

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

February 24, 2016
8:35 a.m.

MEMBERS PRESENT

Representative Benjamin Nageak, Co-Chair
Representative David Talerico, Co-Chair
Representative Mike Hawker, Vice Chair
Representative Bob Herron
Representative Andy Josephson
Representative Paul Seaton
Representative Geran Tarr

MEMBERS ABSENT

Representative Kurt Olson
Representative Craig Johnson

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
02/23/16 (H) Heard & Held
02/23/16 (H) MINUTE(RES)
02/24/16 (H) RES AT 8:30 AM BARNES 124

WITNESS REGISTER

DEANTHA CROCKETT, Executive Director
Alaska Miners Association
Anchorage, Alaska

POSITION STATEMENT: Co-presented the "Mining Industry Update"
PowerPoint presentation relating to HB 253.

KAREN MATTHIAS, Executive Director
Council of Alaska Producers
Anchorage, Alaska

POSITION STATEMENT: Co-presented the "Mining Industry Update"
PowerPoint presentation relating to HB 253.

ACTION NARRATIVE

[8:35:25 AM](#)

CO-CHAIR DAVID TALERICO called the House Resources Standing Committee meeting to order at 8:35 a.m. Representatives Herron, Seaton, Josephson, Tarr, Nageak, and Talerico were present at the call to order. Representative Hawker arrived as the meeting was in progress.

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

[8:36:10 AM](#)

CO-CHAIR TALERICO announced that the only order of business would be the annual mining overview as it relates to 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."

[8:37:20 AM](#)

DEANTHA CROCKETT, Executive Director, Alaska Miners Association, began a PowerPoint presentation titled "Mining Industry Update." She indicated that the Alaska Miners Association (AMA) has the large metal mines and projects in their membership but also coal, sand and gravel, placer mining, and the business community that does business with the industry. Referring to PowerPoint slide 2, titled "Recent Safety Milestones," Ms. Crockett highlighted recent safety milestones and discussed, as a safety moment, a practice used at the Fort Knox Mine ("Fort Knox") disallowing cell phone use in a shop or moving vehicle.

MS. CROCKETT moved on to slide 3, titled "Potential," quoting Governor Walker, "If Alaska were a country, we would be the eighth most mineral-rich nation in the world." She stated that although Alaska has world class deposits, it has only six mines, so it is not producing to that potential. She went on to say that Alaska's modern mining history is young. The two oldest metal mines started operations in 1989 and were permitted under modern environmental laws, like the National Environmental Policy Act and the Clean Water Act. Alaska's only coal mine has a longer history, operating more than 70 years and through three generations of the Usibelli family. Ms. Crockett said that in the current overview, she wanted to focus on the potential of the mining industry to grow and contribute to Alaska's economic diversity, great jobs, state and local revenue, and more. While Alaska has only six large mines, it does represent some pretty impressive economic benefits.

[8:39:38 AM](#)

MS. CROCKETT summarized those benefits as listed on slide 4, titled "Only 6 Large Mines." The benefits include: 8,700 direct and indirect jobs with an average annual salary of \$108,000; \$83.7 million paid to state government; and \$18.5 million paid to local governments. She added that mines were the largest taxpayers in the Fairbanks North Star Borough, the City and Borough of Juneau, and the Northwest Arctic Borough. Mines are major contributors in the Denali Borough and the Nome area. In 2014, \$144 million went to Alaska Native corporations through Section 7(i) and 7(j) the Alaska Native Claims Settlement Act revenue sharing program, and to date NANA Regional Corporation ("NANA") has received over \$1 billion from the Red Dog Mine ("Red Dog") and distributed \$705 million of that amount. She added that the benefits of Red Dog have touched every corner of the state. She cited the latest AMA study that revealed Alaska

mines spend about \$500 million annually with over 600 Alaska businesses. She reminded the committee members that all of this spending comes while maintaining the highest environmental and safety standards. She directed the committee members' attention to the McDowell Group Inc. ("McDowell Group") brochure titled "The Economic Benefits of Alaska's Mining Industry," commissioned by the AMA, highlighting the impact of the small mines in aggregate.

[8:41:34 AM](#)

MS. CROCKETT referred to slide 5, titled "Alaska Mineral Development Timelines and Investment," and asked the committee to consider what it takes to bring a mine into production. Since 1981 several billion dollars have been spent on exploration at dozens of projects, yet Alaska only has five metal mines. To bring a large metal mine into production takes access to a significant amount of capital and a great deal of patience. She referred to Fort Knox in the graph on slide 5 to point out that even the shortest timeline was 12 years to bring the mine to operation. She then asked, "Why does it cost so much and take so long?" She asserted that these are companies that are building major infrastructure projects in really small communities, and this sets the Alaska mining industry apart from other states and countries with which it competes.

REPRESENTATIVE NAGEAK asked if the timelines were from the beginning of mining to today.

MS. CROCKETT responded that the timelines are from discovery to first day of production.

[8:43:01 AM](#)

MS. CROCKETT referred to slide 6, titled "Mining Pays Its Way," to reiterate that mining companies pay exploration, development, and construction costs up front and [the costs] are not deductible from net income. The costs are significant, as they consist of modern mining projects that require access to technically advanced infrastructure often in remote areas. She gave examples of these large preproduction costs, which include establishing power supplies, roads, ports, and pipelines. Compared with less remote areas, Alaska is a very expensive place to do business in mining. Alaska's mines enter into reimbursable service agreements (RSAs) with the state for permitting, monitoring, and oversight, and these costs are billed to the industry and not borne by the public sector. In

addition, financial assurance for reclamation and closure adds to the cost.

