

CS FOR SENATE BILL NO. 371(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/14/94
Referred: Finance

Sponsor(s): SENATE RESOURCES COMMITTEE

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 43.20 and 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.** The amount of exploration incentive
31 credits for each parcel or site may not exceed the lesser of

1 (1) 50 percent of the combined amount payable by the qualified
2 applicant as taxes under AS 43.20 and AS 43.65 and as mineral production royalty
3 payments due under AS 38.05.135 - 38.05.175 for production from the parcel or site
4 on which the exploration activity occurred; or

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

7 (A) 60 percent of direct labor costs, including the cost of
8 benefits, incurred by the applicant for employees directly associated with work
9 described in AS 27.30.010(a)(1) - (4) who are residents; and

10 (B) 50 percent of

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

14 (ii) other eligible costs.

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

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

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

21 Sec. 27.30.040. RELATIONSHIP TO OTHER FUNDS. Amounts due the
22 permanent fund under AS 37.13.010 and the public school trust fund under
23 AS 37.14.150 shall be calculated before the application of a credit extended under
24 AS 27.30.010.

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

27 Sec. 27.30.090. DEFINITIONS. In this chapter,

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

30 (2) "geophysical methods" means all geophysical data gathering
31 methods used in minerals exploration, including seismic, gravity, magnetic, and

1 electromagnetic measurements;

2 (3) "other eligible costs" means the costs incurred for activities in direct
3 support of exploration activity conducted for the purpose of determining the existence,
4 location, extent, or quality of a mineral or coal deposit; the term

5 (A) includes the cost of renting or leasing equipment from
6 parties not affiliated with the applicant, the reasonable costs of maintaining and
7 operating equipment, payments to consultants and independent contractors not
8 affiliated with the applicant, and costs of materials and supplies;

9 (B) does not include noncash expenses such as depreciation and
10 reserves, interest or other costs of borrowed funds, return on investment,
11 overhead, insurance or bond premiums, or any other expense that is
12 unreasonable or that the applicant has not incurred to complete work described
13 in AS 27.30.010(a)(1) - (4);

14 (4) "qualified applicant" means

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

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

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

18 (D) a limited liability company qualified to do business in the
19 state;

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

22 (F) any association of persons listed in (A) - (E) of this
23 paragraph;

24 (5) "resident" means a person who establishes residency under
25 AS 01.10.055.

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

27 (a) Except as otherwise provided, valuable mineral deposits in land belonging
28 to the state shall be open to exploration, development, and the extraction of minerals.
29 All land, together with tide, submerged, or shoreland, to which the state holds title to
30 or to which the state may become entitled, may be obtained by permit or lease for the
31 purpose of exploration, development, and the extraction of minerals. Except as

1 specifically limited by AS 38.05.135 - 38.05.181, land may be withheld from lease
2 application on a first-come, first-served basis, and offered only on a competitive bid
3 basis when determined by the commissioner to be in the best interests of the state.
4 When authorized by AS 27.30.010, the commissioner shall allow an exploration
5 incentive credit for activities undertaken to determine the existence, location,
6 extent, or quality of a locatable or leasable mineral or coal deposit and in [IN]
7 unproven areas the commissioner may offer additional incentives, including a reduction
8 of royalty to a minimum of five percent in the case of oil and gas, and other terms in
9 and granting permit or lease for exploration and development whenever it appears to
10 be in the best interests of the state to do so.

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

12 (b) The production royalty

13 (1) is three percent of net income as determined under AS 43.65; and

14 (2) is subject to the exploration incentive credit authorized by

15 AS 27.30.

16 * Sec. 4. AS 43.20 is amended by adding a new section to read:

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

20 * Sec. 5. AS 43.65.020(a) is amended to read:

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

- 1 * **Sec. 6.** This Act is retroactive to January 1, 1994, and applies to activities that qualify
2 for the exploration incentive credit authorized by AS 27.30 that are undertaken after
3 December 31, 1993.
- 4 * **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).