

HB

56

APPENDIX A

Proposed Amendments to HB 56

SB 141  
2 PM - Friday  
Feb 25th

PROPOSAL #1 An amendment of lines 7-10 of page 2:

(d) if mining business operations not subject to sec. .010 of this chapter are conducted in two or more places within the state by one person, those operations may, at the person's option, be considered as one mining business, and the tax shall be computed upon the net proceeds of all those mining business of operations.

PROPOSAL #2 An amendment of the last sentence on page 1:

The tax exemption granted to new mining business operations does not apply to the business of mining sand and gravel.

An amendment of the first sentence on page 2:

The Department of Natural Resources shall certify to the department the date upon which production began from the mining business operation, and the department shall issue a certificate of exemption to the applicant after this certification.

PROPOSAL #3 An amendment of line 2 of page 3:

167 of the Internal Revenue Code (26 U.S.C. 167);

PROPOSAL #4: An amendment of lines 3 and 4 of page 3:

(7) amortization of exploration and mining development costs not included in (6) of this section;

PROPOSAL #5 An amendment to insert a new line after line 9 of page 3:

(9) net operating losses as set out in sec. 172 of the Internal Revenue Code (26 U.S.C. 172).

PROPOSAL #6 An amendment of the sentence beginning on line 27 of page 3:

Gross receipts include the actual amount received during the year for the sale of minerals or materials whether or not the minerals or materials were actually extracted during that year.

An amendment of the subsection beginning on line 2 of page 4:

(b) If the minerals or materials are sold or transferred at a price other than the true market price, as when a wholly owned subsidiary transfers or sells the mineral or material to its parent at a price less

APPENDIX A (Continued)

than market value, gross receipts are the true market price or average market price per ton or other measurable unit of the mineral or material multiplied by the total units of the mineral or material sold or transferred during the year.

An amendment of lines 24-28 on page 8:

(9) "minerals means asbestos, coal, sulphur, iron ore, lead, zinc, mercury, tin, chromite, bauxite, copper, gold, silver, platinum, potash and other valuable metals or ores except oil, gas and materials;

(10) "materials" means sand, gravel, building material and top soil

PROPOSAL #7 An amendment of line 29 of page 4:

make returns for the person engaged in the mining business [, OR THE

PROPOSAL #8 An amendment of lines 9-22 of page 8:

(7) "business of mining"

(A) means a business operation for the extraction of minerals from the earth or water of the state operated by a person

(i) who owns and operates, works, or develops a mineral property, whether or not that property is currently producing a marketable product;

(ii) who leases a mineral property and operates the mineral property, whether or not the mineral property is producing a marketable product;

(iii) who leases a mineral property and pays royalties, rents or other payments to the owner of the property;

(iv) who has an interest in a lease, concession, joint venture, or other agreement for the exploration or development, or extraction of a mineral property if royalties, rents, or other payments are to be paid for that interest;

(B) does not include a natural person who undertakes only discovery work required to be done in prospecting for or locating any mining claims, or annual assessment work, or work required in the obtaining of title to mining property from the United States, or required by the laws of the United States or of this state in order to hold possessory title to any mining claim;



# Bear Creek Mining Company

Spokane  
Office

## TESTIMONY BEFORE HOUSE NATURAL RESOURCES COMMITTEE

Juneau, Alaska - March 4, 1977

Mr. Chairman, members of the Committee, my name is Russell C. Babcock, Jr., and I am Exploration District Manager, Bear Creek Mining Company, Spokane, Washington. I am in charge of my company's exploration efforts in Alaska, as well as the northwest states, and have been involved in Alaskan work since 1962. Bear Creek Mining Company is, of course, the exploration subsidiary of Kennecott Copper Corporation, an active producer and explorer in Alaska for many years.

I appeared before this Committee on April 8, 1976 and testified in favor of revision of the Mining License Tax as it now exists. I would now like to re-submit that testimony for Bear Creek Mining Company. You will find that, among other things, it requests inclusion of net operating loss carry forward and elimination of the restriction of deductions to the taxable year.\* Bear Creek Mining Company is strongly in favor of a stable, reasonable tax policy for the state of Alaska. We believe there is a mineral industry in Alaska's future, and that with responsible treatment from both business and Government it can be a beneficial corporate citizen of the state.

Thank you.

\* We would like to add to those 1976 comments our ~~own~~ recognition of the need to add "smelting" to Subsec. 15-~~a~~ 3 and the simplification and benefit of a flat-rate royalty of 5% of the net proceeds.



# Bear Creek Mining Company

Spokane  
Office

## TESTIMONY BEFORE HOUSE NATURAL RESOURCES COMMITTEE

Juneau, Alaska - April 8, 1976

Mr. Chairman, Members of the Committee, my name is Russell Babcock, and I am Exploration District Manager, Bear Creek Mining Company, Spokane, Washington. I have the jurisdictional responsibility for my company's exploration efforts in Alaska and the northwest states, and have personally been involved in programs within the state intermittently since 1962. The exploration efforts of Bear Creek cover the period beginning in 1956, and prior to this our parent company, Kennecott Copper Corporation, was an active producer and explorer.

At present, Bear Creek is seriously considering the development of copper and copper-zinc-silver deposits in the Ambler District near Kobuk on the south flank of the Brooks Range. We are also exploring other parts of Alaska, and are encouraged by the unexplored nature of what we see and the favorable geologic setting. We feel that additional mineral deposits can be discovered in Alaska.

It is clear that the costs of development and production in Alaska will be significantly higher than in the mining states of the west, and it is clear that real dollar incentives will be required to start a viable, long-lived Alaskan mining industry. On the other hand, mining is one of the very few industries which might be developed in rural Alaska, and which might lift the burden of supporting rural populations from the shoulders of the state and federal governments. Incentives such as infrastructure support, for roads, railroads, ports and communication, funded by both state and federal agencies, or federal tax credits for Alaskan development or production income, would have a more far-reaching and significant impact on the economics of a new mine in Alaska than minor variations in the current special tax structure. These types of incentives have been responsible for the dramatic progress in rural Canada over the last decade or so.

In principle, Bear Creek would like to see its operations taxed on the same basis as other industries or businesses, without special loadings or special taxes. At the present time, Alaska has a special tax on mining, the 7% Mining License Tax on net income. The proposed revisions of this tax, as presented here today in House Bill 878, will result in a clearer, more agreeably interpreted tax law, and, because the 7% rate is retained, will promote a feeling of stability concerning mineral taxation in Alaska which will have a positive effect on decisions to explore for minerals and develop mines in Alaska.

Additional taxes would be a strong disincentive, not only for development of new mines but for the exploration necessary to make new discoveries. Reduction of special taxes would be accepted as recognition that a mining industry would be a welcome and contributory state citizen, that the State of Alaska was willing to work with industry to derive some benefit from its presently untapped, unproductive mineral resources.

The revised Mining License Tax, HB 878, with its implied stability, is a step in the right direction. To further clarify its language, to provide conformity with federal tax law, and to yield legislation acceptable and workable in our view, Bear Creek respectfully submits some changes as shown on the attached copies of pages 2 and 3 of HR 878 (points were explained).

We feel the addition of these elements will enhance the legislation in clarifying its intent and smoothing out the tax burden it would otherwise impose in the startup years of a new operation or during periods of fluctuating market conditions which are inevitable in the industry. A stable, viable, long-lived mining industry will provide the maximum benefit to both the state and the industry.

I thank you for this opportunity to work with you and your committee to this end.

REVISED

To Accompany Bear Creek Mining Company Testimony  
April 8, 1976

1976 APR 11 11 30 AM

1 sand and gravel. The Department of Natural Resources shall certify to  
2 the department the date upon which production began from the mining  
3 business operation, and the department shall issue a certificate of  
4 exemption to the applicant after this certification. A person must  
5 apply for an exemption certificate in the first year of production  
6 from the mining business operation in order to qualify for the exemption  
7 under this section.

not subject to Section 10(c) of this chapter

8 (d) If mining business operations/are conducted in two or more  
9 places within the state by one person, those operations/~~are~~ <sup>may be at the person's option</sup> considered  
10 as one mining business, and the tax shall be computed upon the net  
11 proceeds of all those mining business operations.

12 \* Sec. 2. AS 43.65 is amended by adding new sections to read:

13 Sec. 43.65.015. NET PROCEEDS. (a) In this chapter, "net proceeds"  
14 means the total gross receipts from the mining business less the  
15 following deductions:~~the actual selling expenses incurred in marketing the product;~~

16 (1) all expenses incurred directly in the extraction of  
17 minerals in the state;

18 (2) all expenses incurred in transporting the minerals from  
19 the point of extraction to any further processing plant where only  
20 necessary treatment processes are applied to obtain a commercially  
21 marketable product;

22 (3) all expenses directly related to the production, re-  
23 fining, crushing, screening or other necessary process incurred to  
24 make a commercially marketable product;

25 (4) the actual selling expenses incurred in marketing the  
26 product;

27 (5) all expenses incurred in transporting the marketable  
28 product to a buyer;

29 (6) depreciation of the mining business equipment, works,

To Accompany Bear Creek Mining Company Testimony  
April 8, 1976

1 plant and facilities used directly in the extraction, transportation  
2 and processing phases of the mining business, in accordance with sec.  
3 167 of the Internal Revenue Code (26 U.S.C. sec. 167);

4 (7) amortization of <sup>exploration and</sup> mining development costs not included  
5 in (6) of this subsection;

6 (8) an allowance for depletion on a cost or percentage  
7 basis at the rates set out in secs. 611--614 of the Internal Revenue  
8 Code as amended (26 U.S.C. secs. 611--614) except that the allowance  
9 for depletion may not exceed 50 per cent of the taxpayer's net proceeds  
10 calculated before the allowance for depletion.

11 (b) <sup>(9)</sup> net operating losses as set out in the Internal Revenue Code  
12 If the taxpayer has expenses within the state other than  
13 those specified in (a) of this section, such as general overhead  
14 expenses, relating to the business of mining or to the business of  
15 mining and other business activities, the deductions shall be appor-  
16 tioned in the ratio which the direct expenses of the mining business  
17 within the state under (a) of this section bear to the total direct  
18 expenses of all business activities of that taxpayer in the state.

19 (c) Except for wages paid during temporary travel out of the  
20 state by an employee who is domiciled in the state, the deductions  
21 allowed in (a) and (b) of this section do not include wages or other  
22 payments for services not performed in the state.

23 (d) If a person is engaged in the business of mining and the  
24 only receipts from the business are royalties, the net proceeds of the  
25 mining business are the royalties received less the depletion allowance  
26 under sec. 15(a)(8) of this chapter.

27 Sec. 43.65.017. GROSS RECEIPTS. (a) In this chapter, "gross  
28 receipts" means all revenue received, including royalties, rental pay-  
29 ments, and all other compensation from the business of mining. Gross  
receipts include the actual amount received during the year for the

Introduced: 1/14/77  
Referred: Resources and  
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 56

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Mining License Tax;  
7 and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 43.65.010 is repealed and re-enacted to read:

10 Sec. 43.65.010. MINING LICENSE AND TAX. (a) For the privilege  
11 of engaging in the business of mining in the state, a person shall  
12 first apply for and obtain a license from the department. The license  
13 fee is \$25, which must accompany the application for a license.

14 (b) There is also levied an annual license tax on each person  
15 engaging in the business of mining in the state computed on the net  
16 proceeds of the taxpayer from the mining business. The license tax  
17 shall be computed according to the following table:

18 If the net proceeds are:	Then the tax is:
19 Over <del>\$40,000</del> <sup>5</sup> but not over	3 per cent of the excess over
20 <del>\$50,000</del> <sup>5</sup> <del>100,000</del>	<del>\$40,000</del> <sup>5</sup> <del>\$50,000</del>
21 Over <del>\$50,000</del> <sup>5</sup> <del>but not over</del>	<del>\$1,500</del> plus 5 per cent of the
22 <del>excess over \$50,000</del>	excess over <del>\$50,000</del> <sup>5</sup> <del>100,000</del>
23 Over <del>\$100,000</del>	<del>\$2,000</del> plus 7 per cent of the
24 <del>excess over \$100,000</del>	<del>excess over \$100,000</del>

25 (c) Upon application and receipt of an exemption certificate, a  
26 new mining business operation is exempt from the license tax levied by  
27 this chapter for three and one-half years after production from the  
28 mining business operation begins. The tax exemption granted to new  
29 mining business operations does not apply to the business of mining

1 the department the date upon which production began from the mining  
2 business operation, and the department shall issue a certificate of  
3 exemption to the applicant after this certification. A person must  
4 apply for an exemption certificate in the first year of production  
5 from the mining business operation in order to qualify for the exemption  
6 under this section.

7 (d) If mining business operations are conducted in two or more  
8 places within the state by one person, those operations are considered  
9 as one mining business, and the tax shall be computed upon the net  
10 proceeds of all those mining business operations.

11 \* Sec. 2. AS 43.65 is amended by adding new sections to read:

12 Sec. 43.65.015. NET PROCEEDS. (a) In this chapter, "net pro-  
13 ceeds" means the total gross receipts from the mining business less  
14 the following deductions incurred during the taxable year:

15 (1) all expenses incurred directly in the extraction of  
16 minerals in the state;

17 (2) all expenses incurred in transporting the minerals from  
18 the point of extraction to any further processing plant where only  
19 necessary treatment processes are applied to obtain a commercially  
20 marketable product;

21 (3) all expenses directly related to the production, re-  
22 fining, crushing, screening or other necessary process incurred to  
23 make a commercially marketable product;

24 (4) the actual selling expenses incurred in marketing the  
25 product;

26 (5) all expenses incurred in transporting the marketable  
27 product to a buyer;

28 (6) depreciation of the mining business equipment, works,  
29 plant and facilities used directly in the extraction, transportation

1 and processing phases of the mining business, in accordance with sec.  
2 167 of the Internal Revenue Code (26 U.S.C. sec. 1976);

3 (7) amortization of mining development costs not included  
4 in (6) of this subsection;

5 (8) an allowance for depletion on a cost or percentage  
6 basis at the rates set out in secs. 611 - 614 of the Internal Revenue  
7 Code as amended (26 U.S.C. secs. 611 - 614) except that the allowance  
8 for depletion may not exceed 50 per cent of the taxpayer's net proceeds  
9 calculated before the allowance for depletion.

10 (b) If the taxpayer has expenses within the state other than  
11 those specified in (a) of this section, such as general overhead  
12 expenses, relating to the business of mining or to the business of  
13 mining and other business activities, the deductions shall be appor-  
14 tioned in the ratio which the direct expenses of the mining business  
15 within the state under (a) of this section bear to the total direct  
16 expenses of all business activities of that taxpayer in the state.

17 (c) Except for wages paid during temporary travel out of the  
18 state by an employee who is domiciled in the state, the deductions  
19 allowed in (a) and (b) of this section do not include wages or other  
20 payments for services not performed in the state.

21 (d) If a person is engaged in the business of mining and the  
22 only receipts from the business are royalties, the net proceeds of the  
23 mining business are the royalties received less the depletion allowance  
24 under sec. 15(a)(8) of this chapter.