MS. CROCKETT referred to slide 7, titled "AIDEA's Return on Investment," to describe the role of Alaska Industrial Development and Export Authority (AIDEA) in partnering with the mining industry and making investments to stimulate economic growth. She stated that AIDEA's investment in the Red Dog port and road represent one of AIDEA's most successful investments, recouping their initial cost and returning an annual rate of 6.5 percent. She also added that AIDEA's investment made the Red Dog possible, bringing over a billion dollars in net proceeds to NANA, providing jobs and other contracting opportunities.

REPRESENTATIVE NAGEAK asked for clarification regarding to whom these payments were made.

MS. CROCKETT replied that the payments were made to AIDEA.

REPRESENTATIVE NAGEAK then asked if the mine infrastructures such as roads and ports are turned over to the state after the mines close.

MS. CROCKETT replied that by mandate the surface infrastructure must be taken away and the road reclaimed to its original condition.

[8:46:23 AM](#)

MS. CROCKETT referred to the graph in slide 8, titled "Mining Industry Trends." The red line on the graph shows "production value" in billions [of dollars] from 2000 to 2015 and the corresponding ups and downs during that time period. "Production value" is the average metal price, but Ms. Crockett emphasized that this is not actually what the mines get for the ore that is mined. The blue line, representing jobs, is seen to correlate with the production value. During this period of time both the Pogo Project ("Pogo") and the Kensington Gold Mine ("Kensington") started production. In Alaska the addition of two mine production sites greatly influences the trends shown by the graphs.

MS. CROCKETT relayed the rates of "Resident Hire" for the various mines as shown on slide 9. They are: 100 percent of Fort Knox employees live in the Fairbanks North Star Borough; 70 percent of Greens Creek Mine ("Greens Creek") employees live in Alaska; Usibelli Coal Mine, Inc. ("Usibelli") is 99 percent

Alaska hire; Kensington is 70 percent resident hire; and NANA shareholders fill 57 percent of the Red Dog jobs and have a 79 percent Alaska hire rate.

[8:48:08 AM](#)

REPRESENTATIVE JOSEPHSON asked for a definition of the term "production value."

KAREN MATTHIAS, Executive Director, Council of Alaska Producers, explained that gross production value is derived from the average price of a mineral throughout the year, but she stressed that this is not the net smelter return. What actually leaves from the State of Alaska to go to the smelter or refinery is sold at the world price by the refiner after refinement, and they have a profit margin. Therefore, the price that the mine receives for the concentrate is considerably less than what the refinery receives on the world market. The price of the concentrate is determined through negotiations between the mining company and the refinery or smelter. It is similar to the fishing industry, for example, in which the price of the fish after processing is greater than the price that the fisherman gets for the fish. Ms. Matthias reiterated that there is a difference in price from what the mining company sells the concentrate for and the actual daily spot world prices after refinement. Gross production is often a very big number, but that is not what the mining company is receiving.

[8:50:48 AM](#)

REPRESENTATIVE TARR asked if the "industry averaging" used to determine Alaska's production value includes the mining of copper, gold, silver, and zinc.

MS. MATTHIAS pointed out that copper is not yet mined in sufficient quantities to be a part of the gross production value. She stated that Alaska has some substantial copper deposits and the Council of Alaska Producers (CAP) look forward to the day when copper is one of the major metals produced and part of the gross production value. In answer to the question, she said Representative Tarr is correct that the state's gross production value for mining includes all of the different minerals with value that are produced and sold from Alaska and that this value is derived from the average price for the year. She repeated that it is not what the mining company receives for the concentrates, and furthermore, the smelter doesn't always pay for trace amounts of an ore in the concentrate.

REPRESENTATIVE SEATON asked for confirmation that the net smelter return might be considerably less than the production value but represents the actual value that the mining company receives for the minerals produced.

MS. MATTHIAS responded "Yes."

[8:52:46 AM](#)

REPRESENTATIVE JOSEPHSON asked about the vast difference between the form of the concentrate that is produced by the different Alaska mines, specifically the gold bar produced at Fort Knox versus the massive barges of unidentifiable concentrate that Hecla Greens Creek ships.

MS. MATTHIAS replied that Pogo and Fort Knox mines pour a "doré bar," which contains a high percentage of gold, in the 90s [by percentage]. The bar then goes to a refinery and comes out being the gold "as we think of it," which today is worth \$1200 per ounce. Kensington ships its gold out for refinement in a concentrate form, which has a much lower percentage of gold. Teck-Pogo, Inc. ("Teck") produces a concentrate that has significant zinc, lead, silver, and smaller amounts of other minerals, and it ships that concentrate out for further smelting.

MS. MATTHIAS further stated that Greens Creek production is actually the most concentrated because it is a polymetallic mine and produces in sellable amounts gold, silver, lead, and zinc, and she offered her understanding that it also produces some trace copper. A doré bar is poured for some of the gold, but then the other minerals are combined in different amounts in the concentrate.

[8:54:58 AM](#)

REPRESENTATIVE TARR, referring to the illustration labeled "Mining Activity in Alaska" in the AMA brochure titled "The Economic Benefits of Alaska's Mining Industry," asked that the presenters clarify terms referencing the phases of a project. Other presentations have used the phrase "advanced exploration." This state map describes the stages of development as "pre-permitting," "permitting," and "operating."

