asked whether any of her recommendations were incorporated within the legislation.

MS. MATTHIAS replied that CAP's November [2015] letter to Commissioner Hoffbeck supported use of the permanent fund earnings as part of the major solution to the fiscal challenge. She noted that there is a bill from the governor on that issue. Responding further to Representative Johnson, she said she could not think of any recommendations, in particular, incorporated into the legislation.

1:50:29 PM

REPRESENTATIVE JOHNSON noted there is tremendous low commodity prices worldwide and the discussion is about companies investing in Alaska. He inquired about which kind of investments are happening today, whether investment has slowed down or stopped, and whether companies are harvesting as opposed to investing.

MS. MATTHIAS responded that mining is a long-term investment and many of the producers continue to explore and continue to define their ore body to prolong the life of the mine because if the life of the mine is prolonged the company can catch the increases in the commodity price cycle. To make money in mining those peaks must be caught because it is a volatile cycle and there are many dips. There is ongoing exploration to delineate ore bodies, she explained, but there have been cuts in some of those investment decisions. For example, Pogo has advised that it spent \$15 million last year on its exploration but its budget is less this year.

REPRESENTATIVE JOHNSON surmised that if investment is not happening, then Alaska isn't going to miss anything. However, if investment is happening, then there is the potential for Alaska to lose development if HB 253 tips the scales.

MS. MATTHIAS agreed and said CAP believes that is the case both for the long-term viability of the producing mines and also

mines in the exploration phase and looking to go into development and production.

[1:52:39 PM](#)

REPRESENTATIVE SEATON recalled the statement by Ms. Matthias that Alaska is the 22nd most favored fiscal regime for mining out of 127 in the world. He questioned whether a 3.5 year exemption is tipping the scale and asked whether CAP has any economic impact studies that show that removal of that exemption would actually change any of the economic decisions that would be made by someone starting a mine in Alaska.

MS. MATTHIAS clarified that the number 22 is a question within the Fraser Institute study based specifically on taxation, and noted that a number of different questions were asked in the study. She said CAP has not been able to perform an economic analysis and suggested that the administration could do an economic analysis of whether changes to the regime would impact the existing mining industry and whether would attract investment. There is strong concern amongst CAP members about eliminating the 3.5 year exemption of the Alaska Mining License Tax (AMLT), as well as concern about an increase in the AMLT.

[1:54:42 PM](#)

REPRESENTATIVE SEATON stated that he cannot understand how an economic analysis could be performed regarding what the exact impact would be of eliminating that one portion because the mines in existence in the state are based on Alaska being the 22nd most favorable tax structure. What the impact will be is hypothetical until that portion is actually eliminated. Perhaps the Fraser Study could be looked at to see whether jurisdictions that don't have an exemption are higher or lower on the scale than Alaska. Otherwise, doing a study like that would cost hundreds of thousands of dollars.

MS. MATTHIAS answered that it is important for anyone considering changes to a tax to have some idea of what they want to encourage or discourage in Alaska, and how that compares to other jurisdictions. The important thing is to look at total take because it's not just about a royalty or a net proceeds mining tax or corporate income tax, as it is all of those things together because from the mining company's point of view they are all expenses. If the legislature as the State of Alaska wants to encourage more investment in the mining industry to have more mines, more jobs, and more opportunities, then it must

be looked at as to whether a tax regime is being set up that is competitive with reasonable jurisdictions that Alaska would be competing with. For example, how does Alaska compare Nevada and Arizona, the top metal mining states in the US, and how does Alaska compare with some of the Canadian provinces? That whole picture is necessary in order to have a sense of whether increasing taxes, increasing the burden, will deter the investment into the industry and result in a smaller industry.

[1:57:22 PM](#)

REPRESENTATIVE HAWKER thanked Ms. Matthias for her testimony, and requested her suggestions for what the legislature should look at as a basis for measuring and comparing Alaska's competitiveness with other jurisdictions. Regarding the comments by Ms. Matthias about total government take, he said he has not seen any emphasis on that in this process. He asked whether Ms. Matthias had suggested that the people proposing the legislation should take responsibility for the evaluation and consequences of the changes being proposed, but said Ms. Matthias did not have to answer that question.