25 Sec. 43.65.017. GROSS RECEIPTS. (a) In this chapter, "gross  
26 receipts" means all revenue received, including royalties, rental pay-  
27 ments, and all other compensation from the business of mining. Gross  
28 receipts include the actual amount received during the year for the  
29 sale of minerals whether or not the minerals were actually extracted

1 during that year.

2 (b) If minerals are sold or transferred at a price other than  
3 the true market price, such as when a wholly owned subsidiary transfers  
4 or sells the mineral to its parent at a price less than market value,  
5 gross receipts are the true market price or average market price per  
6 ton or other measurable unit of the mineral multiplied by the total  
7 units of the mineral sold or transferred during the year.

8 (c) Gross receipts from the business of mining sand and gravel  
9 include:

10 (1) receipts from the sale to customers directly from the  
11 pit or mine;

12 (2) receipts from the sale to customers at their place of  
13 business or their business site, including receipts relating to the  
14 delivery of the sand and gravel; and

15 (3) the average market value of sand and gravel from inter-  
16 company transfers of the minerals calculated immediately before the  
17 transfer, including intercompany transfers of sand and gravel to a  
18 ready-mix or concrete plant.

19 \* Sec. 3. AS 43.65.020 is amended to read:

20 Sec. 43.65.020. TAXPAYER'S DUTIES. (a) A person subject to tax  
21 under this chapter shall make a return stating specifically the items  
22 of gross receipts [INCOME] from the business [PROPERTY], including  
23 royalty received and the deductions [AND CREDITS] allowed by this  
24 chapter, and other information for carrying out this chapter which the  
25 department [DEPARTMENT OF REVENUE] prescribes. The return shall show  
26 the mining license number and shall be signed by the taxpayer or his  
27 authorized agent, under penalty of perjury. If receivers, trustees,  
28 or assigns are operating the mining [PROPERTY OR] business, they shall  
29 make returns for the person engaged in the mining business [, OR THE

1 RECIPIENT OF ROYALTY IN CONNECTION WITH MINING PROPERTY]. The tax due  
2 on the basis of the returns shall be collected in the same manner as  
3 if collected from the person of whose business they have custody and  
4 control.

5 (b) A return made on the basis of the calendar year shall be  
6 filed [MADE] before March 15 [MAY 1] of the next year. A return made  
7 on the basis of a fiscal year shall be filed [MADE] before the fif-  
8 teenth [FIRST] day of the third [FIFTH] month of the next fiscal year.

9 (c) The department [DEPARTMENT OF REVENUE] may grant a reasonable  
10 extension of time for filing returns, under regulations adopted  
11 [PRESCRIBED] by it. Except in the case of a taxpayer going abroad, no  
12 extension may be granted [MADE] for more than six months.

13 (d) A [TAXPAYER'S] return shall be filed with [MADE TO] the  
14 department [DEPARTMENT OF REVENUE AT JUNEAU] using the same tax year  
15 as the person uses in filing his federal income tax return. [A TAX-  
16 PAYER SHALL MAKE HIS RETURN EITHER ON A CALENDAR YEAR OR FISCAL YEAR  
17 BASIS, IN CONFORMANCE WITH THE BASIS USED IN MAKING HIS RETURN FOR  
18 FEDERAL INCOME TAX PURPOSES.]

19 (e) The total amount of tax imposed by this chapter shall be  
20 paid on or before the due date of the tax return required under this  
21 section [THE 30TH DAY OF APRIL OF THE NEXT CALENDAR YEAR, OR, IF THE  
22 RETURN IS MADE ON THE BASIS OF THE FISCAL YEAR, THEN ON THE LAST DAY  
23 OF THE FOURTH MONTH OF THE NEXT FISCAL YEAR].

24 (f) [EVERY PERSON PROSECUTING OR ATTEMPTING TO PROSECUTE OR  
25 ENGAGING IN THE BUSINESS OF MINING IN THE STATE SHALL COMPLY WITH THE  
26 DEPARTMENT'S REGULATIONS AND SHALL KEEP SUCH RECORDS, GIVE SUCH STATE-  
27 MENTS UNDER OATH, AND MAKE SUCH RETURNS AS THE DEPARTMENT OF REVENUE  
28 PRESCRIBES.]

29 (g) When the department considers it necessary, it may require a

1 person, by notice served upon him, to make a return, give statements  
2 under oath, or keep records as it considers sufficient to show whether  
3 or not the person is liable for the [TO] tax under this chapter. If a  
4 person fails to file a return at the time prescribed by law or regula-  
5 tion, or makes, wilfully or otherwise, a false or fraudulent return,  
6 the department shall make the return from its own knowledge and from  
7 such information as it can obtain [THROUGH TESTIMONY OR OTHERWISE]. A  
8 return so made and subscribed by the department is prima facie good  
9 and sufficient for all legal purposes.

10 \* Sec. 4. AS 43.65.030 is amended to read:

11 Sec. 43.65.030. APPLICATION FOR RENEWALS. A person engaged in  
12 the business of mining sha'l apply [APPLICATION] for a renewal of a  
13 mining license each year [SHALL BE MADE] before the 30th day of the  
14 first month of the person's tax year [MAY 1 OF EACH YEAR].

15 \* Sec. 5. AS 43.65 is amended by adding a new section to read:

16 Sec. 43.65.051. PENALTIES AND INTEREST. (a) If part of a  
17 deficiency in the tax is due to fraud with intent to evade the tax,  
18 then 50 per cent of the total amount of the deficiency, in addition to  
19 the deficiency, shall be assessed and collected. If this penalty is  
20 assessed, then the penalty in AS 43.05.220 does not apply.

21 (b) A person who is required under this chapter to pay the tax,  
22 make a return, keep records, or supply information who wilfully fails  
23 to pay the tax, make the return, keep the records, or supply the  
24 information, at the time required by law or regulations, is, in  
25 addition to other penalties provided by this chapter, guilty of a  
26 misdemeanor, and upon conviction is punishable by a fine of not more  
27 than \$1,000, or by imprisonment for not more than one year, or by  
28 both.

29 (c) In this section, "person" includes an officer or employee of

1 a corporation or a member or employee of a partnership who is under  
2 duty to perform the act in respect to which the violation occurs.

3 (d) A person who wilfully attempts to evade the tax imposed by  
4 this chapter is, in addition to other penalties provided by this  
5 chapter, guilty of a felony and, upon conviction, shall be fined not  
6 more than \$5,000, or imprisoned for not more than five years, or both.

7 (e) A person who wilfully makes and subscribes a return, state-  
8 ment, or other document required under this chapter which contains or  
9 is verified by a written declaration that it is made under the penal-  
10 ties of perjury which he does not believe to be true and correct as to  
11 every material matter is, in addition to other penalties provided by  
12 this chapter, guilty of a felony and, upon conviction, shall be fined  
13 not more than \$5,000, or imprisoned for not more than three years, or  
14 both.

15 (f) A person who wilfully or knowingly aids, procures, or  
16 counsels the preparation or presentation in connection with any  
17 matter arising under this chapter of a return, affidavit, claim or  
18 other document, which is fraudulent or is false as to any material  
19 matter is guilty of a felony whether or not the falsity or fraud is  
20 with the knowledge or consent of the person required to present the  
21 return, affidavit, claim, or document, and, upon conviction, shall be  
22 fined not more than \$5,000, or imprisoned for not more than three  
23 years, or both.

24 (g) A person who wilfully delivers or discloses to the depart-  
25 ment under this chapter any list, return, account, statement, or other  
26 document, known by him to be fraudulent or to be false as to any  
27 material matter shall be fined not more than \$1,000, or imprisoned for  
28 not more than one year, or both.

29 \* Sec. 6. AS 43.65.060(4) is amended to read:

1 (4) "new mining business operation [OPERATIONS]" means a  
2 mining operation [OPERATIONS] which began production after January 1,  
3 1953, and which has not acquired the ownership or property of another  
4 mining business which has previously received an exemption certificate  
5 under sec. 10 of this chapter [OR WHICH HAVE NOT BEEN LIABLE TO PAY A  
6 MINING LICENSE TAX UNDER THIS CHAPTER ON NET INCOME SINCE JANUARY 1,  
7 1948];

8 \* Sec. 7. AS 43.65.060 is amended by adding new paragraphs to read:

9 (7) "business of mining" means a business operation for the  
10 extraction of minerals from the earth or water of the state , operated  
11 by a person

12 (A) who (i) owns and operates, (ii) works, or (iii)  
13 develops a mineral property, whether or not that property is  
14 currently producing a marketable product;

15 (B) who leases a mineral property and operates that  
16 property, whether or not it is producing a marketable product;

17 (C) who leases a mineral property and pays royalties,  
18 rents or other payments to the owner of the property; or

19 (D) who has an interest in a lease, concession, joint  
20 venture, or other agreement for the exploration or development,  
21 or extraction of a mineral property if royalties, rents, or other  
22 payments are to be paid for that interest;

23 (8) "department" means the Department of Revenue;

24 (9) "minerals" means asbestos, coal, sulphur, iron ore,  
25 lead, zinc, mercury, tin, chromite, bauxite, copper, gold, silver,  
26 platinum, potash, clay, stone, sand, gravel, and other valuable  
27 metals, ores and marketable earth or stone but not including oil and  
28 gas.

29 \* Sec. 8. AS 43.65.050 and 43.65.060(1) - (3) are repealed.

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\* Sec. 9. This Act is retroactive to January 1, 1977.

\* Sec. 10. This Act takes effect immediately in accordance with AS 01.-  
10.070(c).

# MEMORANDUM

TO:  Debbie Behr  
Legislative Affairs Agency  
5th Floor, Capitol Building

DATE : February 7, 1977

FROM: Gary L. Jenkins  
Director  
Audit Division

SUBJECT: House Bill No. 56

House Bill No. 56, which is a major revision of the Mining License Tax Bill, was introduced late in the last Legislative session as House Bill 878. This Bill is identical to the original HB 878, except for some changes which reflect legislation that was enacted by the 1976 Legislature.

Early in the 1975 Legislative session, Governor Hammond introduced a Mineral Severance Tax Bill which generated violent opposition from the mining industry. The Governor agreed to withdraw that Bill if the representatives of the mining industry would meet with the Department of Revenue personnel in an effort to rewrite the current law so that it would be in more understandable and enforceable terms. The Department held hearings in the fall of 1975, receiving a very substantial amount of input from the mining industry. The result of those hearings, along with written input we received from interested parties, was HB 878, which was introduced in the Legislature. The basic thrust of that Bill was to clarify the many sections of the original Act which were extremely vague and in some cases impossible to understand. With this law, the mining industry would be able to clearly understand the methods of calculating net proceeds from their operations in the State of Alaska and computing the tax thereon. By having a well defined law which would not need to be amended in the future, it was hoped that this would create a stable taxation environment in the State and would encourage additional mining development.

It is anticipated that there will be no additional revenue generated or lost through the passage of this legislation.

GLJ:mh

February 10, 1977

Ms. Sally Smith  
Alaska State Representative  
Pouch V  
Juneau, AK 99811

Dear Ms. Smith:

We appreciate your concern for our interest in mining in Alaska and your transmittal of a copy of H.B. No. 56 entitled "An Act Relating to the Alaska Mining License Tax; and providing for an effective date," which was introduced 1/14/77.

In Sec. 1, (b), I recommend a flat rate of 5% (no more) on the net proceeds derived from mining in the State of Alaska.

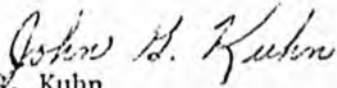
In Sec. 1, (d), I think it would be best to tax each operation separately and not to consider mining business operations conducted in two or more places as one mining business.

A further provision should be included for a mining business to carry forward net operating losses.

A further provision should be included for deduction of wages and payments for services performed out-of-state, where these are directly related to in-state operations.

We appreciate your consideration of this matter.

Sincerely yours,

  
John G. Kuhn  
Vice President  
INSPIRATION DEVELOPMENT COMPANY

JGK/HWO/am  
cc: Alaska Mining Association  
Northwest Mining Association

February 18, 1977

The Honorable Sally Smith  
Alaska State Representative  
Pouch V  
Juneau, Alaska 99811

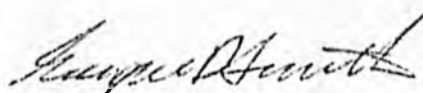
Dear Ms. Smith:

Thank you for your letter of February 15, 1977 advising me of the schedule of the House Resources Committee for the next three weeks. Your thoughtfulness is greatly appreciated.

I am sorry that I have not had a chance to respond to your letter of January 24, 1977 regarding HB-56 (Mining License Tax). U.S. BORAX's application for a permit to construct a road to our Quartz Hill molybdenum prospect near Ketchikan is in the draft E.I.S. review process and this has required a good part of my time. In this regard, I have enclosed for your information a copy of my letter to the Ketchikan Chamber of Commerce of February 15, 1977 requesting their support, as well as copy of a statement I made at their annual awards banquet meeting February 8.

In regard to the proposed amendments to the Mining License Tax, we do have some comments and we will get a letter off to you next week.

Sincerely yours,



Eugene D. Smith  
Assistant Manager  
Environmental Affairs

EDS:MC  
Encls.

cc: Mr. E. D. Lemon  
Mr. J. E. Stephens

February 15, 1977

Mr. Reinhart Klein, President  
Ketchikan Chamber of Commerce  
Mary Frances Towers  
Ketchikan, Alaska 99901

Dear Mr. Klein:

In follow up of our appearance at the Ketchikan Chamber of Commerce Meeting on February 8, we are writing to ask for your support for our application to the Forest Service for a special use permit to construct a primitive type access road to our Quartz Hill mineral property. As you know, we have agreed to the Boca de Quadra-Keta River route selected by the Forest Service. The road is required to conduct development drilling and bulk sampling to obtain data for use in completion of necessary engineering and feasibility studies. These studies will include an evaluation of all possible environmental impacts of a future mine development in this area and the action necessary to avoid or minimize adverse impacts.

We believe the question of surface access can be put into perspective by considering the answers to the following questions:

1. Is U.S.BORAX entitled to access?

Yes, the Forest Service acknowledged the property interest we have acquired and acknowledges that we have a right to access.

2. Should U.S.BORAX be given road access or should it be limited to helicopter access?

We believe we are entitled to road access because helicopter access alone is not a reasonable means of access. Total dependence on helicopters would subject the project to cost and operating risks (safety and financial) that would probably prohibit the capital investment necessary to see this project through feasibility (the evaluation upon which the decision to develop will be made).

3. Would road access cause prohibitive environmental damage?

We believe it would not and we believe the Draft Environmental Impact demonstrates that it would not. The impact statement concludes that the adverse environmental impact of the Keta Road on fish habitat is inconsequential insofar as sediment, flow, or rearing and spawning area changes are concerned (see Page 15 of D.E.I.S.).

4. Will the bulk sampling cause a significant environmental impact?

Again, we believe the D.E.I.S. demonstrates that it would not. The bulk sampling is a comparatively minor type operation involving about 5 to 10 acres and the removal of 25,000 to 60,000 tons of rock by underground workings from which samples will be taken and removed for metallurgical tests. Such a quantity of rock would constitute a 10-foot high pile covering only two and a half acres with very little, if any, visual impact.