MS. CROCKETT replied that the report Representative Tarr referenced is a report that the AMA commissions the McDowell

Group to prepare every year and she doesn't know why it differs so much from the state map. "Advanced exploration" on the AMA brochure is generally considered by the AMA to be a project that is in pre-permitting or in permitting, so it is one that they would see going through the National Environmental Policy Act of 1969 (NEPA) process sometime soon. She also mentioned that in a few slides she would be discussing the "farm team" of development projects that don't show up on that map but are projects that have been explored recently and are being looked at by investors. She promised to use "pre-permitting" instead of "advanced exploration" to be clearer.

[8:56:37 AM](#)

REPRESENTATIVE SEATON said he was trying to coordinate that idea with the idea of where the exploration credits come from and if they stop when all permits are received, followed by the development stage. He asked if that concept corresponds at all to the timeline chart of investments.

MS. CROCKETT replied that it was her understanding the exploration tax credit comes in effect once the mine is in production, since that is the point at which you have taxable income. She conceded that she was not familiar with whether the exploration tax credit was in effect when all of the mines shown in slide 8 came online.

MS. MATTHIAS added that it is important to understand that the mining exploration tax credit is very different from oil tax credits. She relayed that the first difference is that there is no credit or benefit to the company financially until the mine is developed and goes into production, and there is a \$20 million maximum for that exploration credit. Ms. Matthias asked the committee to consider a large mine going into production and gave the example of Donlin Gold Project ("Donlin"), which has spent hundreds of millions of dollars on exploration because of a long development timeline, and the most it will be able to receive in a credit against its corporate tax is \$20 million. She added that she knew that the exploration tax credit was not in existence when Greens Creek and Red Dog came into production. She said she is not sure about Fort Knox but could say for sure that Pogo and Kensington did come into production after the exploration tax credit was in place in the mid '90s.

REPRESENTATIVE SEATON asked for clarification in regard to the timeline in slide 8 and how it relates to the stage of mine development and the accumulation of tax credits.

MS. MATTHIAS answered by saying that [tax accumulation credits] start with the point of discovery on the current timeline. This means that for mines that are part of historic placer mining areas with known deposits, point of discovery is when modern discovery was made and significant investment dollars for exploration and permitting followed to try to bring the project to production. The chart ends with the beginning of production.

[9:01:00 AM](#)

MS. CROCKETT referred to slide 9, titled "Resident Hire." The Alaska Department of Labor 2014 report shows a 67 percent resident hire in the mining industry. Local mines have above average rate of local hire workers and provide year-round jobs. In 2014 the number of non-residents working in metal fell 18 percent and the resident worker number decreased by five percent. She added that these statistics illustrate that there are thousands of Alaskan miners and families that depend on a healthy mining industry.

MS. CROCKETT referred to slide 10, titled "Alaska Mineral Development Timelines," showing the development timelines for the five metal mines from discovery to pursuit of these projects. She described these as snapshots of projects working toward development. Again she noted that for mines with historical activity, this graph reflects only current permitting cycles. She reiterated that this graph is a snapshot of what would represent thousands of potential jobs, and any one of the mines coming into production would be a large increase of revenue to the state. These are long timelines taking a very large amount of capital and patience. Right now AMA is looking at how to access that capital and convince investors that Alaska is a good place to invest. She claimed that it is a difficult time to convince investors because of fewer investment dollars for global exploration right now and much tougher competition.

MS. CROCKETT moved on to slide 11, titled "Lack of Investor Confidence," to explore how Alaska insures it receives its fair share of investment. She identified the graph on slide 11 as one showing an electronically traded fund that tracks the Standard & Poor (S&P) Metals and Mining Index. She explained that investor interest in mining reflects commodity price swings, with the graph showing robust growth in the mid-2000s, a sharp decline as a result of the 2008 financial crisis, and good recovery through mid-2011, thanks to China. Now, however, the

mining industry has suffered through four years of declining prices and investor interest.

MS. CROCKETT referred to slide 12, titled "Exploration Spending Declines," and pointed out the declines in exploration spending on a global level and in Alaska. The graph depicts global mining exploration spending in the billions of dollars and Alaska exploration spending in the millions of dollars. Global exploration spending went down 50 percent between 2012 and 2014, and in Alaska it went down 71 percent. She went on to say that this illustrates how Alaska has been hit worse than the average.

[9:04:03 AM](#)

REPRESENTATIVE TARR asked if the slide showing the decline of exploration spending in Alaska might be a reflection of so few projects along with a deep decline in the activity of one mine, the Pebble Mine, scaling back into very limited activity.

MS. CROCKETT replied in the affirmative but offered that there are a number of other factors and the next slide would address other projects that had that impact.

MS. MATTHIAS pointed out that Anglo American ("Anglo") pulled out of the Pebble Project in late 2013, which impacted its exploration spending in 2014, but that the decline started long before that when the Pebble Project was still very much engaged in exploration. She added that there are many exploration projects and all of them are impacted by the difficulty in raising the investment dollars to do exploration in times of low commodity prices.

[9:05:34 AM](#)

MS. CROCKETT referred to slide 13 to illustrate what exploration decline looks like in terms of these smaller projects. She then referred to the AMA brochure insert, titled "The Economic Impact of Placer Mining in Alaska," which enumerates the placer mines that didn't make the cut to be on the centerfold of the brochure but were still a significant economic factor in terms of the exploration community. She went on to say that in 2012 there were 24 exploration projects that spent between \$100,000 and \$5 million in Alaska. These are in an earlier stage and spending less money, but it is AMA's hope that they will become larger pre-permitting projects. In 2013 the number of exploration projects went down to 17 even though AMA expanded the criteria to include projects spending between \$100,000 and \$10 million.

Those projects with preliminary exploration work were cut off in those years.