[1:58:30 PM](#)

REPRESENTATIVE JOSEPHSON said he has practiced law for 12 years and knows what it means to represent someone wholeheartedly and believe in their cause. A criticism levied during the last couple of weeks about the administration is that it didn't do all these economic analyses. He continued:

It strikes me that had it done that, unless there was some stipulation as to the report, the agency, the author of the report, that it would be your job, if it was unsatisfactory, to argue that the report was flawed, which you may believe it was. But isn't that one of the problems? I'm not saying that more facts wouldn't be beneficial. But if the report had been unfavorable, that is the report had concluded that yes there would be some economic impact but that it's critical we do this and the economic impact would be survivable, you wouldn't have simply said, "Well, that's just the report and we just have to live with that report."

MS. MATTHIAS replied she is hesitant to analyze a hypothetical report or the outcomes of a hypothetical report, but said tax changes are very significant. It has been seen with proposed

oil and gas tax changes that there is intense scrutiny through economic analysis modeling impact - the legislature hires consultants, and the administration has its consultants. She allowed that mining and oil and gas are on completely different scales in terms of the contributions to the State of Alaska in terms of the general fund revenue, but said that whether it's tax on oil and gas, mining, or any other industry, it is necessary to have a serious economic analysis and look at the impact. It would be up to the administration, up to the legislature, as to what kind of third-party consultants to use in order to receive the best possible information to make decisions.

[2:00:48 PM](#)

REPRESENTATIVE HERRON remarked that it is clear to many members that 7-9 percent is too steep of an increase. He asked whether CAP has a position that possibly a small increase is justified or whether it should be left at 7 percent.

MS. MATTHIAS responded that the Council of Alaska Producers has not taken a position on that number because it wants to question the tax policy and the potential outcomes.

[2:01:29 PM](#)

CO-CHAIR TALERICO requested a copy of the letter CAP sent to the Department of Revenue so he can distribute it to the committee.

MS. MATTHIAS answered that it is in the public domain and was sent to the Department of Revenue and to Governor Bill Walker's office. She said she will share a copy with the committee.

The committee took a brief at ease.

[2:02:36 PM](#)

DEANTHA CROCKETT, Executive Director, Alaska Miners Association (AMA), provided her organization's concerns regarding the potential impacts that HB 253 could have on the mining industry. She paraphrased from the following written testimony [original punctuation provided]:

Thank you. For the record, my name is Deantha Crockett and I am the Executive Director of the Alaska Miners Association. AMA appreciates the invitation to provide testimony today.

The Alaska Miners Association is a professional trade association established in 1939 to represent the mining industry in Alaska. We are composed of more than 1,800 members that come from seven statewide branches: Anchorage, Denali, Fairbanks, Juneau, Kenai, Ketchikan/Prince of Wales, and Nome. AMA is an umbrella association, representing the large metal mining operations in Alaska but also small family mines, coal operations and projects, sand, quarry rock and gravel mining, and the vendor and contracting sector that supports the mining industry.

Each year, AMA distributes to this Committee and your colleagues an "Issues of Concern" document. This outlines our policy positions on issues that impact the success of our industry. This year, given the budget situation we find ourselves in, our very first item of critical concern is a position on State Fiscal Policy that reads, "Immediately implement a comprehensive, long term fiscal plan in 2016 that ensures responsible spending at a sustainable level. Such a plan should include budget reductions, use of Permanent Fund earnings, reduction in the Permanent Fund Dividend, and new revenue from broad-based taxes. Ensure State of Alaska fiscal policy includes strategies to grow and diversify the Alaska private economy."

I'd like to focus on the last part of that position when offering comments on HB253. Strategies to grow and diversify the private sector in Alaska could not be more important as we look for a solution to our budget imbalance. We ask you. How many industries do we have in Alaska that we can look at and conclude, they've got potential to be twice as large? How much opportunity is there to multiply the taxpayer base of a single sector? Alaska is home to over a dozen advanced exploration mining projects, and just a single one of them going into production will bring the State of Alaska substantially more revenue than what is being proposed in this Legislation.