We would like to point out that the decision as to the type of access allowed (helicopter or road) does not alter the bulk sampling program other than to introduce additional costs and risks if helicopter is selected. Environmental impacts of the bulk sampling program will be the same by either means of access.

5. Will the construction of the road prohibit that area of the mainland lying south of the Granite Fjords Wilderness Study Area from being designated wilderness?

We believe that it would, but we also believe that the mineral discovered to date at Quartz Hill should have already eliminated such an area from wilderness consideration.

6. Will the activity at Quartz Hill have any effect on the wilderness study or classification of Granite Fjords?

No, the work area cannot be seen from the North and there will be no visual or noise impacts in the area designated as Granite Fjords Wilderness Study Area.

We believe the question is: Will mineral resource development or wilderness be the best use for this area considering the potential extent and value of

mineralization against wilderness values such as scenic enjoyment and potential use or wilderness? Road access to Quartz Hill is critical to its development but such a road and such development will be in conflict with the proposed Misty Fjords Wilderness Area. Will it be in the best public interest to exclude mining from this area or to reduce the size of demands for wilderness?


We believe the right of road access is a matter of major importance to any development on National Forest land and denial of road access to Quartz Hill could adversely affect any future mineral exploration in the Tongass.

We hope you share our opinions and will submit your views on this matter in writing to the Forest Service on or before March 6, 1977.

Please write to: J. S. Watson, Forest Supervisor  
Ketchikan Area Tongass National Forest  
P. O. Box 2278  
Ketchikan, Alaska 99901

Your participation could be very important to the final decision on this land use.

Very truly yours,



E. D. Smith  
Assistant to the  
Manager of Environmental Affairs

EDS/mw

STATEMENT TO BE MADE TO CHAMBER OF COMMERCE

KETCHIKAN, ALASKA - FEBRUARY 8, 1977

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MANY OF YOU KNOW THAT IN MARCH OF LAST YEAR, U.S. BORAX ANNOUNCED ITS DISCOVERY AT QUARTZ HILL. THIS ANNOUNCEMENT WAS PROMPTED BY OUR APPLICATION TO THE U.S. FOREST SERVICE FOR AN ACCESS ROAD TO OUR CLAIMS WHICH ARE LOCATED IN THE TONGASS NATIONAL FOREST. OUR QUARTZ HILL PROJECT, AS BOB KISTLER HAS EXPLAINED, IS STILL IN THE EXPLORATION STAGE AND WILL BE FOR PROBABLY TWO MORE YEARS. THE RESULTS OF OUR EXPLORATION TO DATE ARE VERY ENCOURAGING BUT CONSIDERABLE WORK IS REQUIRED TO DETERMINE WHETHER WE HAVE A MINE.

I WOULD LIKE TO EMPHASIZE THAT THE EXPLORATION AND DEVELOPMENT OF A MINERAL DEPOSIT OF THE TYPE AT QUARTZ HILL, REMOTELY LOCATED AND SUBJECT TO THE WEATHER CONDITIONS OF THE AREA, IS A LONG TERM, HIGH COST AND HIGH RISK VENTURE THAT WILL REQUIRE THE EFFORTS OF MANY PEOPLE, SOPHISTICATED TECHNOLOGY, TIME, A GREAT DEAL OF MONEY AND THE COURAGE TO TAKE THE RISK. IT WILL ALSO REQUIRE THE COOPERATION AND ASSISTANCE OF MANY PEOPLE AND GOVERNMENTAL AGENCIES.

AS WE HAVE STATED, WE ARE STILL IN THE EXPLORATION PHASE OF THIS VENTURE. WE HAVE TALKED ABOUT THE POTENTIAL VALUE OF THE PROPERTY AND GENERALLY THE ASPECTS OF ITS POSSIBLE FUTURE DEVELOPMENT BECAUSE EVERYONE HAS ASKED THESE QUESTIONS. UNFORTUNATELY, SOME PEOPLE HAVE HAD THE OPINION THAT WE ARE FARTHER ALONG WITH THE PROJECT THAN WE ARE, AND SOME PEOPLE MAY HAVE EVEN THOUGHT WE WERE READY TO COMMENCE OPERATIONS OF A SIZE AND SCOPE THAT WOULD CREATE A MAJOR IMPACT ON THE AREA, BOTH ECONOMICALLY AND ENVIRONMENTALLY. WE ARE NOT THAT FAR ALONG AND WE HOPE THE DRAFT ENVIRONMENTAL IMPACT STATEMENT AND OUR MEETINGS HERE IN KETCHIKAN WILL PUT OUR PROJECT IN PROPER PERSPECTIVE; THAT IS, AN EXPLORATION PROJECT WITH PROMISING POTENTIAL TO WHICH WE PROPOSE TO CONSTRUCT A PRIMITIVE TYPE ACCESS ROAD.

THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS) EXPLAINS THAT THE STATEMENT WAS PREPARED ON THE ROAD ACCESS AND ALTERNATIVES ONLY AND NOT THE MINE NOR ANY OF THE SUPPORT FACILITIES OTHER THAN BULK SAMPLING (p.2). IT EXPLAINS THAT THE IMPACTS OF THE MINE ARE NOT INCLUDED IN THE STATEMENT BECAUSE THE SIZE, METHODS OF MINING AND MILLING, EXACT LOCATION, AND EXTENT OF THE OREBODY HAVE NOT AS YET BEEN DETERMINED (p.2). IT IS ACKNOWLEDGED BY THE FOREST SERVICE THAT FUTURE DEVELOPMENT WILL CREATE

IMPACTS NOT ASSESSED IN THE STATEMENT BUT THEY CANNOT BE EVALUATED BASED ON PRESENTLY KNOWN DATA (p.2). I WOULD LIKE TO ADD THAT THE ACTION BEING REQUESTED IS TO ALLOW US TO REASONABLY PURSUE THE EXPLORATION OF THE PROJECT AND TO GATHER ALL THE ENGINEERING AND ENVIRONMENTAL DATA REQUIRED TO EVALUATE ALL ASPECTS OF THE PROJECT. WE BELIEVE THIS IS A RESPONSIBLE REQUEST THAT SHOULD BE GIVEN RESPONSIBLE CONSIDERATION.

THE DEIS EXPLAINS THAT U.S. BORAX HAS PROPOSED TO CONSTRUCT A 14-FOOT WIDE PRIMITIVE (p.27) AND TEMPORARY (p.33) MINING EXPLORATION ROAD FROM TIDEWATER TO THE MINING CLAIMS WHICH IT HAS LOCATED ON A DISCOVERY OF MOLYBDENUM DISULFIDE WE CALL "QUARTZ HILL". U.S. BORAX'S PURPOSE FOR CONSTRUCTING SUCH A ROAD IS TWOFOLD. WE WANT SURFACE ACCESS FROM AN OCEAN DOCK FOR EQUIPMENT, MACHINERY, ETC. NECESSARY TO CONDUCT DEVELOPMENT DRILLING, AND THE COLLECTION AND REMOVAL OF A BULK SAMPLE. SUCH SURFACE ACCESS ALSO IS CRITICAL TO THE COMMITMENT OF CORPORATE FUNDS TO THIS PROJECT. WE EXPECT TO SPEND \$5 TO \$6 MILLION OVER THE NEXT THREE YEARS (THIS DOES NOT INCLUDE THE ROAD) AND WITHOUT SURFACE ACCESS IT WILL BE DIFFICULT, IF NOT IMPOSSIBLE, TO JUSTIFY SUCH EXPENDITURES.

DEFERMENT OF AN ACCESS ROAD ALSO WOULD PLACE AN UNREASONABLE DELAY AND COST BURDEN ON THE PROJECT. NEITHER THE ROAD NOR ANY CONSTRUCTION COULD COMMENCE UNTIL THE COMPLETE

PROJECT HAD GONE THROUGH PRELIMINARY ENGINEERING, AN ENVIRONMENTAL IMPACT STATEMENT (EIS) AND APPROVAL OF ALL PERMITS. SUCH A PROCESS COULD REQUIRE ONE TO TWO YEARS AND WOULD SUBJECT THE PROJECT TO AN UNREASONABLE COST BURDEN.

THE DEIS, IN CONSIDERING THE PROPOSED ACCESS ROAD, ESTIMATES THE ENVIRONMENTAL IMPACT OF SUCH AN ACCESS ROAD AND EXPLORES THE ALTERNATE METHODS BY WHICH THE PROPOSED ACTION MIGHT BE ACCOMPLISHED. THE DEIS ALSO ESTIMATES THE SOCIO-ECONOMIC IMPACT OF THE ACTION OR DENIAL OF THE ACTION. AS MANY OF YOU KNOW, THE ALTERNATES WHICH HAVE BEEN CONSIDERED ARE:

- (A) SEVERAL ACCESS ROAD ROUTES, THE PRINCIPAL ONES BEING THE KETA AND THE BEAVER ROUTES
- (B) HELICOPTER ACCESS
- (C) AERIAL CABLEWAY ACCESS
- (D) WILDERNESS
- (E) NO ACTION

THE DECISION AS TO THE ACTION ALLOWED RESTS WITH THE FOREST SERVICE. IN MAKING ITS DECISION, IT MUST CONSIDER:

- (A) THE PROPERTY RIGHTS U.S. BORAX HAS ACQUIRED BY ITS DISCOVERY AND LOCATION OF THE SUBJECT MINING CLAIMS IN ACCORDANCE WITH THE MINING LAW OF 1872 (p.1,38).

- (B) THE ORGANIC ACT OF 1897 FROM WHICH THE AUTHORITY AND REGULATIONS OF THE FOREST SERVICE ARE DERIVED (p. 1).
- (C) THE MINING AND MINERALS POLICY ACT OF 1970 WHICH DECLARES IN PART THAT IT IS THE CONTINUING POLICY OF THE FEDERAL GOVERNMENT IN THE NATIONAL INTEREST TO FOSTER AND ENCOURAGE PRIVATE ENTERPRISE IN THE ORDERLY AND ECONOMIC DEVELOPMENT OF DOMESTIC MINERAL RESOURCES, RESERVES, AND RECLAMATION OF METALS AND MINERALS TO HELP ASSURE SATISFACTION OF INDUSTRIAL SECURITY AND ENVIRONMENTAL NEEDS (p. 1).
- (D) THE OPINION AND WISHES OF THE PEOPLE.

IN REGARD TO THE PROPERTY RIGHTS WE HAVE ACQUIRED AT QUARTZ HILL BY THE LOCATION OF MINING CLAIMS, WE WOULD LIKE TO EXPLAIN THAT THE RIGHT OF A QUALIFIED PARTY TO ACQUIRE A POSSESSORY INTEREST IN MINERALS OF VALUE FOUND AND LOCATED IN ACCORDANCE WITH FEDERAL AND STATE STATUTES IS WELL RECOGNIZED LAW. THE FOREST SERVICE ACKNOWLEDGES THE STATUTORY RIGHTS GRANTED BY THE MINING LAW OF 1872, INCLUDING THE RIGHT OF THE PROSPECTOR AND MINER TO ENTER UPON THE NATIONAL FORESTS FOR THE EXPRESS PURPOSE OF PROSPECTING AND MINING (p. 1, 38). THE FOREST SERVICE CLAIMS THE RIGHT TO REGULATE ACCESS BUT THEY ACKNOWLEDGE THAT SUCH REGULATION CANNOT BE UNREASONABLY RESTRICTIVE OR EXCESSIVELY BURDEN-

SOME (p.1,38). IT IS OUR OPINION THAT THEY MAY HAVE THE RIGHT TO REGULATE ACCESS BUT THEY CANNOT DENY ACCESS OR LIMIT IT TO SUCH A MEANS OR SUCH A ROUTE AS TO PROHIBIT DEVELOPMENT AND OPERATION OF A MINING PROPERTY.

THE MINING AND MINERALS POLICY ACT WAS PASSED IN 1970 IN RECOGNITION OF THE IMPORTANCE OF A SOUND AND RELIABLE DOMESTIC MINERALS INDUSTRY. THE WISDOM AND FORESIGHT OF THIS ACT WAS SUBSTANTIATED IN THE SECRETARY OF INTERIOR'S FIRST ANNUAL REPORT ON THE STATE OF THE DOMESTIC MINING, MINERALS AND MINERAL RECLAMATION INDUSTRIES IN 1972. WE BELIEVE U.S.BORAX'S PROPOSED ACTION IS IN KEEPING WITH THIS POLICY AS IT WILL PROVIDE ACCESS TO A LARGE SUPPLY OF POTENTIAL MOLYBDENUM ORE THAT COULD ENHANCE THE ECONOMIC WELL-BEING AND SECURITY OF ALASKA AND THIS NATION.

IN REGARD TO THE OPINION AND WISHES OF THE PEOPLE, WE SUGGEST THAT YOU CONSIDER THE PROPOSED ACTIONS (ALTERNATES) SET FORTH IN THE DEIS AND THE RECOMMENDATIONS OF THE FOREST SERVICE, AND WE URGE YOU TO SUBMIT YOUR COMMENTS TO THE FOREST SERVICE IN WRITING ON OR BEFORE MARCH 6, 1977. PUBLIC INPUT IS ONE OF THE PURPOSES OF THE DEIS AND WE BELIEVE YOUR COMMENTS COULD HAVE AN IMPORTANT INFLUENCE ON THE OUTCOME. WE ALSO

WANT TO REMIND YOU THAT ONLY THE WRITTEN COMMENTS RECEIVED BY THE FOREST SERVICE DURING THE 60-DAY COMMENT PERIOD CAN BE CONSIDERED AS PART OF THE FINAL EIS.

THOSE OF YOU WHO HAVE REVIEWED THE DEIS KNOW THAT THE FOREST SERVICE SELECTED THE KETA ROUTE BASED ON THE DETERMINATION THAT THIS ROUTE WOULD HAVE THE LEAST ADVERSE EFFECT ON THE ENVIRONMENT (p.5). THIS IS THE ROAD ROUTE THAT STARTS AT THE HEAD OF BOCA DE QUADRA AND PROCEEDS TO THE CLAIM AREA BY WAY OF THE KETA RIVER AND WHAT WE CALL HILL CREEK. U.S. BORAL ACCEPTS THE RECOMMENDATIONS OF THE FOREST SERVICE BASED ON THE PRESENTLY KNOWN DATA CONSIDERED BY THE DEIS. WE HAVE SOME CONCERN WITH THIS ROUTE AND IN PARTICULAR THE SNOW (p.75) AVALANCHE PROBLEM./ WE PLAN TO COMMENT ON THIS PROBLEM AND OTHER ASPECTS OF THE DEIS BUT WE WILL NOT DISAGREE WITH SAID SELECTION OF THE KETA ROUTE.

WE WISH TO EMPHASIZE THAT THE DEIS COVERS A PRIMITIVE AND TEMPORARY ROAD FOR THE PURPOSE OF CONDUCTING DEVELOPMENT DRILLING AND BULK SAMPLING. IT WILL BE CONSTRUCTED SO THAT IT CAN BE OBLITERATED AND RECLAIMED TO CAUSE THE LEAST ENVIRONMENTAL IMPACT SHOULD IT HAVE TO BE ABANDONED.

