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COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

(5)

2/15/82

Date: 3-29-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 866

"An Act establishing a special investment tax credit; and providing for an effective date."

under consideration and ~~(a majority of the committee)~~ ~~(the committee)~~ reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____

AND attaches a "Letter of Intent" New Fiscal Note. ()

reports it back without ^{individual} recommendation

referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Martin - No Pass

AC Byrdman - No Pass

Terry Martin
CHAIRMAN

Date Introduced 2-16-82

" Rec'd 2-17-82

Referrals Finance

Comm. hearing 3-10-82 - held - 3-29-82 - passed

active passed out with indiv. Recommendation - taken chief clubs office 3:15 p.m. by Rep. Martin

2/24/82 → Bradley in legal dept
will take care for hearing.

2/24/82 notified

Sponsor notified. Dept of Revenue

FN - Post office requested

2/24/82 Stevenson pending F/N & ites.

7 Revenue
notified
resources

Audit Div. F/N herein
Dept of Rev. F/N herein

Kellum Powell
Cape Fox Corp. 789-9997
notified of hearing for 3-29-82

Per R.R. Kesel, Department of Revenue, during testimony given 3/29/82 at a House Labor & Commerce Committee hearing on HB 866:

Reading from the U.S. Master Tax Guide, referring to what is Section 38 property:

The investment credit is available only for expenditures on Section 38 property. Section 38 property is either recovery property or other depreciable or amortizable property having a useful life of three years or more; that is,

- 1) tangible personal property;
- 2) other tangible property used as an integral part of manufacturing extraction production.

Terry - definition you requested.

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811

March 9, 1982

The Honorable Terry Martin
Chairman
House Labor and Commerce Committee
Room 211 - Behrends Building
Juneau, Alaska

Dear Mr. Martin:

Re: House Bill No. 866

House Bill No. 866, an Act establishing a special investment tax credit, was introduced in the House on February 16, 1982 and was referred to the House Labor and Commerce and Finance Committees.

For the consideration of the House Labor and Commerce Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Robert R. Kessel, Director, Audit Division and Mr. Vince Wright, Chief, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,



R. D. Stevenson
Special Assistant

Enclosures

cc: The Honorable Albert P. Adams
Chairman
House Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Robert R. Kessel, Director
Audit Division
Department of Revenue

Vince Wright, Chief
Research Section
Department of Revenue

MEMORANDUM

State of Alaska

Department of Revenue

TO: R. D. Stevenson
Special Assistant

DATE: February 24, 1982

FILE NO:

TELEPHONE NO:

FROM: Robert R. Kessel *AK*
Director, Audit Division

SUBJECT: HB 866

The bill would substantially expand the Investment Tax Credit for certain corporations. However, the bill falls short of its intended purpose to promote the development of farming, fishing, timber and mining and, in addition, is potentially very expensive.

There are many more qualified farmers than there is farmland available. The additional investment tax credit would give the existing farmers additional tax benefits but would do little to expand ownership to a new influx of farmers.

Most timber related companies already have more tax credits and carry-over losses than they can utilize. It is markets, not tax credits, that are needed.

For fisheries, all except bottom fishing appears overly crowded. That fact is witnessed by the limited entry system controlling the harvest of fishery resources. Tax credits would not expand the market nor provide higher prices.

Mining, in general, is a highly capital intensive industry. The expanded investment tax credit would serve the purpose of providing almost permanent assurance that no tax would be due because of the fifteen year carry-over provision available for the investment tax credit.

Finally, the expanded credit could be very costly particularly in one instance. If U. S. Borax develops its Ketchikan Molybdenum mine to the extent publicly indicated, the investment tax credit to that corporation would be \$100,000,000 (based on investment cost of \$1 billion). With the fifteen year carry-over provision for the investment tax credit, the investment tax credit of \$100,000,000 could equate to the following revenue loss to Alaska:

Investment Credit applied against tax liability - per current law

\$1,000,000,000	
x 10% Investment Credit amount	
x 18% currently allowed for Alaska corporations	\$ 18,000,000

Investment Credit applied against tax liability per this bill

\$1,000,000,000	
x 10%	<u>100,000,000</u>

Net Loss in revenue	<u>\$ 82,000,000</u>
---------------------	----------------------

RRK/gb

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 866
 Title An Act establishing a special investment tax credit.
 Requested by House Labor & Commerce Date 03/09/82
and Finance Committees

II. FISCAL DETAIL

Agency Affected Department of Revenue
 Program Category Affected _____
 BRU, Program, Or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING ^{Millions} ~~(Thousands)~~ of Dollars

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUNDS	(2.5)	(11.5)	(13.0)			
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

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FULL TIME						
PART TIME						
TEMPORARY						

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

If it is assumed that the investment tax credit cannot exceed net income tax payable, then the maximum possible loss in revenue to the state would approximate 33 percent of the Department's revenue projections. The amounts would approximate \$2.5 million in FY 82, \$11.5 million in FY 83, and \$13 million in FY 84. The FY 82 figure incorporates the retroactive provision of the proposed tax legislation which applies to only part of that year.