The Alaska Miners Association and its members want to be part of the fiscal solution. We aren't against paying taxes. We already do pay taxes. But we fear this proposal is short sighted, and wonder, what is

the goal of this tax policy? Is it to raise \$6 million dollars? Is it, as was said in testimony at a previous hearing, to address a perception that mining doesn't pay its way? (I'll get to that point in a moment). Or would we, collectively as a state, like to grow mining's contributions to state revenues for many years to come?

Recently, UAA's Institute of Social and Economic Research completed a report prepared for the Department of Commerce, Community, and Economic Development that researched the fiscal effects of Alaska's fishing, mining, and tourism industries. The report shows that mining, despite some of the world's highest environmental standards that require stringent oversight, and highest capital and operating costs due to the lack of existing infrastructure throughout much of the state, brings in much more revenue to the State coffers than what it costs to manage the industry. Mining DOES pay its way in Alaska, not only in state government revenues, but also in property taxes, Native Corporation revenues, and jobs and procurement spending. The mining industry has spent hundreds of millions, if not billions of dollars building infrastructure in this State. All of this should be highlighted when we discuss any supposed perception about mining's contributions to Alaska. Alaska's miners are paying taxes and contributing to Alaska's economy in a significant way.

The state must keep its eye on the prize and bring new mines into operation to increase the taxpayer base. To do this, we as Alaskans must focus on ensuring there is policy in place to make that a reality. Policies based on reasonable, predictable regulation are important, and to the subject on today's agenda, attractive fiscal terms are more important than ever. The global mining industry is in a prolonged downturn, as are the vendor and contracting sectors that support and depend on its activity. A multi-year decrease in commodity prices and increasing development and operation costs has caused the industry to evaluate projects and operations, just as we have seen with the cessation of the Nixon Fork Mine, which suspended operations in 2013, resulting in the loss of 90 jobs, some of which were held by rural Alaskans.

The example of Nixon Fork is demonstrative of the fragility of mining economics, and we are hopeful this reinforces the message that Alaska should be creating and maintaining policies that incentivize investment, not adding new pressures that would deter investment.

Clearly, AMA's position is to grow Alaska's mining industry. We need that just one new mine I mentioned earlier, and should strive to develop dozens of new mines. However, the removal of the 3.5 year exemption for new mines does not achieve that goal. This is simply bad policy. It offers no immediate or near-term revenue for the State of Alaska, yet decreases the feasibility for a future mining project such as the Donlin Gold Project, which has projected 1,200 jobs at operation and would bring millions of dollars of revenue to the State.

This Legislation proposes changing the Alaska Mining License Tax rate from seven to nine percent. Increasing the payments Alaska's larger mines make to the State by 29% with no research, economic analysis, or understanding about whether the industry can bear the increase, is truly disturbing. Alaska's mining industry is comprised of mines that are relatively small in scale and run by one person to large mines that employ over 600 people. Also, hundreds of Alaskan businesses and individuals depend on mining industry spending for their livelihoods. Any policy that would impact this critical industry must be fully contemplated, researched, and understood prior to adoption, and we do not believe the State of Alaska has reached that level of understanding.

Another component of HB253 that we urge the State to research is the impact of the electronic filing requirements on the small miner. Requiring electronic filing of tax returns could be problematic for some operations, particularly placer mines in remote Alaska with limited connectivity to the Internet. The bill references the possibility of securing exemptions from electronic filing but offers no criteria or additional information about the exemptions. We urge you to ensure the impact of this requirement is understood, and solutions are offered if necessary. In addition, the creation of a \$50 application and \$50 renewal fee may seem insignificant, but fees required by

regulatory agencies have begun to amount to an impactful cumulative increase for Alaska's small miner. This requirement would be in addition to the fee for an Annual Placer Mining Application, fee to enter into the bond pool, camp fee permit, fees required by federal agencies for mine permitting, and more. The creation of a new fee, in addition to substantial existing fees, is yet one more cost mechanism that can only increase in the future, placing further burden on Alaska's small miners.

Thank you for the opportunity to provide you with AMA's position on HB253. To conclude, we urge you to require a close examination of this proposal to fully understand the impacts on every part of Alaska's mining industry - from the large mine to the small miner, and the Alaskan businesses that support the mining industry, and determine whether this proposal accomplishes a goal to further Alaska's economy.