WE BELIEVE THE ROAD, THE DEVELOPMENT DRILLING AND THE BULK SAMPLING WILL HAVE MINOR IF NOT INSIGNIFICANT IMPACT ON THE PROJECT AREA. WE KNOW THAT FISH AND FISH HABITAT ARE OF PRIME CONCERN AND THIS CONSIDERATION INFLUENCED THE SELECTION OF THE KETA ROUTE. THE DEIS EXPRESSES THE VIEW THAT IN LIGHT OF THE NATURAL IMPACT WHICH OCCURS IN THE KETA, IT IS BELIEVED THAT THE IMPACT OF THE KETA ROAD ON FISH HABITAT IS INCONSEQUENTIAL INsofar AS SEDIMENT, FLOW OR REARING AND SPAWNING AREA CHANGES ARE CONCERNED.(p.15).

IN REGARD TO CHEMICAL TOXICITY FROM MINERAL EXPLORATION AND SAMPLING, THE BULK SAMPLING WILL EXPOSE AN ESTIMATED 25,000 TO 60,000 TONS OF CRUSHED ROCK TO SURFACE WATERS. SUCH WATERS WILL BE COLLECTED, MONITORED AND TREATED AS NECESSARY BEFORE DISCHARGE TO THE SURFACE WATER SYSTEM OF THE AREA. WE EXPECT LITTLE IF ANY TREATMENT WILL BE NECESSARY OTHER THAN THE COLLECTION OF THAT SEDIMENT THAT MIGHT ENTER COLLECTION PONDS. MOLYBDENITE AND THOSE MOLYBDENUM MINERALS THAT MAY OCCUR IN THE PROJECT AREA ARE RELATIVELY INSOLUBLE IN THE CHEMICAL ENVIRONMENT OF THE PROJECT AREA. THE CHEMICAL ENVIRONMENT OF THE AREA WOULD CAUSE THOSE SOLUBLE MOLYBDENUM COMPOUNDS THAT MIGHT OCCUR AS A RESULT OF OXIDATION, TO FORM INSOLUBLE COMPOUNDS WITHIN A SHORT DISTANCE OF THEIR POINT OF ORIGIN.

WE BELIEVE, AND WE BELIEVE THE DEIS CONCLUDES, THAT THE POTENTIAL RESOURCE BENEFITS OF OUR PROPOSED ACTION, AN ACCESS ROAD TO QUARTZ HILL, FAR OUTWEIGHS THE TEMPORARY IMPACT ON THE ENVIRONMENT OF OUR PROPOSED ACTION. THE REAL VALUE OF OUR DEPOSIT IS NOT KNOWN TO US AT THIS TIME NOR CAN WE JUDGE OR ESTIMATE THE IMPACT OF THE ULTIMATE DEVELOPMENT AND OPERATION OF THE PROPERTY SHOULD THIS OCCUR. THEREFORE, WE BELIEVE WE ARE TAKING A RESPONSIBLE POSITION WHEN WE REQUEST ACCESS TO MAKE THE TESTS AND GATHER THE INFORMATION NECESSARY TO DETERMINE FEASIBILITY AND THE IMPACTS OF DEVELOPMENT BEFORE PROCEEDING WITH ANYTHING MORE THAN A PRIMITIVE ROAD.

I WANT TO EMPHASIZE IN CLOSING THAT IF U.S. BORAX DEVELOPS AND OPERATES THE QUARTZ HILL PROPERTY, IT WILL DO SO IN A MANNER THAT MEETS ALL ITS RESPONSIBILITIES. WE DESIRE TO DO A GOOD JOB AND MEET OUR CORPORATE OBLIGATIONS AS WELL AS OUR RESPONSIBILITIES TO THE ENVIRONMENTAL AND PUBLIC AFFAIRS OF THE ENTIRE COMMUNITY.

EDS

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D - JUNEAU 99811

February 23, 1977

*File  
in  
HB 156  
4  
HB 56*

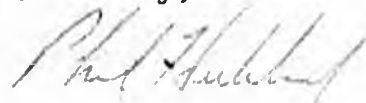
Honorable Alvin Osterback  
Chairman  
House Resources Committee  
Alaska State Legislature  
Juneau, Alaska 99811

Dear Mr. Osterback:

Thank you for your letter of February 14, informing us of your upcoming meetings on HB 156 and HB 56.

This department has no testimony to present to the committee on either bill. Rather, we would support the positions of the departments of Natural Resources and Revenue since they are more directly involved with these matters.

Yours truly,



H. Phillip Hubbard  
Commissioner



Alaska State Legislature  
House

JUNEAU ALASKA

Memo to: Rep. Alvin Osterback, Chairman  
House Resources Committee

Date: February 14, 1977

From: Rep. Sally Smith, Chairman  
Subcommittee on Parks, Timber and Lands

The Subcommittee on Parks, Timber and Lands met this afternoon to discuss:

- HB 73-----Keystone Canyon State Park.  
This bill was referred to the Committee as a whole for their discussion.
- HB 56-----Mining Taxation  
This bill was referred to the committee as a whole for full hearings.
- HJR 15-----Geological and Geographical data in offshore areas  
This Resolution was given a Do Pass recommendation from the Subcommittee to the Committee.

Sincerely,

Sally Smith, Chairman  
Subcommittee on Parks, Timber, Lands

Mike Miller

Dick Eliason



Alaska State Legislature  
House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol  
Juneau, Alaska 99811  
(907) 465-3715

14 February 1977

C. C. Hawley, Executive Director  
Alaska Miners Association, Inc.  
SRA Box 78D  
Anchorage, AK 99507

Dear Mr. Hawley.

We have scheduled HB 56 relating to Alaska Mining License Tax on Friday, 4 March 1977. I hope that you can get some input to us by that time.

I realize that this is prior to mid-March time you asked for and I hope that it does not inconvenience you.

As we are trying to get all legislation through in a 100 day session, we are trying to get bills through the Committee as fast as possible.

We would be pleased to have someone here representing your organization on that date, for testimony.

Thank you for your cooperation.

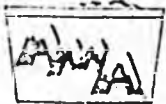
Sincerely,

A handwritten signature in cursive script that reads "Alvin Osterback".

Alvin Osterback, Chairman  
House Resources Committee

cc: J. P. Tangen, Juneau

AO:jn



ALASKA MINERS ASSOCIATION, INC.

C.C. Hawley  
Executive Director  
SRA Box 78D  
Anchorage, Alaska 99507  
(907) 344-5354

January 31, 1977

James A. Hamilton  
President

Carl Hefflinger  
Vice President

Irene Ryan  
Secretary Treasurer

Branch Chairmen

Anchorage  
Howard Grey  
715 L Street No. 8  
Anchorage, AK 99501

Sitka  
Gordon Whitcomb  
P.O. Box 990  
Sitka, AK 99835

Juneau  
J.P. Tangen  
Box 1684  
Juneau, AK 99807

Fairbanks  
Ernest Wolff  
P.O. Box 80989  
Fairbanks, AK 99701

Ketchikan  
Keldon Adams  
Box A 28  
Ward Cove, AK 99928

The Honorable Alvin Osterback  
Chairman, Resource Committee  
House of Representatives  
Pouch V  
Juneau, AK 99811

Dear Mr. Osterback:

The Alaska Miners Association would like to respond on HB-56 introduced at the request of the Governor. However, because of two or three pressing matters, we would like to delay formal response until mid-March. Could this be worked into your hearings schedule?

The association will consider HB-56 and other possibilities at a special meeting in Anchorage February 23-24, and will have a definite position at that time.

Sincerely,

*Chuck Hawley*  
C. C. Hawley

ams  
cc All AMA Branch Chairmen  
Russ Babcock, NWMA

*2/14/77  
letter answered  
Jeannine  
Please return  
Write them  
of meeting*

*Call Willie  
John  
Tues at 3:30 P.M.  
Talk about  
land on  
land*

**DOUGLAS B. COLP**  
CONSULTING MINING ENGINEER  
TELEPHONE: (907) 456-7002

February 9, 1977.

Ms. Sally Smith,  
Alaska State Legislature,  
House of Representatives,  
Pouch V,  
Juneau, Alaska, 99811.

Dear Sally:

Thank you for your February 3 letter and the copy of House Bill No. 56, which is "An Act relating to the Alaska Mining License Tax".

At this late date, I doubt that my comments will serve any purpose, but will pass on a little input anyway.

Last year we had a battle with HB 878, which I believe was finally held in committee.

As far as the small miner is concerned, HB 56 will not hurt them too much as most small miners do not have net proceeds in excess of \$40,000. For the big mining company though, HB 56 adds another 7% tax.

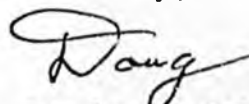
At the present time no significant mining exists in Alaska. The principal reason why no new mines are being developed is the high taxes. Mining companies must pay:

- a. 48% U.S. Corporate Tax
- b. 9.4% Alaska Corporate Tax
- c. 7% Mining License Tax
- 64.4% Taxes - Total

This is the highest rate of taxation for any state in the Union. It is almost an impossibility for any company to bring in a major mine, considering this terrific tax handicap.

In order to bring in major mines, incentives should be considered. I notice HB 56 does allow for a 3-1/2 year mining License Tax exemption. This is a start in the right direction. I think the 3-1/2 year Tax exemption period should be increased to 5 years and the computation of the tax as shown on page 1 should be reduced considerably, so that Alaska does not have the highest rate of taxation for any state in the United States. Our operating costs in Alaska are more than twice as high as in the contiguous 48 States. We apparently can do very little in order to reduce our operating costs but we can certainly reduce our tax rates which may provide the encouragement for large companies to attempt to bring in major mines.

Sincerely,



Douglas B. Colp.

DBC:msc

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

MEMORANDUM

February 7, 1977

SUBJECT: Analysis of HB 56 Relating to the Alaska Mining License Tax  
(W.O.# 3267)

TO: The Honorable Sarah Smith

FROM: George Utermohle  
Research Analyst

In response to your request for an analysis of HB 56 as introduced by the Governor, we have compiled the attached report. Attached to the report are the fiscal notes for HB 878 and CSHB 878.

We were not able to complete a comparison of the different tax rates imposed by other states, which are discussed in Part C, because we could not develop a system which would fairly evaluate the different taxing strategies. We will send this information to you when we have developed an unbiased method of comparison.

GU:mo  
Attachment

## A CURSORY ANALYSIS OF HB 56 RELATING TO THE ALASKA MINING LICENSE TAX

### Taxation of Mineral Production in Alaska

- A. General Description of Existing Tax
- B. General Description of HB 56
- C. Occupation Taxes or Net Proceeds Taxes Levied on the Mining Industry in Other States
- D. Incidence of the Alaska Mining License Tax
- E. Reconciling HB 56 with CSHB 878

### Appendices:

Appendix A Proposed Amendments to HB 56

Appendix B Comparison of "Alaska Mining License Tax" with Similar Law in Other Western States

## Taxation of Mineral Production in Alaska

Alaska has imposed a tax upon mining activities in the state under the provisions of the Mining License Tax (AS 43.65) since 1949. The provisions of the mining license tax have changed only slightly since that time.

### A. General Description of Existing Tax

The Alaska Mining License Tax is an occupations tax levied upon the net proceeds from mineral production. The net proceeds from mineral production are the gross income less deductions for depreciation, taxes, general expenses, and overhead attributable to the expense of operating the mine and the ordinary treatment processes. The depletion allowance, federal income taxes, and the Alaska Mining License Tax itself are not deductible from the gross income. The depletion allowance is, however, deducted from the net proceeds to determine the taxable income provided that the depletion allowance shall not exceed 50% of the net income. The depletion allowance is calculated as a percentage of the gross income minus the rents and royalties paid.

The percentage depletion rates established for the Alaska Mining License Tax are:

Coal	10%
Metal mines, fluorspar, flake graphite vermiculite, beryl, feldspar, mica talc, lepidolite, spodumene, varite, ball and sagger clay, or rock asphalt, and potash mines or deposits	15%
Sulphur mines or deposits	23%

All new mining operations, except the mining of sand and gravel, are exempt from taxation for the first three and one-half years of production. The income from all mining operations owned by one person must be aggregated for the purposes of determining the tax.

Oil and gas extraction and production are not subject to the Mining License Tax.

Persons who hold royalty-only interests in mining activities taxed by the Mining License Tax are considered to be engaged in mining for the purposes of this act. If a person receives only royalty income, those royalties are considered to be net proceeds. The only deductions allowed from royalty-only income is the mineral depletion allowance.

The Mining License Tax does not exempt the mining industry from any local or state ad valorem or other taxes, except for the Alaska Business License Tax (AS 43.70.110(1)).

The Mining License Tax is computed on taxable income according to the following schedule:

<u>TAXABLE INCOME</u>	<u>TAX RATE SCHEDULE</u>	<u>TAX PAYABLE</u>
\$0 - \$40,000	0	0
\$40,000 - \$50,000	3%	\$1,200 - \$1,500
\$50,000 - \$100,000	\$1,500 plus 5% of amount over \$50,000	\$1,500 - \$4,000
over \$100,000	\$4,000 plus 7% of amount over \$100,000	\$4,000 -

Any person who engages in the business of mining in Alaska is required, prior to May 1 of each year, to apply for and obtain a license. No fee is required for the license. An annual Mining License Tax return is required of all persons engaged in mining. The return is due together with any required tax payment on or before the last day of the fourth month following the close of the fiscal year.

Failure to pay all the tax which is due will result in the assessment of a penalty. If the failure to pay the full tax is due to negligence, the penalty is five percent of the deficiency. If the failure to pay the full tax is the result of an attempt to defraud, the penalty is 50% of the deficiency, as well as, any applicable criminal penalties.

B. General Description of HB 56, Relating to the Alaska Mining License and Tax

\*Section 1.

All persons engaging in the mining business will be required to obtain a mining license for which the fee is \$25. This requirement subjects those involved in the mining business to a license fee equivalent to that paid by businesses subject to the Alaska Business License Act.

The annual license tax levied on those engaged in the mining business is amended by changing the tax rate. The tax would be computed on net proceeds according to the following schedule:

<u>TAXABLE INCOME</u>	<u>TAX RATE SCHEDULE</u>	<u>TAX PAYABLE</u>
\$0 - 40,000	0	0
\$40,000 - \$50,000	3% of amount over \$40,000	\$0 - 300
\$50,000 - \$100,000	\$300 plus 5% of amount over \$50,000	\$300 - \$2,800
over \$100,000	\$2,800 plus 7% of amount over \$100,000	\$2,800 -

These changes would mean a significant tax savings for small scale mining businesses while giving only a slight decrease to mining businesses with high taxable incomes. For example, under existing law a mining business with \$50,000 of taxable income would pay a tax of \$1,500 while under HB 56 this same business would pay only \$300. This is a savings of \$1,200. All mining businesses in the state with a taxable income of over \$40,000 will receive this same savings of \$1,200. This savings is due to the exemption of the first \$40,000 of taxable income from liability to the mining license tax.

The exemption of a new mining business, except the mining of sand and gravel, from the mining license tax for the first three and one-half years of operation is continued. The only change is that a certificate of exemption must be requested during the first year of operation.