MS. CROCKETT cited slide 14 to show the impact of exploration spending by way of job distribution throughout Alaska. She said that in 2012 there were 120 communities with mining industry employees. In 2014 there were only 50. She claimed that mining still has an impressive regional impact, but AMA's goal is to increase the number of communities with mining industry jobs.

9:07:48 AM

MS. MATTHIAS referred to slide 15, titled "Goal of Tax Policy?" to introduce the fundamental question of what Alaska's tax policy should be. She said that CAP is looking for a balance between a reasonable share for the state and a competitive rate for industry that attracts investment. She related it is CAP's belief that a robust and responsible mining industry provides all of the benefits highlighted by Ms. Crockett previously: jobs, government revenue, Native corporation revenue sharing, and procurement and contracting opportunities for Alaska businesses.

MS. CROCKETT offered that in 2014 the state received \$83.7 million dollars in revenue from mining. Slide 16, titled "Mining Pays Its Way," puts that revenue into categories based on information from Alaska's Mineral Industry Report produced by the Department of Natural Resources (DNR) and the Department of Commerce, Community & Economic Development (DCCED). The report shows that the Alaska Mining License Tax (AMLT) in 2014 was \$38.7 million and the state corporate income tax was \$17.3 million. Ms. Crockett pointed to a blank space on the report regarding state fuel taxes and noted that for 2013 that amount was about a million dollars for the industry and most likely about the same for 2014. She itemized the remaining categories in the report as follows: AIDEA facility user fees that consist of predominately the Red Dog port and road and the Donlin Mountain transportation system at \$12 million; state mineral rents and royalties at \$13.5 million; state coal rents and royalties at \$1.4 million; state material sales at \$600,000; and state mining miscellaneous fees at \$200,000. She explained that AMA does not believe that the RSAs are represented in the chart, so that would be an additional amount over and above the \$83.7 [million].

9:10:06 AM

REPRESENTATIVE SEATON asked for a breakout of the "state mineral rents and royalties."

MS. MATTHIAS replied that the mineral industry report provides a little more detail. She said committee members could access it online which is available on line or she could provide it for them. She asked Representative Seaton if he had particular questions.

REPRESENTATIVE SEATON stated that as he looks at the AMLT figure and the state mineral rents and royalties figure, both calculated as a percent of net income, he is unable to understand why the license tax figure, at seven percent of net income, is so much greater in proportion to the royalties figure, at three percent of net income. He added that combining the mineral rents with the royalties makes interpreting the amount of royalties even more difficult.

MS. MATTHIAS answered that upcoming slides have more information on royalties. She clarified that the \$13.5 [million] royalty number is a grouping for this report, and it does break out to the rents, royalties, and the annual labor fees that are paid on claims. She restated that she could provide a copy of the report to the committee.

[9:12:44 AM](#)

REPRESENTATIVE HAWKER thanked the testifiers on trying to get the legislature focused on total government take. He stated his hope was that someone at the Department of Revenue (DOE) is listening to this presentation and understands the importance of presenting to the committee this kind of information in terms of total government take so that decisions made are holistic, not myopic and uninformed.

REPRESENTATIVE JOSEPHSON asked Ms. Matthias if the cost of the permits are included in the RSAs.

MS. MATTHIAS replied that the state bills the company for permitting work, oversight during operations, and monitoring.

REPRESENTATIVE JOSEPHSON asserted that the RSA should not be included in the chart [slide 16] as it is a cost that Alaska has to absorb and is different from the other elements in the chart.

MS. MATTHIAS confirmed that the RSA does not go into the general fund for use in other areas; however, from the company's point

of view all of the costs paid to government are part of the expenses of doing business in Alaska. Therefore, it is extremely important from both the industry point of view and the investor point of view to understand all of the costs.

[9:14:41 AM](#)

MS. MATTHIAS referred to slide 17, titled "State Revenue > State Costs" and asked the question, "Where does that \$87.3 million go?" The graph on slide 17 comes from the "Fiscal Effects of Commercial Fishing, Mining, & Tourism. What does Alaska receive in revenue: What does it spend?" released by the Institute of Social and Economic Research (ISER) in January of this year.

MS. MATTHIAS stated that for the mining industry, the vast majority of revenue that comes to the state for mining goes into the general fund and can help pay for schools, roads, and public safety. She further stated a very small percentage is used by the state to manage the operations for working with the industry. She maintained that it is important to underline that mining in Alaska is highly regulated, but because of the RSAs, that oversight is billed to the company rather than borne by the public.

MS. MATTHIAS, moving on to slide 18, titled "How Does AK Compare?" warned that it is not valuable to look at any payment in isolation because it is the total that matters to the company's bottom line and to the investment community. Looking at one part in isolation could end up with a misleading conclusion. A higher royalty in one place might be offset by a lower mineral license tax or by no corporate income tax.

MS. MATTHIAS asserted that it was important also to recognize that Alaska is the only state with multiple use state land. The state received millions of acres from the federal government for which the mineral potential was completely unknown. She alleged that having a lower royalty [rate] encourages explorers to risk their capital in an attempt to find mineral sources that can be developed, thus adding to the state's economy. She added that an attractive royalty rate encourages exploration of this vast amount of unknown land to see if deposits can be found and could be turned into producing mines for the good of the state in terms of jobs, economic activity, and opportunity. She concluded that Alaska is unique in having the potential for mines on state land; therefore, state royalty is in some ways a unique Alaskan issue. Lots of mines are on federal land or

private land, but there's no royalty to the state if the state is not the land owner.