[2:09:21 PM](#)

REPRESENTATIVE SEATON referred to the electronic portion of Mr. Jorgensen's testimony that suggested a reasonable cutoff point would be under \$10,000 net income. He asked whether the Alaska Miners Association (AMA) has a position or agrees with that suggestion.

MS. CROCKETT asked whether Representative Seaton's question was that Mr. Jorgensen suggested under \$10,000 in the electronic filing requirement.

REPRESENTATIVE SEATON said his understanding is that Mr. Jorgensen thought that under \$10,000 not being required to electronically file would be a partial solution because most of those that would have a problem with that would probably fall under that \$10,000 net income solution. He requested that Mr. Jorgensen come forward to clarify his suggestion.

MR. JORGENSEN explained that the position of the Fortymile Miner's Association is \$10,000 tax liability, so if the tax liability to the state is under \$10,000 the miner is exempt, or an employee-based 10 or fewer employees.

MS. CROCKETT answered that the association has not prepared any sort of assessment on what the monetary threshold would be, but the problem is that simply some of the miners don't have the

connectivity to do it. No matter how much money a miner might make, there are some miners who simply don't have the capability to do it.

2:11:53 PM

REPRESENTATIVE HAWKER presumed that the McDowell Group report, [The Economic Impacts of Placer Mining in Alaska] was commissioned by the Alaska Miners Association, and said it had a lot of good information. He asked how much of the placer mining in Alaska is conducted on state-owned land as opposed to privately-owned land.

MS. CROCKETT replied she will get back to the committee with specific numbers, but that the vast majority of placer mines are on state land versus federal land.

REPRESENTATIVE HAWKER understood that the placer mining sector is highly concentrated on state lands, and that the large mining sector, large metal mines and large coal mines, is primarily not on state lands. He advised that when the committee looks at the difference between royalties and production taxes, whatever decision the committee makes disproportionately prejudices one or the other of that group. It is something the committee needs to keep in mind as it looks for an appropriate policy solution.

2:13:29 PM

REPRESENTATIVE SEATON noted that Alaska has been under the net income percent tax regime for about 50 years and a certain number of mines have been developed and others have been explored and not developed. He said he is having difficulty understanding how changing from 7 percent to 9 percent, or changing the 3.5 year exemption, will suddenly make "a whole lot of difference when, if the case was that the existing fiscal regime, which is the 22nd most favorable in the world basically, wasn't enough to create these mines or they weren't profitable enough or that a 2 percent difference in net income, net profitability, in tax to the state would make the difference and all of a sudden there's going to be all these mines that are going to be under construction or one that's going to be under construction that wasn't already that when they didn't take place already." He asked Ms. Crockett to explain how the committee can look at this and say that this is going to be a determining factor.

MS. CROCKETT responded that it's not that particular tax piece, but that it couldn't come at a worse time for the mining industry. Tomorrow she will be offering several slides that show the different external factors that mining companies are facing in terms of costs and revenue streams that make it such a tough time in the mining industry. She reiterated that it's not so much the taxes, but rather that it's so incredibly expensive to do business in Alaska and this is changing one portion of how expensive it is. Millions and billions of dollars are put forward by companies to develop and construct a project before it goes into production, and then the revenue streams that come after that. She respectfully requested that she be allowed to answer this during her presentation tomorrow.

REPRESENTATIVE SEATON said he is putting out the questions early so people can be prepared to discuss the different aspects of the bill, royalties, taxes, and the differences between the US and Canada.

[2:16:42 PM](#)

REPRESENTATIVE HERRON noted that Steve Borell [former executive director of the Alaska Miners Association] is trying to raise money for mining investments. He inquired what Mr. Borell would say now while trying to raise money given the introduction of this legislation.

MS. CROCKETT answered that when Mr. Borell retired from the Alaska Miners Association he opened a consulting business focusing on marketing Alaska's mineral potential around the world. He spends a great deal of time talking to investors in Asia and Australia, and promoting Alaska's mineral potential to bring in investment. She put forward that Mr. Borell is having an increasingly difficult time keeping Alaska in the focus of investors and telling them why they should invest money in Alaska. In speaking for Mr. Borell she said he would be dismayed by this proposal because the mining industry needs all of the help it can get to attract investment in Alaska.

