

SENATE CS FOR CS FOR HOUSE BILL NO. 498(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/2/94

Referred: 5/2/94

Sponsor(s): REPRESENTATIVES FOSTER, MacLean

A BILL

FOR AN ACT ENTITLED

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

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

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

6 CHAPTER 30. EXPLORATION INCENTIVE CREDITS.

7 Sec. 27.30.010. EXPLORATION INCENTIVE CREDITS AUTHORIZED.

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

13 (1) surveying by geophysical or geochemical methods;

14 (2) drilling exploration holes;

1 (3) conducting underground exploration; or
2 (4) performing other exploratory work, including aerial photographs,
3 geological and geophysical logging, and sample analysis, for the purpose of
4 determining the existence, location, extent, or quality of the deposit.

5 (b) An exploration incentive credit granted under (a) of this section may be
6 (1) applied, at the discretion of the qualified applicant and subject to
7 the limit of AS 27.30.020, against

8 (A) taxes payable under AS 43.65; and

9 (B) mineral production royalty payments due the state under
10 AS 38.05.135 - 38.05.175; and

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

13 (c) An exploration incentive credit shall be granted under (a) of this section
14 to a qualified applicant if the qualified applicant provides the commissioner satisfactory
15 documentation of exploration activity conducted and of the direct labor costs and other
16 eligible costs incurred to complete the work described in (a) of this section. For
17 purposes of this subsection, "satisfactory documentation of exploration activity"
18 includes, where applicable,

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

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

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

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

28 (d) Data provided to the commissioner under (c)(2) of this section shall be
29 kept confidential for 36 months after receipt by the commissioner.

30 Sec. 27.30.020. LIMIT ON CREDITS. (a) The amount of exploration
31 incentive credits for each parcel or site may not exceed the lesser of

1 (1) a percentage of the combined amount payable by the qualified
2 applicant as taxes under AS 43.65 and as mineral production royalty payments due
3 under AS 38.05.135 - 38.05.175 for production from the parcel or site on which the
4 exploration activity occurred; for purposes of this paragraph, the applicable percentage
5 is

6 (A) 50 percent of eligible costs relating to activities performed
7 on state-owned land; and

8 (B) 25 percent of eligible costs relating to activities performed
9 on land in the state not owned by the state; or

10 (2) with reference to activities that qualify for an exploration incentive
11 credit that occur on the parcel or site on which the exploration activity occurred,

12 (A) if the activity occurred on state-owned land, 50 percent of

13 (i) direct labor costs, including the cost of benefits,
14 incurred by the applicant for employees directly associated with work
15 described in AS 27.30.010(a)(1) - (4) who are state residents; and

16 (ii) other eligible costs;

17 (B) if the activity occurred on land in the state not owned by
18 the state, 25 percent of

19 (i) direct labor costs, including the cost of benefits,
20 incurred by the applicant for employees directly associated with work
21 described in AS 27.30.010(a)(1) - (4) who are state residents; and

22 (ii) other eligible costs.

23 (b) The amount of an exploration incentive credit extended under this chapter
24 may not exceed an amount per parcel or site, as determined by the commissioner by
25 regulation.

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

27 (1) must be used within 15 years after it is extended under
28 AS 27.30.010; and

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

1 **Sec. 27.30.040. RELATIONSHIP TO OTHER FUNDS.** Amounts due the
2 permanent fund under AS 37.13.010 and the public school trust fund under
3 AS 37.14.150 shall be calculated before the application of a credit extended under
4 AS 27.30.010.

5 **Sec. 27.30.050. REGULATIONS.** The commissioner may adopt regulations
6 necessary to implement this chapter.

7 **Sec. 27.30.090. DEFINITIONS.** In this chapter,

8 (1) "eligible costs" means those costs incurred for activities in direct
9 support of an exploration activity conducted for the purpose of determining the
10 existence, location, extent, or quality of a mineral or coal deposit; the term

11 (A) includes

12 (i) direct labor costs, including the cost of benefits,
13 incurred by the applicant for employees directly associated with work
14 described in AS 27.30.010(a)(1) - (4); and

15 (ii) the cost of renting or leasing equipment from parties
16 not affiliated with the applicant, the reasonable costs of maintaining and
17 operating equipment, payments to consultants and independent
18 contractors not affiliated with the applicant, and costs of materials and
19 supplies;

20 (B) does not include

21 (i) direct labor costs, including the cost of benefits,
22 incurred by the applicant for employees directly associated with work
23 described in AS 27.30.010(a)(1) - (4) who are not residents; and

24 (ii) noncash expenses such as depreciation and reserves,
25 interest or other costs of borrowed funds, return on investment,
26 overhead, insurance or bond premiums, or any other expense that is
27 unreasonable or that the applicant has not incurred to complete work
28 described in AS 27.30.010(a)(1) - (4);

29 (2) "geochemical methods" means soil, rock, vegetation, and similar
30 samples collected and their chemical analyses;

31 (3) "geophysical methods" means all geophysical data gathering

1 methods used in minerals exploration, including seismic, gravity, magnetic, and
2 electromagnetic measurements;

3 (4) "qualified applicant" means

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

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

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

7 (D) a limited liability company qualified to do business in the
8 state;

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

11 (F) any association of persons listed in (A) - (E) of this
12 paragraph;

13 (5) "resident" means a person who establishes residency under
14 AS 01.10.055.

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

16 (a) Except as otherwise provided, valuable mineral deposits in land belonging
17 to the state shall be open to exploration, development, and the extraction of minerals.
18 All land, together with tide, submerged, or shoreland, to which the state holds title to
19 or to which the state may become entitled, may be obtained by permit or lease for the
20 purpose of exploration, development, and the extraction of minerals. Except as
21 specifically limited by AS 38.05.135 - 38.05.181, land may be withheld from lease
22 application on a first-come, first-served basis, and offered only on a competitive bid
23 basis when determined by the commissioner to be in the best interests of the state.
24 When authorized by AS 27.30.010, the commissioner shall allow an exploration
25 incentive credit for activities undertaken to determine the existence, location,
26 extent, or quality of a locatable or leasable mineral or coal deposit and in [IN]
27 unproven areas the commissioner may offer additional incentives, including a reduction
28 of royalty to a minimum of five percent in the case of oil and gas, and other terms in
29 and granting permit or lease for exploration and development whenever it appears to
30 be in the best interests of the state to do so.

31 * Sec. 3. AS 38.05.212(b) is amended to read:

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(b) The production royalty

(1) is three percent of net income as determined under AS 43.65; and
(2) is subject to the exploration incentive credit authorized by
AS 27.30.

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

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

* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).