Mining operations in more than one location by one person must be considered as one operation for the determination of taxable income.

\*Section 2

"Net proceeds" which is the basis for the assessment of the license tax is defined as the total gross receipts from mining less deductions for extraction expenses, transportation expenses, processing expenses,

marketing expenses, depreciation of equipment, plants, and facilities, amortization of development costs and the depletion allowance. The total deduction for the depletion allowance shall not exceed 50% of the taxpayers net proceeds. The depletion allowance will no longer be set forth in state law. In the future, the depletion allowance will conform with the rates set by the federal government (26 U.S.C. secs. 611-614). The depletion rates which would apply under the adoption of the Internal Revenue Code are:

sulphur and uranium, fluorspar, graphite, talc, ores of antimony, cobalt, lead, manganese, molybdenum, nickel, platinum, tin, titanium, tungsten and zinc	22%
gold, silver, copper and iron ore	15%
rock asphalt, vermiculite, barite, feldspar, potash, ball and sagger clay	14%
coal, lignite	10%

These new depletion allowances would result in a lower depletion rate for only sulphur which under existing law has a depletion rate of 23%. The remaining mineral resources would either have an increased depletion allowance or would remain the same. Those minerals which would have notably higher depletion rates under HB 56 are fluorspar, graphite, antimony, cobalt, lead, manganese, molybdenum, nickel, platinum, tin, titanium, tungsten, and zinc.

A deduction from the gross proceeds of the business is also allowed for the overhead costs associated with the mining business but which are not specifically stated in HB 56. Out of state travel by employees on mining business is also an allowable deduction.

Royalty-only interests in mining activities are subject to the mining license tax. The taxable income from royalties is the royalty income less the depletion allowance. This provision is unchanged from existing law.

"Gross receipts" are defined as all forms of income or compensation derived from the mining business. The value of minerals sold at less than market value by a wholly-owned subsidiary to its parent company are assessed at their full market value for the purposes of determining the gross receipts for tax purposes. The gross receipts from the mining of sand and gravel are defined as the receipts from the sale of sand and gravel at the mine or delivered to the customer or the average market value of sand and gravel from intercompany transfers at concrete or ready-mix plants.

\*Section 3

This section of HB 56 generally makes changes in style by inserting "receipts" for "income", "business" for "property", "department" for "Department of Revenue" in portions of the existing law. The substantive changes made in existing law are:

1. the filing date for tax returns is the 15th day of the third month following the calendar year or fiscal year depending upon the tax year which the mining business used in filing its federal income tax return.
2. the total amount of the tax must be paid on or before the due date for the tax return.

\*Section 4

Application for renewal of a mining license must be made during the first 30 days of the person's tax year. This changes the requirement that the renewal application be received by May 1 of each year.

\*Section 5

A number of additional illegal acts by those responsible for preparation and submission of true and accurate tax returns to the Department of Revenue are included in HB 56. The illegal actions which are covered in existing law are:

1. willful failure to pay a tax, make a return, keep records or supply information as prescribed by law or regulation is a misdemeanor. HB 56 amends this provision by deleting the requirement that a person found to be in violation of this law is liable for the costs of prosecution.
2. willful making and subscription of a return or other document required by the mining license tax law which known to be false shall make a person guilty of a felony upon conviction.

The new provision of HB 56 makes it illegal to:

1. willfully attempt to evade the mining license tax;
2. willfully aids or counsels the preparation of a fraudulent return, affidavit, or other document;
3. willfully deliver to the department any return, statement, or other document which is known to be false.

The failure to fully pay the tax as levied by this law results in an assessed penalty equal to 50% of the deficient amount in addition to the deficient amount.

\*Sections 6, 7, and 8

The business of mining is defined in such a manner that anyone who owns, operates, or develops a mineral property, anyone who leases and operates a mining property, or anyone who has an interest in a lease or other agreement for exploration development or extraction of a mineral property is required to obtain a mining license. Many persons who previously had not been required to obtain a license will now have to have one, such as exploration companies and mineral leaseholders who are not producing a product. All those subject to the mining license tax will be exempt from the business license tax.

The definition of "new mining business operation" has been rewritten so that only new mining operations at a undeveloped mining site will be eligible for the three and one-half year tax exemption. The exemption will not be available for mining companies which acquire mining properties which have previously received a tax exemption. The "ordinary treatment processes" which are allowed as deductions from the gross income of a mining business are not changed by HB 56. The exemption of oil and gas production from the mining license tax remains unchanged.

C. Occupation Taxes or Net Proceeds Taxes Levied on the Mining Industry in Other States

Idaho, Montana, and Utah, as well as Alaska, have placed a separate occupation tax (license tax) upon the mining industry. The State of Washington subjects extractive industries, as mining and logging, to its general business and occupation tax. Nevada has placed a "net proceeds" tax, similar to Alaska's Mining License Tax, upon the mining industry but it is usually referred to as a property tax rather than as an occupation tax.

The Alaska Mining License Tax is compared with the taxes in the other states in Appendix B.

It is evident from Appendix B that states may pursue one of two strategies for occupation taxes. A state may adopt either the gross income without any deductions as the tax base and set the tax rate very low, or the net income (gross income less deductions) as the tax base and set the tax rate much higher. The differences between the tax strategies of the states make any comparison of the revenue production potential very subjective.

Of those states listed in Appendix B which used the net income as the tax base, Alaska has the highest tax rate. However, without a complete understanding of the deductions by each state, further comparisons are very speculative.

D. Incidence of the Alaska Mining License Tax

The incidence of the Alaska Mining License Tax<sup>1</sup> was discussed by Peat, Marwick, Mitchell and Co. in its report to the Department of Revenue, "Review of the Alaska Tax Structure". The discussion of the incidence of the license tax from that report is quoted below:

It is difficult to assess who carries the burden of the tax. It is imposed upon net income of the person's mining operations in Alaska after allowance for percentage depletion. In this respect the tax is based upon the ability to pay concept. Where the output is sold in a market where prices are established beyond the control of the Alaskan producer, it can be said that the investor bears the tax in the form of reduced profits, i.e., return on investment. Where the output is produced solely for local market (coal for example) the tax may largely be passed along to the consumer. If the consumer is the Federal Government, the tax then is mostly exported and borne by non-residents of the state. A satisfactory means of determining the shift of taxes has not yet been developed, but we believe that it is reasonable to conclude that the minor amount of mining severance taxes collected by the state to date has been substantially borne out of profits, therefore by the investor.

<sup>1</sup> *The incidence of a tax describes who ultimately pays the tax in question.*

E. Reconciling HB 56 with CSHB 873

HB 56, relating to the Alaska Mining License Tax, is in essence the same bill that the Governor introduced last session (HB 878). In drafting HB 56 the Governor chose to disregard the amendments made to his previous bill by the House Resources Committee and which were contained in CSHB 878. The differences between HB 56 and CSHB 878 are outlined below:

\*Section 1

- I. HB 56 does not contain an amendment which permits a mining business operation to chose whether or not operations conducted at two or more places shall be considered as one mining business provided that none of the mining operations are covered by a valid exemption certificate.

--If the committee wishes to amend HB 56 to include this amendment, proposed language is included as proposal #1 of Appendix A.

- II. HB 56 contains a clerical error at the bottom of page one. The last sentence on the page is not completed on the top of page two. The sentence should read as shown in proposal #2.

\*Section 2

- I. HB 56 contains a typographical error on line 2 of page 3. The line should read as shown in proposal #3.

- II. HB 56 does not contain an amendment made to the previous bill which permits the deduction of amortized exploration costs as a deduction from the gross receipts of the mining business.

--If the committee wishes to adopt this amendment, the proposed language is shown in proposal #4.

- III. HB 56 does not contain an amendment made to the previous bill which permits the taxpayer to deduct "net operating losses" from the gross receipts in a manner which conforms with the federal Internal Revenue Code. This amendment permits a taxpayer to apply a net operating loss as a deduction against the gross receipts for the three years prior and the five years following the year in which the loss is incurred.

--If the committee wishes to adopt this amendment, the proposed language is included in proposal #5.

- IV. HB 56 does not contain an amendment made in the previous bill which added the phrase "or materials" after "minerals" each time it occurred in line 29 on page 3 or line 6 on page 4. This amendment would seem unnecessary as long as the definition for minerals included sand, gravel, stone, and soil.

--If the committee wishes to include the phrase "or materials" following "minerals", the proposed language for the necessary amendments is included in proposal #6.

\*Section 3

- I. HB 56 contains a technical drafting error on line 29 of page 4. The word "business" should be underlined as it is an insertion of new language into existing law. The correct form is shown in proposal #7.

\*Section 7

- I. HB 56 does not include an amendment made to CSHB 878 which exempted prospectors from the law. This provision was intended to exempt the casual prospector from the mining license and the mining license tax.

--If the committee wishes to exempt the casual prospector from this law, proposed language is given in proposal #8.

APPENDIX A

Proposed Amendments to HB 56

PROPOSAL #1 An amendment of lines 7-10 of page 2:

(d) if mining business operations not subject to sec. .010 of this chapter are conducted in two or more places within the state by one person, those operations may, at the person's option, be considered as one mining business, and the tax shall be computed upon the net proceeds of all those mining business of operations.

PROPOSAL #2 An amendment of the last sentence on page 1:

The tax exemption granted to new mining business operations does not apply to the business of mining sand and gravel.

An amendment of the first sentence on page 2:

The Department of Natural Resources shall certify to the department the date upon which production began from the mining business operation, and the department shall issue a certificate of exemption to the applicant after this certification.

PROPOSAL #3 An amendment of line 2 of page 3:

167 of the Internal Revenue Code (26 U.S.C. 167);

PROPOSAL #4: An amendment of lines 3 and 4 of page 3:

(7) amortization of exploration and mining development costs not included in (6) of this section;

PROPOSAL #5 An amendment to insert a new line after line 9 of page 3:

(9) net operating losses as set out in sec. 172 of the Internal Revenue Code (26 U.S.C. 172).

PROPOSAL #6 An amendment of the sentence beginning on line 27 of page 3:

Gross receipts include the actual amount received during the year for the sale of minerals or materials whether or not the minerals or materials were actually extracted during that year.

An amendment of the subsection beginning on line 2 of page 4:

(b) If the minerals or materials are sold or transferred at a price other than the true market price, as when a wholly owned subsidiary transfers or sells the mineral or material to its parent at a price less

APPENDIX A (Continued)

than market value, gross receipts are the true market price or average market price per ton or other measurable unit of the mineral or material multiplied by the total units of the mineral or material sold or transferred during the year.

An amendment of lines 24-28 on page 8:

(9) "minerals means asbestos, coal, sulphur, iron ore, lead, zinc, mercury, tin, chromite, bauxite, copper, gold, silver, platinum, potash and other valuable metals or ores except oil, gas and materials;

(10) "materials" means sand, gravel, building material and top soil

PROPOSAL #7 An amendment of line 29 of page 4:

make returns for the person engaged in the mining business [, OR THE

PROPOSAL #8 An amendment of lines 9-22 of page 8:

(7) "business of mining"

(A) means a business operation for the extraction of minerals from the earth or water of the state operated by a person

(i) who owns and operates, works, or develops a mineral property, whether or not that property is currently producing a marketable product;

(ii) who leases a mineral property and operates the mineral property, whether or not the mineral property is producing a marketable product;

(iii) who leases a mineral property and pays royalties, rents or other payments to the owner of the property;

(iv) who has an interest in a lease, concession, joint venture, or other agreement for the exploration or development, or extraction of a mineral property if royalties, rents, or other payments are to be paid for that interest;

(B) does not include a natural person who undertakes only discovery work required to be done in prospecting for or locating any mining claims, or annual assessment work, or work required in the obtaining of title to mining property from the United States, or required by the laws of the United States or of this state in order to hold possessory title to any mining claim;

APPENDIX B

Comparison of "Alaska Mining License Tax" With Similar Laws in Other Western States

	Alaska <sup>1</sup>	Idaho <sup>2</sup>	Montana <sup>3</sup>	Utah <sup>4</sup>	Washington <sup>5</sup>	Nevada <sup>6</sup>
<u>LICENSE FEE</u>	\$0	\$0	\$1	\$0	\$0	Not Applicable
<u>LICENSE TAX</u>						
Tax Base	Gross income less deductions (net income)	Gross income less deductions (net income)	Gross income	Gross income less deductions (net income)	Gross income	Gross income less deductions (net income)
Deductions						
Extraction Costs	Yes	Yes	No	Yes	No	Yes
Processing Costs	Yes	Yes	No	Yes	No	Yes
Transportation Costs	Yes	Yes	No	Yes	No	Yes
Marketing Costs	Yes	Yes	No	Yes	No	Yes
Development Costs	Yes	Yes	No	Yes	No	Yes
Exploration Costs	Yes	?	No	No	No	Yes
Depreciation	Yes	No	No	No	No	Yes
Royalties	Yes	No	No	No	No	Yes
Net Operating Loss	No	No	No	Yes	No	No
Depletion Allowance	Yes	Yes	No	No	No	No

APPENDIX B (Continued)

	Alaska <sup>1</sup>	Idaho <sup>2</sup>	Montana <sup>3</sup>	Utah <sup>4</sup>	Washington <sup>5</sup>	Nevada <sup>6</sup>
<u>TAX RATE</u>	\$40,000-\$50,000 3%	2%	Under \$100,000 .15% Over \$100,000 .575%	1% First \$50,000 gross value is exempt	.44%	Ad valorem property tax rate for county
	\$50,000-\$100,000 \$1,200 plus 5% of excess over \$5,000		Over 250,000 .860% Over 400,000 1.150% Over 500,000 1.438%			
	Over \$100,000 \$4,000 plus 7% of excess over \$100,000					
<u>EXEMPTION FOR PROSPECTORS</u>	Mining License tax is generally not applicable to prospectors	No	Yes	No	N/A	No

<sup>1</sup> Mining License Tax (AS 43.65.010-.060)

<sup>2</sup> License Tax (I.C.A. 47.1201-.1208)

<sup>3</sup> Metalliferous Mines License Tax (R.C.M. 84.2001-.2016)

<sup>4</sup> Mining Occupation Tax (U.C.A. 59.5.66-.85)

<sup>5</sup> Business and Occupation Tax (R.C.W. 82.04.010-.900)

<sup>6</sup> Net Proceeds Tax on Mines (N.R.S. 362.100-.240)

I. REQUEST

Bill No. House Bill No. 878  
 Title: An Act relating to the Alaska Mining License Tax  
 Requested by: House Resources & Finance Committee Date: March 22, 1976  
 Return Date Requested: \_\_\_\_\_  
 Agency: Revenue Program: Audit

II. FISCAL DETAIL

Budget Request Unit(s) Affected: N/A

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	None	None	None	None	None	None

B. FUNDING: (Thousands of dollars)

GENERAL FUND	None	None	None	None	None	None
FEDERAL FUNDS						
OTHER						

C. POSITIONS: None

PERMANENT/TEMPORARY	/	/	/	/	/	/
MAN MONTHS (P./T.)	/	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

N/A

IV. ATTACHMENTS See attached memo to R. D. Stevenson dated March 31, 1976.

V. DATE: 3-31-76 PREPARED BY: Gary L. Jenkins

Director, Audit Division Gary L. Jenkins

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

AMANI  
LESLIE A. ANDERSON, JR.