[9:17:24 AM](#)

MS. MATTHIAS then explored net income using slide 19, titled "How is net income calculated?" She maintained that Alaska is very prescriptive on deductible expenses. She referred to the first sentence "Gross revenue=net smelter revenue" and reiterated that this is not the same as the world price for the refined product. She defined "net smelter revenue" as a negotiated price between the seller, the mining company, and the smelter or refiner minus the cost of transportation to get the material from the mine to the smelter or refiner.

REPRESENTATIVE JOSEPHSON inquired about the cost of transporting the product to the smelter and stated his understanding that it was not a great cost. He asked if the cost varied a lot.

MS. MATTHIAS contended that cost depends on what is being transported, the mode of transportation, and the distance transported. For this reason the net smelter revenue is minus the cost of transportation.

REPRESENTATIVE SEATON asked what would be the "point of production" for a mine selling a concentrate in calculating the net income amount.

MS. MATTHIAS responded by saying the mine receives the value of the product when it leaves the mine to go to the smelter or refinery, as negotiated with the smelter or refinery.

REPRESENTATIVE SEATON asked if the "net smelter return" was the value of the product at the point of sale.

MS. MATTHIAS confirmed that for the mines in Alaska that is correct.

[9:21:12 AM](#)

MS. MATTHIAS returned to slide 19 to make a second important point, which was that the initial and ongoing exploration costs for the one-time \$20 million credit opportunity for new mines is not a deductible expense, nor is the cost of permitting. The assets developed prior to production, however, can be depreciated. These include the milling and camp facilities and pieces of equipment. She stressed that these costs are

significant. As an example, Pogo spent \$50 million last year and \$50 million the year before in additional exploration to further define its ore body and ideally prolong the life of its mine. It was an investment to improve the chances of success, but again, she stressed, these are not deductible expenses for net income.

REPRESENTATIVE JOSEPHSON asked Ms. Matthias to describe conceptually the difference between depreciation and depletion.

MS. MATTHIAS responded that depletion is a way of depreciating an asset. She quoted from the U.S. Geological Service publication, "Minerals Commodity Summaries 2015 Appendix B, which read as follows:

The depletion allowance is a business tax deduction analogous to depreciation, but which applies to an ore reserve rather than equipment or production facilities. Federal tax law allows this deduction from taxable corporate income, recognizing that an ore deposit is a depletable asset [that must eventually be replaced.]

MS. MATTHIAS reiterated that depletion is not a tax credit but a form of depreciating an asset, which is the ore body.

[9:24:05 AM](#)

REPRESENTATIVE TARR asked what happens in a scenario where continued exploration work would find a new opportunity and how the value of that asset would be assessed at that time to incorporate the depletion.

MS. MATTHIAS replied that the question involves accounting and math that is beyond her capacity, but she stated she would be happy to provide more information.

[9:24:42 AM](#)

REPRESENTATIVE SEATON asked what the effect was of using "cost depletion" and "resource depletion" on net income before the percentage calculation of tax.

MS. MATTHIAS responded that discussion of the cost versus percentage depletion requires an accountant, and since she does not have those skills, she would have to follow up on this with him.

REPRESENTATIVE SEATON returned that he thinks that [cost depletion and resource depletion] are important concepts, as they are major factors in how much can be deducted from net income and can be considered applications of the percentage of tax that mines don't have to pay, because the tax is directly related to the net income.

MS. MATTHIAS agreed that they are deductions from net income because they are costs that are borne, just like wages are a deduction from net income. They reflect the significant investment that has gone into bringing the mine into production, whether the exploration costs or the permitting costs, both of which are depreciated like an asset as in other industries. She mentioned again that the question was beyond her capacity but she would make sure that someone is able to give more information.

REPRESENTATIVE SEATON stated that he realized that cost depletion does not allow for tax to be offset more than 50 percent, but further conceded that he was not sure of the percentage of offset due to resource depletion, and he asked that Ms. Matthias obtain that information as well.

[9:27:59 AM](#)

MS. MATTHIAS returned to the PowerPoint to discuss slide 20, titled "Major Metal-Mining Areas." The U.S. Geological Service map shown in this slide compares major metal mining states in the country. She pointed out the leaders, Arizona and Nevada, which have significantly more metal mining than many of the other states in the country. She asserted that if Alaska wants to be a leader, attract investment, increase the mining industry, and increase jobs and opportunities for Alaskans, then mineral tax comparisons with these two leaders is helpful. Nevada, she pointed out, has 5 percent net proceeds tax, no corporate income tax, 2 percent gross payroll tax, and property and sales taxes. Referencing Arizona on the chart, Ms. Matthias explained that what is shown as "gross value" is "net proceeds tax" as well. The tax is on the difference between the gross value and the production cost.

REPRESENTATIVE SEATON asked if "net proceeds tax" in this chart was just another way of saying "net smelter return."

MS. MATTHIAS replied that each state has a different way of calculating net income and repeated that Alaska has specific

rules about what can and can't be considered an expense. Both Nevada and Arizona have their own definitions of "net proceeds tax," and she acknowledged that since the wording differs from state to state, comparisons are difficult.

REPRESENTATIVE SEATON asked if the sales taxes were on the sale of either the concentrate or the mineral.

MS. MATTHIAS answered that the sales tax was on the goods and services that are subject to sales tax and are purchased by the mining company in the state. In Nevada, sales tax is one of the largest portions of the total government take.

REPRESENTATIVE SEATON asked for reassurance that [sales tax] did not represent tax on the sale of the mineral sold.

MS. MATTHIAS confirmed that to her knowledge that was correct.

[9:31:11 AM](#)

MS. MATTHIAS resumed her presentation. She maintained that even though information has been provided about Wyoming, South Dakota, Wisconsin, and Colorado, she has chosen to do the comparison with only the major metal mining states of Arizona and Nevada, rather than the other four, which are not major metal mining states.