[2:18:10 PM](#)

REPRESENTATIVE HERRON noted that prior to introducing HB 253, the administration testified in this and other committees that it had had conversations with the industry. He asked Ms. Crockett to share with the committee her conversations with the administration prior to introduction.

MS. CROCKETT replied that she and Ms. Matthias work closely together. All of CAP's members are members of AMA, so she has a sort of ex officio seat on the CAP board because of that role. Both she and the AMA board president were present at, and participated in, the November [2015] meeting with the Department of Revenue (DOR). She described the discussion as very general in nature in that DOR offered what it was thinking and asked for feedback. She advised that she will provide the committee with a copy of AMA's letter also recommending that permanent fund earnings be incorporated. She said it was rather evident at the time that the Department of Revenue didn't have a great deal of knowledge on how the mining industry works, so AMA's letter suggested that DOR coordinate more with the Department of Nature Resources (DNR) to understand how the mining industry works, what the impact of taxation changes would be, and so forth. That was a recommendation AMA hoped DOR would take into consideration.

[2:20:06 PM](#)

REPRESENTATIVE HERRON stated that taxes are part of the investment decision, and there is a criteria for risk and reward. He asked Ms. Crockett to share a couple of points about that criteria.

MS. CROCKETT responded that she will get back to the committee with some real examples rather than hypothetical examples.

REPRESENTATIVE HERRON referred to the 3.5-year exemption plus the \$100,000. Noting there has been discussion about changing that number, he asked whether \$100,000 is a good number.

MS. CROCKETT answered that she hopes DOR would do that analysis because DOR has the proprietary information and it wouldn't be fair for her to ask the placer mining members how much money they make. She said DOR should be able to provide very specific information about what different thresholds would impact what kind of placer mining operation. As one of the representatives of the placer mining industry in Alaska, she said she appreciates the question as it is important to know exactly what thresholds affect what size of operations because these are very real individual examples that will make a significant difference.

REPRESENTATIVE HERRON stated that a colleague had posed the question of increasing it and he was curious as to whether the AMA had put any thought into it.

[2:22:38 PM](#)

REPRESENTATIVE HAWKER cited the history in the McDowell Group report that in 1940, with federally fixed gold prices and federal restrictions on the ownership and physical possession of gold, nearly 750,000 ounces of gold were produced in Alaska under those circumstances. However, by 2013, mining production was approximately 82,000 ounces. He argued that this is not a robust industry and there is a contribution to be paid, a tithe to be extracted from everyone, and to keep in mind where this industry is even in its historic development.

[2:23:47 PM](#)

REPRESENTATIVE SEATON stated that in keeping things in perspective, there has been testimony that a \$50 license fee will be devastating to miners, yet there is a proposal to take possibly \$1,000 from the permanent fund dividends as the preferred course. Presuming those miners are Alaska residents, the legislature would be taking 20 times the amount of a \$50 license fee. He requested that committee members review everything in context because sometimes it's difficult.

[2:24:42 PM](#)

CO-CHAIR TALERICO understood what Representative Seaton is saying, but said that he doubts the committee will impose a \$50 mining license fee on every Alaskan resident so it is "oranges and apples." Regarding the 2 percent tax increase, he explained that the 7 percent fee that is charged is 100 percent of the taxes. Therefore, moving from 7 percent to 9 percent really is a 28.5 to 29 percent increase; this has been one of the main questions that he has been asked to answer by quite a few people.

[2:25:44 PM](#)

REPRESENTATIVE OLSON recalled that early in this process the committee was told that the report by the Institute of Social and Economic Research (ISER) would include the impact by each of the tax breakouts. However, this report has been scaled back and so far the committee has only received an executive summary of the report, not the complete version. He asked whether the committee could receive the full report from ISER or DOR before making a decision on the bill in order to provide adequate time to analyze the questions regarding the miner industry. He

further requested that any previous drafts of the report be provided to the committee to help members cobble together the impact of the other taxes.

CO-CHAIR TALERICO agreed to try getting as much of that information as possible.

[HB 253 was held over.]

[2:27:20 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:27 p.m.