STAFF ASSISTANT:  
GUY VANDOREN

POUCH V  
JUNEAU, ALASKA 99811



VICE CHAIRMAN:  
TED SMITH

SECRETARY:  
Ruth I. Allington  
PHONE: 465-3715  
465-3701

## House Resource Committee

FRED BROWN

ALVIN OSTERBACK

DICK ELIASON

LEO RHODE

MIKE HERSHBERGER

LESLIE (RED) SWANSON

JAMES HUNTINGTON

April 12, 1976

To: Hugh Malone  
House Finance Committee

From: Guy Van Doren  
Staff Assistant-House Resources Committee

Subject: HB 878 - An Act Relating to the Alaska Mining Tax

The original bill was worked out jointly between the Dept. of Revenue and representatives of the mining industry. The bill makes several modifications to the current Mining License Act, mainly in the area of clarifying who is taxable, what activities are taxable, and how taxable proceeds for purposes of computing the tax are arrived at.

The legislation will not cost the State of Alaska additional dollars for administration nor will it immediately generate additional dollars for the state since there is an extremely small number of mines operating in the State of Alaska.

The Committee Substitute reflects the concerns of the industry in testimony before the Committee, and clarifies the definition of minerals by taking out specific minerals and making the definition cover all minerals not specifically excluded. The Committee also added a definition of "materials" in order that there would be no confusion. The reason the word topsoil was used was because of "rare earth", which is highly valuable. Building materials were included under materials because of the use of rock, slate, sandstone, etc. for construction.

Changes other than those mentioned above are found on Page 2 Sec (d) which allows more than one mining operation by a single company, to be considered one mining business.

Page 3, Line 9. This adds "net operating costs set out in the Internal Revenue Code, as amended" Industry had requested this as an added deduction from gross receipts.

Page 4. Where the word "minerals" appeared in the original bill, the word "materials" was added due to the addition of the material definition section. Presently, the largest amount of tax is derived from the removal of sand and gravel.

Page 10 Sec. 8, was added to exclude the casual prospector, as opposed to an actual mining operation or business.

In summary, the bill will make significant strides in clarifying how this tax is applied but does not change the basic mode of taxation and is a good example of cooperation between the Legislature, Administration and the industry.

THE LEGISLATURE OF THE STATE OF ALASKA  
**FISCAL NOTE**  
 Second Session - Ninth Legislature

**I. REQUEST**

Bill No. Committee Substitute for House Bill No. 878  
 Title: an Act relating to the Alaska Mining License Tax  
 Requested by: House Finance Committee Date: April 13, 1976  
 Return Date Requested: \_\_\_\_\_  
 Agency: Revenue Program: Audit

**II. FISCAL DETAIL**

Budget Request Unit(s) Affected: None

**A. EXPENDITURES:** (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	None	None	None	None	None	None

**B. FUNDING:** (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						

**C. POSITIONS:** N/A

PERMANENT/TEMPORARY	/	/	/	/	/	/
HAN MONTHS (P./T.)	/	/	/	/	/	/

**III. ANALYSIS** (See Fiscal Note Preparation Instructions, Section III)

N/A

**IV. ATTACHMENTS**

See memorandum dated April 21, 1976 to R. D. Stevenson

**V. DATE:** April 21, 1976 **PREPARED BY:** 

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

TO: R. D. Stevenson  
Special Assistant

DATE: April 21, 1976

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenks  
Director  
Audit Division

SUBJECT: CS for House Bill 878

The Committee Substitute for House Bill 878 made two basic changes to the original bill. First of all, it provided that taxpayers may elect to report all mining operations in the State as one mining business or may treat each separate mine as an individual mining business. The effect of this provision would be to multiply the amount of net proceeds which would be exempt from tax for an individual company. For example, if a company had three mines in the State, they would be able to have up to \$120,000 per year not subject to taxation. That would mean a revenue loss of \$4,200 each year to the State of Alaska for that company. The total revenue loss would depend on how many companies have multiple mining operations in the State.

The reasoning behind allowing \$40,000 in net proceeds to be tax exempt was that there are many small mines in the State who we agreed should be encouraged to pursue marginal mining operations generating a limited amount of income. This amendment is in direct opposition of the principal by allowing multiple exemptions to larger companies.

Second, the Committee Substitute would allow the deduction of a net operating loss as provided for in the Internal Revenue Code. Apparently this provision was added to provide an additional incentive for mining operations to come into the State. It should be remembered that we have already provided an incentive for the mining industry in the form of a 3 1/2 year period beginning at the time of production, during which a company would be tax exempt on a new mine. To provide yet additional incentives such as the net operating loss carryforward is showing very obvious favoritism where none is needed or justified. None of the other licensing laws in the State of Alaska have any tax exempt or other incentive provisions.

I feel the State of Alaska is being more than generous in allowing the 3 1/2 year exemption from taxation and that no additional incentives are needed. The lack of major mining operations in the State is totally unrelated to the lack of incentives in our mining license law.

GLJ:lc



JUNEAU ALASKA

# Alaska State Legislature House

Memo to: All Committee Members, House Resource Committee  
From: Office of Sally Smith  
Date: Feb. 11, 1977  
Re: Various Communications on HB 56

The Dept. of Revenue (John Messenger) and Dept. of Natural Resources, as well as Mike Whitehead of the Governors Office have been contacted several times for input on HB 56. We finally received the memo of January 19 from Art Peterson.

So far, this is the only official communique from the Administration, except for explicit comments from John Messenger that, with the exception of obvious typos and omissions, HB 56 is to stand as presented.

TO: The Honorable Al Osterback  
Alaska State Representative  
Chairman  
House Resources Committee  
Alaska State Legislature

DATE January 19, 1977

FROM: Avrum M. Gross  
Attorney General

SUBJECT: HB 56 (mining license tax)  
Our File No. J-77-014-77

By: Arthur H. Peterson  
Assistant Attorney General  
Department of Law

Two errors in this bill have come to our attention:

1. The mag card machine dropped the following line at the top of page 2: "sand and gravel. The Department of Natural Resources shall certify to". Thus, the last sentence on page one and the first sentence on page 2 should read: "The tax exemption granted to new mining business operations does not apply to the business of mining sand and gravel. The Department of Natural Resources shall certify to the department the date upon which production began from the mining business operation, and the department shall issue a certificate of exemption to the applicant after this certification."
2. On page 2, line 28, "eyar" should read "year". This, too, is a strange error in that on the last draft of the bill, before it was put in final form, that word is correctly typed.

We would appreciate your making these corrections as you work with the bill. Thank you.

AHP:md

cc: John C. Doyle  
Executive Director  
Legislative Affairs Agency

John R. Messenger  
Deputy Commissioner - Taxation  
Department of Revenue

Frances Ulmer  
Legislative Assistant  
Office of the Governor

Original sponsor: Rules Committee by  
request of the Governor

Offered: 4/12/76  
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 878

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska mining li e tax; and  
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 43.65.010 is repealed and re-enacted to read:

10 Sec. 43.65.010 MINING LICENSE AND TAX. (a) For the privilege of  
11 engaging in the business of mining in the state, a person shall first  
12 apply and obtain a license from the department. The license fee is  
13 \$25, which must accompany the application for a license.

14 (b) There is also levied an annual license tax on each person  
15 engaging in the business of mining in the state computed on the net  
16 proceeds of the taxpayer from the mining business. The license tax  
17 shall be computed according to the following table:

18 If the net proceeds are:	Then the tax is:
19 over \$40,000 but not over \$50,000	3 per cent of the excess over
	20 \$40,000
21 over \$50,000 but not over \$100,000	\$300 plus 5 per cent of the
	22 excess over \$50,000
23 over \$100,000	\$2,800 plus 7 per cent of the
	24 excess over \$100,000

25 (c) Upon application and receipt of an exemption certificate, a  
26 new mining business operation is exempt from the license tax levied by  
27 this chapter for three and one-half years after production from the  
28 mining business operation begins. The tax exemption granted to new  
29 mining business operations does not apply to the business of mining [sand

707 56  
1 and gravel. The Department of Natural Resources shall certify to ] the  
2 department the date upon which production began from the mining business  
3 operation, and the department shall issue a certificate of exemption to  
4 the applicant after this certification. A person must apply for an  
5 exemption certificate in the first year of production from the mining  
6 business operation in order to qualify for the exemption under this  
7 section.

8 (d) If mining business operations [not subject to sec. 10(c) of  
9 this chapter] are conducted in two or more places in the state by one  
10 person, those operations [may, at the person's option,] be considered as  
11 one mining business, and the tax shall be computed upon the net proceeds  
12 of all those mining business operations.

13 \* Sec. 2. AS 43.65 is amended by adding new sections to read:

14 Sec. 43.65.015. NET PROCEEDS. (a) In this chapter, "net pro-  
15 ceeds" means the total gross receipts from the mining business less the  
16 following deductions incurred during the taxable year:

17 (1) all expenses incurred directly in the extraction of  
18 minerals in the state;

19 (2) all expenses incurred in transporting the minerals from  
20 the point of extraction to any further processing plant where only  
21 necessary treatment processes are applied to obtain a commercially  
22 marketable product;

23 (3) all expenses directly related to the production, re-  
24 fining, crushing, screening or other necessary process incurred to make  
25 a commercially marketable product;

26 (4) the actual selling expenses incurred in marketing the  
27 product;

28 (5) all expenses incurred in transporting the marketable  
29 product to a buyer;

1 (6) depreciation of the mining business equipment, works,  
2 plant and facilities used directly in the extraction, transportation and  
3 processing phases of the mining business, in accordance with sec. 167 of  
4 the Internal Revenue Code as amended (26 U.S.C. sec. 167);

5 (7) amortization of <sup>not in 54</sup> [exploration and] mining development costs  
6 not included in (6) of this subsection;

7 (8) an allowance for depletion on a cost or percentage basis  
8 at the rates set out in secs. 611 - 614 of the Internal Revenue Code as  
9 amended (26 U.S.C. secs. 611 - 614) except that the allowance for  
10 depletion may not exceed 50 per cent of the taxpayer's net proceeds  
11 calculated before the allowance for depletion;

12 (9) net operating losses as set out in the Internal Revenue  
13 Code as amended.

14 (b) If the taxpayer has expenses in the state other than those  
15 specified in (a) of this section, such as general overhead expenses,  
16 relating to the business of mining or to the business of mining and  
17 other business activities, the deductions shall be apportioned in the  
18 ratio which the direct expenses of the mining business in the state  
19 under (a) of this section bear to the total direct expenses of all  
20 business activities of that taxpayer in the state.

21 (c) Except for wages paid during temporary travel out of the state  
22 by an employee who is domiciled in the state, the deductions allowed in  
23 (a) and (b) of this section do not include wages or other payments for  
24 services not performed in the state.

25 (d) If a person is engaged in the business of mining and the only  
26 receipts from the business are royalties, the net proceeds of the  
27 mining business are the royalties received less the depletion allowance  
28 under sec. 15(a)(8) of this chapter.

29 Sec. 43.65.017. GROSS RECEIPTS. (a) In this chapter, "gross

1 receipts" means all revenue received, including royalties, rental pay-  
2 ments, and all other compensation from the business of mining. Gross  
3 receipts include the actual amount received during the year for the  
4 sale of minerals [or materials] whether or not the minerals or materials  
5 were actually extracted during that year.

6 (b) If minerals or materials are sold or transferred at a price  
7 other than the true market price, such as when a wholly owned subsidiary  
8 transfers or sells the mineral [or material] to its parent at a price less  
9 than market value, gross receipts are the true market price or average  
10 market price per ton or other measurable unit of the mineral [or material]  
11 multiplied by the total units of the mineral [or material] sold or trans-  
12 ferred during the year.

13 (c) Gross receipts from the business of mining sand and gravel  
14 include

15 (1) receipts from the sale to customers directly from the pit  
16 or mine;

17 (2) receipts from the sale to customers at their place of  
18 business or their business site, including receipts relating to the  
19 delivery of the sand and gravel; and

20 (3) the average market value of sand and gravel from inter-  
21 company transfers of the minerals calculated immediately before the  
22 transfer, including intercompany transfers of sand and gravel to a  
23 ready-mix or concrete plant.

24 \* Sec. 3. AS 43.65.020 is amended to read:

25 Sec. 43.65.020. TAXPAYER'S DUTIES. (a). A person subject to tax  
26 under this chapter shall make a return stating specifically the items of  
27 gross receipts [INCOME] from the business [PROPERTY], including royalty  
28 received and the deductions [AND CREDITS] allowed by this chapter, and  
29 other information for carrying out this chapter which the department

1 [DEPARTMENT OF REVENUE] prescribes. The return shall show the mining  
2 license number and shall be signed by the taxpayer or his authorized  
3 agent, under penalty of perjury. If receivers, trustees, or assigns are  
4 operating the mining [PROPERTY OR] business, they shall make returns for  
5 the person engaged in the mining business [, OR THE RECIPIENT OF ROYALTY  
6 IN CONNECTION WITH MINING PROPERTY]. The tax due on the basis of the  
7 returns shall be collected in the same manner as if collected from the  
8 person of whose business they have custody and control.

9 (b) A return made on the basis of the calender year shall be filed  
10 [MADE] before March 15 [MAY 1] of the next year. A return made on the  
11 basis of a fiscal year shall be filed [MADE] before the 15th [FIRST] day  
12 of the third [FIFTH] month of the next fiscal year.

13 (c) The department [DEPARTMENT OF REVENUE] may grant a reasonable  
14 extension of time for filing returns, under regulations adopted [PRE-  
15 SCRIBED] by it. Except in the case of a taxpayer going abroad, no  
16 extension may be granted [MADE] for more than six months.

17 (d) A [TAXPAYER'S] return shall be filed with [MADE TO] the  
18 department using the same tax year as the person uses in filing his  
19 federal income tax return [DEPARTMENT OF REVENUE AT JUNEAU. A TAXPAYER  
20 SHALL MAKE HIS RETURN EITHER ON A CALENDER YEAR OR FISCAL YEAR BASIS, IN  
21 CONFORMANCE WITH THE BASIS USED IN MAKING HIS RETURN FOR FEDERAL INCOME  
22 TAX PURPOSES].

23 (e) The total amount of tax imposed by this chapter shall be paid  
24 on or before the due date of the tax return required under this section  
25 [THE 30TH DAY OF APRIL OF THE NEXT CALENDER YEAR, OR IF THE RETURN IS  
26 MADE ON THE BASIS OF THE FISCAL YEAR, THEN ON THE LAST DAY OF THE FOURTH  
27 MONTH OF THE NEXT FISCAL YEAR.

28 (f) EVERY PERSON PROSECUTING OR ATTEMPTING TO PROSECUTE OR EN-  
29 GAGING IN THE BUSINESS OF MINING IN THE STATE SHALL COMPLY WITH THE

1 DEPARTMENT'S REGULATIONS AND SHALL KEEP SUCH RECORDS, GIVE SUCH STATE-  
2 MENTS UNDER OATH, AND MAKE SUCH RETURNS AS THE DEPARTMENT OF REVENUE  
3 PRESCRIBES].