MS. MATTHIAS referred to slide 21, titled "Selected International Mining Income Taxes - Top Rate," to illustrate the impact of federal tax on the mining industry in Alaska compared with other countries. This chart shows Alaska to be significantly higher for corporate income tax predominantly because the U.S. federal corporate tax is one of the highest in the developing world, at 35 percent. She compared the U.S. tax rate with Canada's tax rate of 15 percent. Any company that does business in Alaska or the U.S., whether foreign or domestic, is subject to U.S. tax laws and pays that federal corporate tax.

MS. MATTHIAS then turned to slide 23, titled "Corporate Tax Rates," to make the comparison between Alaska and other states, which are all subject to the 35 percent federal [tax] rate but have different state [tax] rates added to them. Alaska's [tax] rate is one of the highest at 9.4 percent. The chart compares Alaska with other mineral mining states and two Canadian mineral mining provinces. In Canada, as she pointed out, the provincial tax rate is high, but it is tacked onto a low federal tax rate.

MS. MATTHIAS further emphasized the tax burden on the mining industry in Alaska by adding the federal corporate tax rate of 35 percent to the state [tax] rate of 9.4 percent, and then adding on the seven percent Alaska mining license tax and the three percent royalty [rate] if the mine is on state land. The total percentage government take then comes to almost 55 percent.

[9:34:29 AM](#)

MS. MATTHIAS referred to slide 24, titled the "Fraser Institute Survey 2014," to answer the question "How is Alaska doing in being a competitive environment for attracting investment to the state for mining?" The Fraser Institute does an annual study of mining executives all over the world who have knowledge of jurisdictions for their perceptions of the various aspects that makes a region or jurisdiction attractive or not for investment in mining. She conceded that it is just a survey of perception, yet maintained that the results track over time and reflect where actual dollars are spent, so it remains a valuable tool.

MS. MATTHIAS directed the committee's attention to the "'Pure' Mineral Potential" column of the table to illustrate Alaska's ranking assuming a best practices policy regime. In 2014 Alaska ranked third; last year it ranked first, and it always ranks at or near the top. She went on to say that looking at "Policy Perception," which includes taxation, the regulatory regime, political stability, labor issues, and trade barriers, Alaska ranks twenty-third. She concluded that even with the best deposits in the world, low policy perception hinders attracting investment and conversely, the best policies will not overcome poor deposits for attracting investment.

MS. MATTHIAS moved onto to slide 25, titled "Fraser Institute Survey 2014," to look at an additional measure of overall investment attractiveness, which is in terms of the "pure mineral potential" to "policy perception" ratio. Pure mineral potential" is weighted at 60 percent and the "policy perception" at 40 percent for this ratio. Last year Alaska ranked tenth among other countries and states and fifth the year before. Ms. Matthias concluded that since the nine jurisdictions that surpassed Alaska in this ranking were all in developed countries and subject to modern environmental laws, there is no reason Alaska cannot compete with them in investment attractiveness. Alaska has the deposits, but she contended that the policy perception has disadvantaged Alaska.

9:37:30 AM

REPRESENTATIVE JOSEPHSON asked Ms. Matthias why Wyoming does not have major metal mining areas according to the previous map but is ahead of Alaska in the current list.

MS. MATTHIAS explained that the institute looks at all mining for this ranking, including coal and other non-metal mining. She pointed out that the pure mineral potential is not the best weighted ratio because it doesn't take into consideration the current environment on the ground. Therefore the institute also asked the mining executives about current mineral potentials. Instead of assuming the best possible mining policies, they were asked what they thought of the jurisdiction under the current policy environment and whether they thought it encouraged or discouraged mining. Alaska, in 2014, ranked twenty-eighth for this survey, down from eleventh in 2013 and sixth in 2012. She recommended that the legislature be aware of and concerned about this downward trend and, considering [Alaska's mining] potential, charged them with asking what is being done to attract the investment and grow the industry. She offered that it is one of a few industries to have the potential to double and, therefore, could be part of the solution to Alaska's need for economic diversity.

9:39:46 AM

REPRESENTATIVE JOSEPHSON commented that although it is not the fault of the mining industry, Alaska is so used to dealing in multiple billions of dollars from the oil industry that the revenue picture of mining pales in comparison, even if the mining industry doubled. He said Alaska does need to diversify, and he opined that anyone who denies that is appropriately marginalized. He suggested that from a public relations standpoint, this is something Ms. Matthias and CAP need to think about. He suggested that it was hard to think of the mining industry figures outside of this comparison.

MS. MATTHIAS conceded that she could not agree more. She stated that the two industries are so different and the scale is so different. She claimed, however, that the mining industry's perspective was at the local level, and she cited examples. She noted the importance of Fort Knox to Fairbanks, with Fort Knox being the largest single property tax payer in Fairbanks employing more than 600 Fairbanks residents. In Juneau the two largest taxpayers are mines, Kensington and Greens Creek, an

impact which gives a different view of comparing mining revenue with oil and gas revenue. Red Dog is an incredible economic engine for Northwest Alaska. She concluded by saying that at the local level, those jobs, opportunities, and local tax revenues are absolutely vital to the health of the communities. She went on to say she would never argue that mining could surpass oil and gas for overall economic impact, but because Alaska needs economic diversity, mining, fish, and tourism are all important to provide that value at the local level.

9:42:15 AM

REPRESENTATIVE TARR asked to what Ms. Matthias attributes the change in public policy perception, since Alaska has not been contemplating any changes in mining taxes over the last few years.