4 (g) When the department considers it necessary, it may require a  
5 person, by notice served upon him, to make a return, give statements  
6 under oath, or keep records as it considers sufficient to show whether  
7 or not the person is liable for the [TO] tax under this chapter. If a  
8 person fails to file a return at the time prescribed by law or regula-  
9 tion, or makes, wilfully or otherwise, a false or fraudulent return, the  
10 department shall make the return from its own knowledge and from such  
11 information as it can obtain [THROUGH TESTIMONY OR OTHERWISE]. A  
12 return so made and subscribed by the department is prima facie good and  
13 sufficient for all legal purposes.

14 \* Sec. 4. AS 43.65.030 is amended to read:

15 Sec. 43.65.030. APPLICATION FOR RENEWALS. A person engaged in the  
16 business of mining shall apply [APPLICATION] for a renewal of a mining  
17 license each year [SHALL BE MADE] before the 30th day of the first month  
18 of the person's tax year [MAY 1 OF EACH YEAR].

19 \* Sec. 5. AS 43.65.040 is repealed and re-enacted to read:

20 Sec. 43.65.040. LIMITATION. The department shall review returns  
21 and assess any additional tax due under this chapter within three years  
22 of the due date of the return or the date that the return was filed,  
23 whichever is later. If a return has not been filed the tax may be  
24 assessed at any time.

25 \* Sec. 6. AS 43.65.050 is amended to read:

26 Sec. 43.65.050. [VIOLATIONS AND] PENALTIES AND INTEREST. (a) In  
27 case of failure to obtain a license or file a return [REQUIRED BY THIS  
28 CHAPTER] within the time prescribed by this chapter, or to pay the full  
29 amount of the tax due on the return or a deficiency of the tax as

1 determined by the department [LAW OR PRESCRIBED BY THE DEPARTMENT  
2 ACCORDING TO LAW], unless it is shown that the failure is due to reason-  
3 able cause and not due to wilful neglect, five per cent is added for  
4 each 30 days or fraction of 30 days during which the failure continues,  
5 but not exceeding 25 per cent in the aggregate. The amount [SO] added  
6 to the tax shall be collected at the same time, in the same manner, and  
7 as a part of the tax. If the tax is paid before discovery of the  
8 neglect, the amount added shall be collected in the same manner as the  
9 tax.

10 [(b) IF PART OF A DEFICIENCY IN THE TAX IS DUE TO NEGLIGENCE OR  
11 INTENTIONAL DISREGARD OF REGULATIONS, BUT WITHOUT INTENT TO DEFRAUD,  
12 FIVE PER CENT OF THE TOTAL AMOUNT OF THE DEFICIENCY, IN ADDITION TO THE  
13 DEFICIENCY, SHALL BE ASSESSED, COLLECTED, AND PAID IN THE SAME MANNER AS  
14 IF IT WERE A DEFICIENCY, EXCEPT THAT (d) OF THIS SECTION IS NOT APPLI-  
15 CABLE.]

16 (c) If part of a deficiency in the tax is due to fraud with  
17 intent to evade the tax, then 50 per cent of the total amount of the  
18 deficiency, in addition to the deficiency, shall be assessed and col-  
19 lected. If this penalty is assessed, then the penalty in (a) of this  
20 section does not apply.

21 (d) When the tax levied by this chapter becomes delinquent, it  
22 bears interest at the rate of eight per cent a year. The tax is delin-  
23 quent if it is not paid on its due date. [INTEREST UPON THE AMOUNT  
24 DETERMINED AS A DEFICIENCY IN THE TAX SHALL BE ASSESSED AT THE SAME TIME  
25 AS THE DEFICIENCY, AND PAID UPON NOTICE AND DEMAND BY THE DEPARTMENT.  
26 THE INTEREST SHALL BE COLLECTED AS A PART OF THE TAX, AT THE RATE OF SIX  
27 PER CENT A YEAR FROM THE TIME PRESCRIBED FOR PAYMENT OF THE TAX TO THE  
28 DATE THE DEFICIENCY IS PAID.]

29 (e) The tax levied or accruing under this chapter and the penalties

1 and interest on the tax are a lien prior, paramount, and superior to all  
2 other liens, mortgages, hypothecations, conveyances, and assignments,  
3 upon all the real and personal property of the person liable for them,  
4 and upon the real and personal property used with the permission of the  
5 owner in carrying on the business of mining. This lien is [SHALL]  
6 not [BE CONSIDERED] exclusive of other civil or criminal remedies pro-  
7 vided by law for the recovery of license taxes.

8 (f) A person who is required under this chapter to pay the [A]  
9 tax, make a return, keep records, or supply information [FOR THE COM-  
10 PUTATION, ASSESSMENT, OR COLLECTION OF THE TAX IMPOSED BY THIS CHAPTER],  
11 who wilfully fails to pay the tax, make the return, keep the records, or  
12 supply the information, at the time required by law or regulations, is,  
13 in addition to other penalties provided by this chapter [LAW], guilty of  
14 a misdemeanor, and upon conviction is punishable by a fine of not more  
15 than \$1,000, or by imprisonment for not more than one year, or by both  
16 [, TOGETHER WITH THE COST OF PROSECUTION].

17 [(g) A PERSON WHO WILFULLY MAKES AND SIGNS A RETURN WHICH HE DOES  
18 NOT BELIEVE TO BE TRUE AND CORRECT AS TO EVERY MATERIAL MATTER IS  
19 GUILTY OF A FELONY, AND UPON CONVICTION IS SUBJECT TO THE PENALTIES  
20 PRESCRIBED FOR PERJURY UNDER THE LAWS OF THE STATE.]

21 (h) In this section "person" includes an officer or employee of a  
22 corporation or a member or employee of a partnership who is under duty  
23 to perform the act in respect to which the violation occurs.

24 (i) A person who wilfully attempts to evade the tax imposed by  
25 this chapter is, in addition to other penalties provided by this chapter  
26 guilty of a felony and, upon conviction, is punishable by a fine of not  
27 more than \$5,000, or by imprisonment for not more than five years, or  
28 by both.

29 (j) A person who wilfully makes and subscribes a return, statement,

1 or other document required under this chapter which contains or is  
2 verified by a written declaration that it is made under the penalties of  
3 perjury which he does not believe to be true and correct as to every  
4 material matter is, in addition to other penalties provided by this  
5 chapter, guilty of a felony and, upon conviction, is punishable by a  
6 fine of not more than \$5,000, or by imprisonment for not more than three  
7 years, or by both.

8 (k) A person who wilfully or knowingly aids, procures, or counsels  
9 the preparation or presentation in connection with any matter arising  
10 under this chapter of a return, affidavit, claim, or other document,  
11 which is fraudulent or is false as to any material matter is guilty of a  
12 felony whether or not the falsity or fraud is with the knowledge or  
13 consent of the person required to present the return, affidavit, claim,  
14 or document, and, upon conviction, is punishable by a fine of not more  
15 than \$5,000, or by imprisonment for not more than three years, or by  
16 both.

17 (l) A person who wilfully delivers or discloses to the department  
18 under this chapter any list, return, account, statement, or other  
19 document, known by him to be fraudulent or to be false as to any materi-  
20 al matter is, upon conviction, punishable by a fine of not more than  
21 \$1,000, or by imprisonment for not more than one year, or by both.

22 \* Sec. 7. AS 43.65.060(4) is amended to read:

23 (4) "new mining business operation [OPERATIONS]" means a  
24 mining operation [OPERATIONS] which began production after January 1,  
25 1953, and which has not acquired the ownership or property of another  
26 mining business which has previously received an exemption certificate  
27 under sec. 10 of this chapter [OR WHICH HAVE NOT BEEN LIABLE TO PAY A  
28 MINING LICENSE TAX UNDER THIS CHAPTER ON NET INCOME SINCE JANUARY 1,  
29 1948];

1 # Sec. 8. AS 43.65.060 is amended by adding new paragraphs to read:

2 (7) "minerals" means all locatable and leasable minerals  
3 except sand, gravel, oil, gas, building materials and topsoil;

4 (8) "materials" includes sand, gravel, building material and  
5 topsoil;

6 (9) "business of mining"

7 (A) means a business operation for the extraction of  
8 minerals from the earth or water of the state, operated by a person

9 (i) who owns and operates, works, or develops a  
10 mineral property, whether or not that property is currently  
11 producing a marketable product;

12 (ii) who leases a mineral property and operates the  
13 mineral property, whether or not the mineral property is  
14 producing a marketable product;

15 (iii) who leases a mineral property and pays royal-  
16 ties, rents or other payments to the owner of the property;

17 (iv) who has an interest in a lease, concession,  
18 joint venture, or other agreement for the exploration or  
19 development, or extraction of a mineral property if royalties,  
20 rents, or other payments are to be paid for that interest;

21 (B) does not include a prospector who explores for new  
22 mineral deposits, stakes a claim, performs the required assessment  
23 work to keep it in good standing, and holds it for possible devel-  
24 opment by others;

25 (10) "department" means the Department of Revenue.

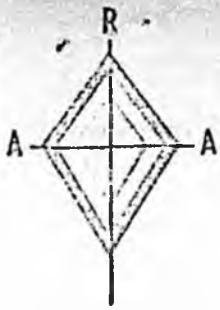
26 \* Sec. 9. AS 43.65.060(1) - (3) are repealed.

27 \* Sec. 10. This Act is retroactive to January 1, 1976.

28 \* Sec. 11. This Act takes effect immediately in accordance with AS 01.10.

29 070(c).

CSHB 878



## RESOURCE ASSOCIATES OF ALASKA, INC.

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January 12, 1976

Honorable Sterling Gallagher  
Commissioner of Revenue  
State of Alaska  
Pouch S  
Juneau, AK 99801

Dear Commissioner Gallagher:

Thank you for sending me the transcript of the November tax hearings, and the copy of the proposed revisions to the Alaska mining license tax.

At the conclusion of the tax hearings last November, you stated that as Commissioner you would recommend revisions in the existing mining license tax that would correct some of its technical deficiencies, but would not make substantive changes.

However, contrary to that statement, the proposed revisions have one very major substantive change that is a discouragement to mining investment in Alaska: you allow depreciation at a maximum rate of only 10%, which means for many types of mining equipment the period of depreciation exceeds the useful life of the equipment. The mine operator would thus be forced to carry on his books equipment that had been worn out and discarded while simultaneously capitalizing new replacement equipment.

This is not fair to the taxpayer, and is particularly unsensible for a State that should be trying to encourage investment in order to develop a tax base. At the least, the State tax treatment of depreciation should be no more severe than the Federal tax code.

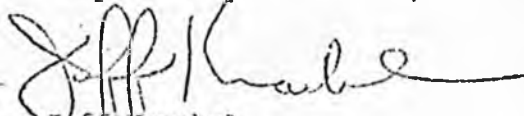
As many knowledgeable people tried to explain in the hearings of November, 1975, if this State wants a mining industry to help provide a tax base, then it should offer incentives, such as accelerated depreciation, fast write-offs of investments, and investment tax credits. You have done the reverse with your proposed depreciation limit of 10%, and since the proposed revisions differ substantially from what you told industry representatives they would, you have again called into question the credibility of the State administration.

This poor old world never needed mutual trust more than it does now, and the only way mutual trust can be established is for people to do what they say they are going to do.

I have enclosed a copy of an article from the September 1975 issue of Mining Engineering to provide information on the severe problems facing those who would finance new mines. Notice, as I testified in November, that stockholder's equity in constant dollars has declined 7.4% since 1965. The mining industry faces an unprecedented liquidity crisis. In the face of these obstacles, compounded by the terrible costs in Alaska, if you folks want a mining tax base up here, you should offer incentives, rather than putting new tax obstacles in the road.

Right now, with fishing and timber in a state of disaster, the people of Southeast Alaska could expect some relief from unemployment: if we had decent tax laws that encouraged exploration and development of the tremendous mineral potential of Southeast Alaska.

Respectfully submitted,



Jeff Knaebel

JK/dc

Encl: Mining Engineering Article

cc: Don Sherwood  
Chuck Hawley  
Bill Waugaman  
Phil Holdsworth  
Hank Eyrich  
Russ Babcock

## Mine Financing: A Worsening Problem

It took the Roman Emperors almost 150 years—from Nero to Marcus Aurelius—to double the money supply, which they achieved by reducing the silver content of the denarius by almost 50%. It took the American government only 10 years, from 1965 to 1974, to double the money supply (M2), and "... it took the world at large only three to four years to double the international liquidity," notes G. Carl Williams, professor of economics at Southern Illinois University.

Today's paradox is that, though there's more money in circulation than ever before, everybody is short of cash (or "illiquid")—particularly industries like mining, which are extremely capital intensive. Why is it so difficult, for instance, to finance a new mining project?

Academically speaking, *other things being equal*, a doubling in the money supply will merely double everybody's income as well as the price of everything and, in effect, nothing will have changed. In the real world, however, things don't behave in that neat a fashion—as proved by the record of the past 10 years.

Since 1965, the US dollar has lost more than 50% of its purchasing power. So, to stay even—never mind expansion or growth—the mining industry's net income (i.e., after-tax earnings before dividends) should have at least doubled. Has it?

Well, let's look, for example, at the US primary metal industries which include most of the biggest mining companies in the nation. Their net income, which the companies report in current dollars, shows a 123% increase—from \$2.35 billion in 1965 to \$5.24 billion in 1974. However, since a "current" dollar of 1974 vintage will not buy the same amount of goods and services that it bought in 1965, the industry's net income translated in constant 1965 dollars (meaning: after discounting for inflation) has increased by 43.8% since 1965 (see Table 1). So far, so good. But it's not the whole story.

Table 1—Primary Metal Industries' Net Income (billion \$)

Year	In Current \$	In Constant 1965 \$
1965	2.35	2.35
1966	2.70	2.65
1967	2.25	2.11
1968	2.35	2.11
1969	2.62	2.24
1970	2.00	1.62
1971	1.45	1.12
1972	1.72	1.29
1973	3.07	2.10
1974	5.24	3.38
1965-74 % Change	+123%	+43.8%

Sources: US Federal Trade Commission; US Dept. of Commerce; Ramesh Malhotra; MINING ENGINEERING.

Since dividends have to be paid to stockholders, let's now have a look at the industry's cumulative retained earnings, which is the true measure of what's left to corporations to replace obsolescent facilities, expand existing ones, and build new ones. In current dollars, cumulative retained earnings have increased by 56.7% since 1965; but after discounting for inflation, the real increase has been 1.33% in ten years (see Table 2).

Well, what about stockholders? Table 3 shows the picture: in current dollars, stockholders' equity has increased by 43.5%; in constant dollars, however, it has

actually decreased by 7.4%. Not surprisingly, investors have stayed away from the stock market, i.e., away from equity.

Table 2—Primary Metal Industries' Cumulative Retained Earnings (billion \$)

Year	In Current \$	In Constant 1965 \$
1965	15.0	15.0
1966	15.5	15.0
1967	16.0	15.0
1968	17.5	15.7
1969	18.0	15.4
1970	18.5	15.0
1971	18.0	14.0
1972	19.3	14.5
1973	21.0	15.0
1974	23.5	15.2
1965-74 % Change	+56.7%	+1.33%

Sources: US Federal Trade Commission; US Dept. of Commerce; Ramesh Malhotra; MINING ENGINEERING.