MS. MATTHIAS responded with two reasons: the impact of the changing regulatory environment and the back and forth change in oil tax in Alaska that has introduced an element of doubt about the tax regime causing international investors to wonder if that could happen in the mining industry.

REPRESENTATIVE TARR asked Ms. Matthias to give specifics on the regulatory issues to which she alluded in her answer, asking if the water rights issue was a factor and what other regulatory issues were factors.

MS. MATTHIAS agreed there were federal regulatory issues that have had a major impact, but also state regulatory issues, including recent water rights decisions, which were made in the Chuitna Coal Project in late 2015, and those in the Bristol Bay region in December 2015. These projects are not factored into the survey results although the applications have been on the record for some time. She contended that the State of Alaska has been very "bullish" on the potential of mineral development from a policy perspective for many years and cited Governor Walker's statement in slide 26, titled "Potential," as further confirmation of a positive attitude toward the potential of mining in Alaska.

REPRESENTATIVE TARR stated that she appreciated Ms. Matthias's comment because of the high profile legislation over a two-year period addressing the issue about water reservations, and expressed relief that it didn't have a significant impact. Representative Tarr went on to ask what can be done by Alaska to impact the federal regulatory environment.

MS. MATTHIAS replied that the state has done a number of things: court cases; work by the congressional delegation on federal regulatory issues; and Alaskans voicing concerns about federal regulatory issues. She stated that she felt the mining industry has had tremendous support from the state to help the federal agencies understand what makes Alaska unique and to try to impose accuracy and reality into a process that is designed in Washington, D.C., for the entire country, without realizing that the standard approach does not work in Alaska

REPRESENTATIVE TARR requested the need for specific examples to back up complaints regarding federal regulatory issues so that she could be better informed.

MS. MATTHIAS replied that CAP would be happy to provide a long list of particular examples and would follow up.

[9:46:58 AM](#)

MS. MATTHIAS referenced "Alaska's Mineral Industry Report" on slide 27, put out by DNR and DCCED. The chart shows that the gross production value, which is more than what the companies actually receive in aggregate, has decreased 4 percent between 2013 and 2014. Estimated revenue to the Alaskan municipalities has also gone down. She pointed out that a small change in commodity prices and production can have a big change in net income because of so many fixed operating expenses. She directed attention to the decline in exploration spending of 45 percent between 2013 and 2014, which greatly reflects the impact of lower commodity prices.

[9:47:56 AM](#)

REPRESENTATIVE HAWKER requested Ms. Matthias return to slide 26 to discuss the concluding statement: "Are the right policies in place to encourage development and production of critical and strategic minerals in Alaska?" He alluded to the presentation of the proposed legislation [HB 253] by the administration, which gave the committee [the administration's] analysis of the impacts of the tax proposal.

REPRESENTATIVE HAWKER addressed his first question to Ms. Matthias. He drew attention to slide 9 of a PowerPoint presentation titled "New Sustainable Alaska Plan: Pulling Together to Build Our Future," which was presented during the House Resources Standing Committee 2/15/16 hearing on HB 253.

He noted that the impact analysis for large and profitable mines, on slide 9, reported that "most income falls above \$100,000, so effective tax rate goes up from 7 percent to 9 percent," and that "in 2014, 13 entities paid at this level." He reiterated that this was the sum total of the entire rationale this committee was given for supporting this legislation. His question to Ms. Matthias was whether only noting that the tax rate goes up 2 percent was a sufficient impact analysis in order to truly understand what will happen to the [mining] industry.

MS. MATTHIAS responded that she and CAP believe there needs to be greater understanding of how the figures were arrived at and what the impact would be. She further disclosed that it was concerning that it is billed as a 2 percent increase, but as they have discussed and as Co-Chair Talerico has made clear, the actual payment goes up 29 percent, or 28.5 percent. This is a significant increase when commodity prices are really putting a crunch on operations. Members in her organization have expressed concern that there is a tipping point that can go into neutral or negative cash flow that greatly impacts their ability to be successful. She went on to say that because of such high investment costs, the ability to make a profit and recoup that investment is huge.

REPRESENTATIVE HAWKER prefaced his next question to Ms. Matthias by saying that the administration's presentation identified large mining projects in Alaska, and the presentation included a footnote which said "operation is temporarily suspended" in regard to the Nixon Fork Mine. He asked why the Nixon Fort Mine was suspended.

MS. MATTHIAS answered that it was suspended for economic reasons. The mining company was not able to continue production under the current economic conditions and metal prices. There were no regulatory problems associated with the suspension. The suspension was temporary due to the fiscal environment and lack of incoming revenue. She emphasized that the situation is not unique, nor is it an easy decision for the mine to make since investment and financing bills are still coming in.

[9:52:24 AM](#)

REPRESENTATIVE HAWKER directed his next question to Ms. Crockett. He drew attention once again to slide 9 of the PowerPoint presentation titled "New Sustainable Alaska Plan: Pulling Together to Build Our Future," and maintained that the

impact analysis provided by the administration to the committee for [HB 253] as it relates to small mining operations states that there is "little or no effect in tax rate change; however, removing the 3.5-year exemption may deter some future mines." He questioned whether that was a sufficient impact analysis for the committee to understand how the legislation will affect the small mining operations.

MS. CROCKETT relayed that the AMA appreciates that the Department of Revenue (DOR) understands the removal of the 3.5-year exemption would affect small placer mines. In a small project an entrepreneur has taken a gamble on whether the project will work and invested everything to move it forward. Nevertheless, the impact analysis is not the full picture, and does not give her what she needs to represent [the mining industry] on the proposed legislation.