Unable to raise capital via the equity route, and unable to finance growth and expansion from internally generated funds (an impossible task when cumulative retained earnings are growing at an annual rate of less than 0.13%), the industry has gone into debt financing.

As reported by my good friend Ramesh Malhotra (of the Mineral Economics Group, Illinois State Geological Survey), "... the total long-term debt of the primary metal industries rose from \$5901 million in 1965 to \$12,986 million in 1974," while "... total liabilities rose from \$13,337 million in 1965 to \$30,984 million in 1974, thus pushing the ratio of total liabilities to stockholders' equity from 0.58 to 0.91 in the 10-year period."

Table 3—Primary Metal Industries' Stockholders' Equity (billion \$)

Year	In Current \$	In Constant 1965 \$
1965	23.0	23.0
1966	24.0	23.2
1967	25.8	24.2
1968	27.0	24.3
1969	28.0	24.0
1970	28.2	22.9
1971	27.0	21.6
1972	29.8	22.2
1973	31.0	22.1
1974	33.0	21.3
1965-74 % Change	+43.5%	-7.4%

Sources: US Federal Trade Commission; US Dept. of Commerce; Ramesh Malhotra; MINING ENGINEERING.

Today, 10 years older and deeper in debt, the industry faces an unprecedented liquidity crisis. Where will the capital for new mines come from? Every feature article in this issue deals with the various aspects of this problem and offers many valuable suggestions. Investment capital, however, can ultimately come from only one source: the savings of individuals and corporations. But with Big Government taking an increasingly larger share of people's earnings—government's take as a percentage of the national income has risen from 27.7% in 1950 to 44% in 1974—saving money is correspondingly more difficult. Besides, who wants to save during double-digit inflation?

Continued on page 22

What might help the mining industry, as several spokesmen are now advocating, would be: 1) A higher minerals depletion allowance and faster tax-depreciation deductions that would enable the recovery of the *real* replacement cost of plants and equipment rather than the historical cost; 2) An immediate write-off for pollution control equipment in the year the costs are incurred. Since the rationale for depreciation is to recover expenditures out of earnings, it is grotesque to depreciate equipment that generates no earnings. The cost of that hardware should be written off immediately; 3) A higher and *permanent* investment tax credit; and 4) The elimination of double taxation on corporate profits because the taxing of income when earned by the corporation and again when received by shareholders in the form of dividends has the twofold effect of scaring investors away from equity and pushing companies into debt financing.

Actually, even if all these tax revisions were made, the next Congress would probably unmake them because, as President Ford once said: "A government that can give you everything is a government that can take everything from you." Besides, a sound monetary system and a non-confiscatory tax system, while being *necessary* conditions for a healthy economy, are not *sufficient* by themselves. Unless Americans are free to create, produce, and trade values, the best currency and the most equitable tax system in the universe won't do much good. Freedom comes first: what's urgently needed is a massive program of deregulating and decontrolling industry. One can't produce with one's hands tied. We may survive double-digit inflation and even greater taxation; but unless we regain our freedom to produce, the American economy will reach the terminal stage.

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O. J. Wick, Program Manager, Mineral  
Technology, Battelle-Northwest

Kath Whiting, Consultant

January 30, 1976

Sterling Gallagher, Commissioner  
Department of Revenue  
11th Floor, State Office Building  
Pouch S  
Juneau, Alaska 99811

Dear Commissioner Gallagher:

We have reviewed the draft Mining License Tax recently received from your department. We appreciate the efforts you have taken to incorporate the suggestions made by industry at the November hearings, and the fact that the revisions very accurately reflect the decisions made at those meetings.

Two major points still remain to be ironed out to reflect a total agreement, however. In the matter of depreciation, 10% per year is unacceptable in that most equipment has a life much shorter than ten years. Recapitalization of equipment is a continuous operation with replacements being made in three years in some cases. It would appear that conformity with Federal law would be reasonable, and we suggest that Sec. 43.65.015(6) concludes: "...operation, at rates provided in the Internal Revenue Code." A second major point is the treatment of net operating losses, and we suggest again that conformity with federal law is reasonable. We recommend a subsection (8) be added to Sec. 43.65.015, as follows: "Net operating losses with a five-year carry forward as provided in the Internal Revenue Code."

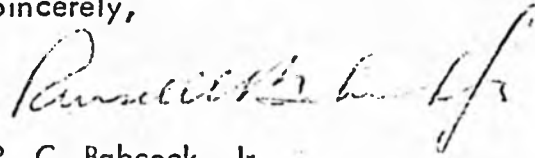
A minor change is recommended for Sec. 43.65.010 (b-2) to effect clarity, as follows: "...The exemption certificate must be applied for in the year the mine first reaches commercial production to qualify for the three and one-half year exemption. A mine will be considered to be in commercial production when it has a net operating income. Another change in Sec. 43.65.010 (c) is recommended to insure that aggregation does not eliminate possible incentives produced by the three and one-half year tax holiday. We recommend the first line of Sec. 43.65.010 (c) read "Where mining operations subject to the tax levied by this chapter are conducted in two or more places by one...". Sec. 43.65.015 (a-7) should read "Amortization of the exploration and mining costs not included in (6)." to insure that it is clear that exploration costs can be amortized, as discussed.

January 30, 1976

We hope these comments will be incorporated in any bills drafted for this session of the Alaska legislature. The ensuing legislation, if enacted, would provide a real incentive for the mining industry by demonstrating an interest on the part of the state in maintaining a healthy economic climate. We hope this interest is reflected in other tax legislation being proposed by the State of Alaska at this time -- special taxes on any industry or group of individuals should be minimized if a truly democratic way of life is to be preserved.

Thank you.

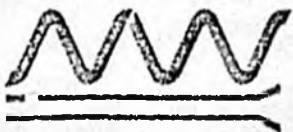
Sincerely,



R. C. Babcock, Jr.  
Chairman  
Alaska Taxation Committee

RCB/bb

cc: H. T. Eyrich, President  
Northwest Mining Association



The Department of Revenue held hearings on the Administration's proposed Mineral Severance Tax (SB 294) in Anchorage on November 6 and 7. The meeting was opened by Commissioner Sterling Gallagher who acknowledged that SB 294 was not a good piece of legislation. He asked those attending to indicate what form of taxation would be acceptable to the mining industry.

Twenty-five formal presentations were made by the mining industry, Native corporations, and service industry spokesmen. Some of the major points presented by the mining industry were:

1. A U.S. Bureau of Mines study has shown that the cost of producing a pound of copper from a large, lowgrade deposit in Alaska would be twice that of a similar mining operation in Arizona.
2. Present taxes on metal mining are already higher than in most other states - and higher than those imposed on other industries in Alaska.
3. The metal mining industry in Alaska is practically non-existent, with only two operations presently paying a tax under the Mining License Tax - one a coal mine.
4. The mineral exploration effort by the industry is the major contributor to the tax base, presently spending \$15 million annually of which 87% remains in the state. The present nature and location of the work done and expenditures made is such that this industry has no significant impact upon those services normally provided at Alaska taxpayers' expense.
5. The history of the industry has shown that most new modern mines are found in isolated areas. The industry, itself, has traditionally built their own communities, schools, and even churches at these isolated sites - and provided employment in those areas where the unemployment rate is highest.
6. It is estimated that in terms of 1975 dollars at least \$132 million have been expended in Alaska for metallic minerals exploration from the time the Kennecott Mine closed in 1938 to the present. This effort and expenditure has resulted in not one substantial orebody being brought into production. This gives an indication of the magnitude of exploration risk, and the tough economic conditions facing the prospective mining industry in Alaska.
7. Several nation-wide and international company representatives predicted exploration budget reductions or cancellations for Alaska, should the economic climate be worsened by increased taxation such as that proposed in SB 294.

8. It was suggested that what this almost non-existent Alaskan industry needed was tax incentives, rather than disincentives. These incentives might take the form of - (a) a more flexible cost recovery allowance, (b) accelerated depreciation, (c) an investment credit for exploration expenditures, and (d) repeal of the present Mining License Tax. This latter tax is, in effect, a tax on a tax as individuals and corporations engaged in this industry pay their income tax as well. Certainly the threat of new taxes would drive away exploration - hence a reduction in state tax revenue, increased unemployment, and a worsening of the state's deficit. This would be irresponsible on the part of government.

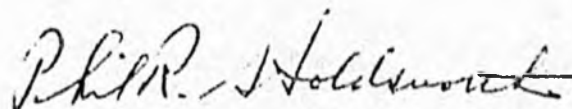
The State presented its position that - (a) the present Mining License Tax is ambiguous, (b) the state spends about \$3,200 for services per year for each person on a payroll, and (c) the state is interested in broadening its tax base.

Following a lengthy panel discussion an apparent industry-state consensus was developed on the following points:

1. SB 294 should be formally withdrawn by the state administration.
2. New incentives should be discussed, whether or not they may be obtainable thru the legislature at this time.
3. The present Mining License Tax should be improved to more clearly define who should be taxed, and what is allowable for deductions.
4. The 3½-year tax holiday for new operations, and allowance for depletion should remain a part of the tax provisions.
5. Revision of the Mining License Tax should be pursued in the legislature, but only to tidy up language.
6. Legislative intent should be expressed in the form of a policy statement on long-term economic (tax) stability for the industry.

The Department of Revenue is presently redrafting the Mining License Tax and will circulate it early in December for further comments. They intend to have a revised bill ready for introduction in January.

Reported by -



Phil R. Holdsworth



# Alaska State Legislature

## House

JUNEAU ALASKA

Date: February 1, 1977 (approx.)

Memo to: Resource Committee Members

From: Office of Sally Smith

Re: Office conversation with Vance Thornsberry of Inspiration Mining relating to HB 56

Vance stated that his company and he himself would like a mining tax bill, but changes are necessary in HB 56 as it stands now.

1. The tax rate should be a straight 5%, not the sliding scale with all of the qualifications
2. Mining companies should be able to carry forward net operating losses because it helps to smooth out the peak years. For instance, 1972 was a peak year for copper, but it followed a series of very bad years.

Mr. Thornsberry will try to be present to present testimony to the Committee when HB 56 is heard.

January 14, 1977

HOUSE JOURNAL

41

"January 14, 1977

HB  
56

The Honorable Hugh Malone  
Speaker of the House  
Alaska State Legislature  
Juneau, Alaska 99011

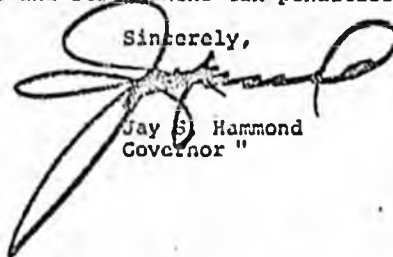
Dear Mr. Speaker:

Under the authority of art. III, sec. 10 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill relating to the Alaska mining license tax.

This bill amends the mining license tax law in several respects to achieve a more effective taxing system than we presently have in Alaska.

The bill would impose the tax on the net proceeds of a mining business. It would be calculated using the total gross receipts from the business less certain specified direct expenses of mining. The bill also insures that all mining businesses would be subject to the tax regardless of the form of business or the nature of the operation. The bill also clarifies several ambiguous areas of the present law which serve as loopholes for some mining businesses. In addition, the bill expands and strengthens tax penalties.

Sincerely,



Jay S. Hammond  
Governor "

HOUSE BILL NO. 57 by the Rules Committee by Request of  
the Governor, entitled:

HB  
57

"An Act relating to risk management  
and loss prevention in state govern-  
ment; and providing for an effective  
date."

was introduced, read the first time and referred to the  
Committees on Judiciary and Finance.

" January 14, 1977

The Honorable Hugh Malone  
Speaker of the House  
Alaska State Legislature  
Juneau, Alaska 99811

Dear Mr. Speaker:



C. C. HAWLEY AND ASSOCIATES, INC.

STAR ROUTE A, BOX 78-D • ANCHORAGE, ALASKA 99507 • (907) 344-6114

May 14, 1976

RECEIVED  
MAY 19 A.M.  
INMC-JUNEAU

Mr. Sterling Gallagher, Commissioner  
Department of Revenue  
Pouch SA  
Juneau, AK 99811

Dear Sterling:

Phil Holdsworth has advised me that the Department of Revenue will likely oppose carryover of net operating loss in HB878, if it does show up at more committee hearings. I would like you to consider this carefully, and take it up at the cabinet level to see if your stand can be modified.

I realize that effectively we were given a choice between a three-and-a-half year Mining License Tax free period, or carryover, but we also did not have much real choice in the matter. Our argument is that the two things are not at all equivalent. The three-and-a-half year period allows you to recover some capital costs prior to the special tax. The net operating loss provision helps you ride over periods of low metal prices. At present about only five of fifteen major low-grade copper mines in the United States are operating profitably. This condition has held for about two years and, although there is an upswing in copper profitability, this thing happens time and time again. There is a vast difference in the profitability of the mining industry now, as against the time when the original Mining License Tax was passed. This additional concession would be an incentive, but would not cut into revenues paid the state during long stable periods of profit.

I am also requesting you consider this carefully because of the split within the mining ranks. The Alaska Miners Association (a majority anyway) is still with you on 878, but, as you are aware, we have a broad split, and the Northwest Mining Association has come out against 878 in majority, even though some companies--especially Kennecott--are strongly behind 878. It will be much easier for us to stay in this middle ground, if the state can make some concessions.

I don't think you will argue with us that Alaska is just an expensive place to operate, including taxes. But small concessions made now on rates or schedules will mean mining revenues will start to appear sooner than if maximum tax rates go in effect.

Sincerely,

*Chcock*

C. C. Hawley

ams

cc Phil Holdsworth  
Governor Hammond  
Mike Whitehead  
Don Harris  
Tony Motley  
Bill Mote - NWMA  
Russ Babcock

February 10, 1977

Ms. Sally Smith  
Alaska State Representative  
Pouch V  
Juneau, AK 99811

Dear Ms. Smith:

We appreciate your concern for our interest in mining in Alaska and your transmittal of a copy of H.B. No. 56 entitled "An Act Relating to the Alaska Mining License Tax; and providing for an effective date," which was introduced 1/14/77.

In Sec. 1, (b), I recommend a flat rate of 5% (no more) on the net proceeds derived from mining in the State of Alaska.

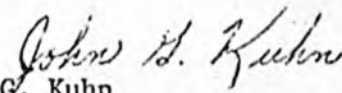
In Sec. 1, (d), I think it would be best to tax each operation separately and not to consider mining business operations conducted in two or more places as one mining business.

A further provision should be included for a mining business to carry forward net operating losses.

A further provision should be included for deduction of wages and payments for services performed out-of-state, where these are directly related to in-state operations.

We appreciate your consideration of this matter.

Sincerely yours,

  
John G. Kuhn  
Vice President  
INSPIRATION DEVELOPMENT COMPANY

JGK/HWO/am  
cc: Alaska Mining Association  
Northwest Mining Association