REPRESENTATIVE HAWKER went on to say that the other impact that the Department of Revenue provided was the revenue impact, which is the collection of an additional \$6 million more per year, starting in 2018, and \$25,000 more in fees. He noted that this revenue impact does not account for any changes in mining activity. He asked Ms. Crockett if this analysis as presented should have accounted for impact of changes in mining activity or if she believes passing this bill will not result in any changes in mining activity for them to consider.

MS. MATTHIAS replied that she agrees that CAP would like to see greater study of impact and how [the administration] came to the conclusions that there would be no impact due to changes in mining activity.

REPRESENTATIVE HAWKER thanked her and expressed appreciation for the presentation.

[9:54:56 AM](#)

MS. MATTHIAS showed slide 28, titled "Are We Attracting Investment?" which she said sums up the points she made on the importance and value of mining in the state. These points were that it is harder to compete for investment dollars and Alaska has challenges in terms of infrastructure, distance, and transportation costs. She concluded that the one thing that the State of Alaska does have control over are the policies on taxation and revenue. She asked if Alaska is making decisions that will attract investment and grow the industry to provide more jobs and revenue in the long term. Ultimately, she

contended, limited capital will go to jurisdictions that encourage mineral development. Alaskan communities and thousands of miners and their families depend on a healthy mining industry.

[9:55:53 AM](#)

REPRESENTATIVE SEATON referred back to slide [25] regarding the encouragement or discouragement of the mining industry. He asked how lowering taxes on the oil industry was seen as a negative to the mining industry for encouraging or discouraging mining in the state.

MS. MATTHIAS answered that the oil tax rate has changed in Alaska multiple times and investors look for certainty. They are looking for signs that if they make a huge investment, there isn't going to be a massive change that will impact their investment. She stated that although Senate Bill 21 passed, there was a huge campaign to repeal it which shows a lot of uncertainty. Investors look to see if Alaska is a jurisdiction with a stable tax regime. The changes and emotional campaign related to oil and gas taxation causes concern for other industries in the state and affects the overall perception of attractiveness of the state for investment in general and the stability of taxation.

[9:58:36 AM](#)

REPRESENTATIVE HAWKER said he has had a long ongoing conversation in his legislative career with Ms. Matthias on the subject of Alaska's royalty production tax and total government take structure on the mining industry. He acknowledged that he has been very critical of the administration's job of developing and presenting a rational argument for its legislation, and he stated his belief that the State of Alaska really does need to reconsider the mechanisms used for the matrix of royalty production taxes and total government take. He also stated that he has been very concerned about net income-based royalty with the allowance of exploration credits against that royalty. He affirmed his belief that it is inappropriate for anyone to remove a natural resource from the State of Alaska without leaving [Alaska] something for it, and he warned that net profit basis allows billions of dollars of the state's non-renewable resource wealth to be taken out on the hope that "we get something at the backend." He re-emphasized the importance of a holistic approach to the "total government take value chain that is involved here." He contended that his desire was to continue

to work with mining industry representatives, to think this through, and to find a truly competitive fair share mechanism that is founded upon total government take and assures that every ounce of natural resources that is taken from the state results in the state getting its fair share.

[10:01:03 AM](#)

REPRESENTATIVE JOSEPHSON commented that relative to changes in oil and gas tax, while he understands that the perception from the industry might be that the referendum created uncertainty, his thoughts about that exercise - that is the election held in August 2014 - was that it was a thoroughly American exercise in every respect. He stated that is something he doesn't want to change regardless of industry reaction; the process of initiative referendum dates back to Teddy Roosevelt and is built into the Constitution of the United States.

REPRESENTATIVE JOSEPHSON referenced slide 27 and further commented that he understands that mineral value is nothing like the profit that is taken by the mining industry, and he also understands that [profit information] is proprietary, yet he looks at \$3.5 billion [mineral value figure] in relation to \$6 million tax. He admitted his reaction is a reflection of his elementary view of the information and need for more study. He insisted that he still does not understand the impact on the [mining] industry and remains puzzled at the idea that in today's commodity prices, it is \$6 million of tax spread through five hard rock mining sites, and he wonders if that is a deal-breaker [for the mining companies].

MS. MATTHIAS replied to Representative Josephson by promising to provide him with more explanation of the difference between gross production value and the reality of what is received in the state to the extent that she can given the confidentiality of these very tough negotiated deals with the smelters and the refiners. She further agreed that having more information about how hard it is to do business in Alaska might put that overall gross production value in better context.

[10:03:58 AM](#)

REPRESENTATIVE TARR indicated that without specific examples, it is challenging to understand the impact of any changes that would make the mines less promising at a time of low profit margin due to commodity prices. She attested that she is a supporter of the industry considering the good-paying jobs and

[positive] impacts on local communities. She recognized areas where the [mining] industry may be in conflict with the salmon [industry], but otherwise said she sees opportunities, like at Donlin Creek with the potential for energy transmission. She asked the presenters to help the committee members understand instances where mining profit is on the margin and operations hindered.

MS. MATTHIAS responded that she and Ms. Crockett would do their best to provide the committee with more information.

[10:05:32 AM](#)

REPRESENTATIVE SEATON told the testifiers that he appreciated them coming forward to talk to the committee and pledging to provide more information as requested. He mentioned that the [mining] industry calculates its own taxes and DOR audits the taxes, and the legislators are unable to get information from DOR on single tax-payer specific information. Consequently he said he appreciates the AMA providing this needed additional information.

[HB 253 was held over.]

[10:06:48 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 10:07 a.m.