IV. DATE 03/08/82 PREPARED BY Vince Wright
 AGENCY Department of Revenue
 Original: Legislative Finance PHONE 465-2173
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 866
 Title An Act establishing a special investment tax credit
 Requested by Hayes Date February 24, 1982

II. FISCAL DETAIL

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POSITIONS None

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME						
PART TIME						
TEMPORARY						

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

See memo to R. D. Stevenson dated February 24, 1982.

Robert R. Kessel

IV. DATE February 24, 1982 PREPARED BY Robert R. Kessel
 AGENCY Audit Division

Original: Legislative Finance PHONE 465-2320
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Investment
Tax Credit
(natural
resources)

Monday - March 25

HOUSE BILL NO. 866, by Rep. Hayes. Would establish a special investment tax credit to promote the development of farming, fishing, timber, mining, wells, and other natural deposits (other than oil and gas), to provide increased employment opportunities, and provide an incentive for investment in the state. Provides a taxpayer may apply as a credit against his tax liability 100 percent of the investment credit allowed as to federal taxes under Internal Revenue Code sec. 38 (U.S.C. 38) upon the full amount of qualified investment put into use in the state for each taxable year for exploration, development, or mining of listed deposits (sec. 613(b) Internal Revenue Code) and for farming or clearing of land for farming, soil or water conservation, or for the prevention of erosion. Also would include fishing or cultivation and harvesting of timber. Provides Act is retroactive to January 1, 1982, and applies to taxable years beginning after 12/31/81. Provides Act takes effect immediately.

Introduced February 16 and referred to Labor & Commerce, then to Finance.

Date: March 18, 1982

To: Joe Hayes,
Speaker of the House

From: Steven C. Levi
Staff

With specific regard to HB 866:

1) Legislative Finance has informed me that under the proposed language (yours), investment tax credits from previous year's projects may not be included under a previous year's coverage. Investment tax credits may be carried forward and backward but only if they have been generated after January 1, 1982.

2) Legislative Finance has informed me that the unitary structure of taxation, for which the Department of Revenue is pressing, has no bearing on investment tax credits. The unitary structure simply allows the State of Alaska to examine a multi-national industry as a total entity and assess taxes appropriately. Unitary taxation basically states that the companies total income, worldwide, will be examined and a appropriate tax on their total income will be assessed.

3) Legislative Finance has informed me that the under the proposed language (yours), investment tax credits may only be taken against corporate income taxes, not against the mining license tax. Legislative Finance could not find a "minimum tax." Staff suspects that a "minimum tax" is a state tax applied to mining operations in other states but not in Alaska.

4) The Fiscal Note gives the revenue loss to the State at \$27 million for three fiscal years: \$2.5 for FY82, \$11.5 for FY83 and 13.5 for FY84. Please note that FY82 is artificially low because the proposed language only allows the investment tax credit to begin on January 1, 1982, the second half of FY82.

However, it should be stated that this amount is expected to rise simply because an investment tax credit will stimulate development which in turn will generate more investment tax credits.

5) On March 8, 1982, the Department of Revenue sent a memo to the Legislative Finance, attached. Staff response to the memo is as follows.

a) The contention that "the bill falls short of its intended purpose," is a speculative statement. The purpose of the bill is to stimulate long term taxable income. The memo, however, deals specifically with the short term economic impact of this bill as conditions are now.

The primary point missed in the first paragraph is that with each increment of advantage, the Alaskan theater of operations becomes more profitable. If, overnight, Anaconda could suddenly 'pick up' the option of an investment tax credit which would increase their aftertax revenue by several million dollars, operations in Alaska would become a higher priority. In short, the more profitable it is for the companies doing the investment, the more profitable it will be for the State of Alaska in the long run.

b) With regard to the farming industry, the memo stated that the investment tax credit would only benefit existing farmers and would not provide an incentive to new farmers. This statement is a bit premature considering that more Delta plots have been put out to bid. If HB 866, as worded, passed, it would provide an added incentive to bid on land for the purpose of farming.

c) With regard to the timber industry, the memo stated that the primary problem relating to time was a lack of markets. The economic hardships faced in the timber industry are due more to a lack of a long term supply of lumber and State and Federal regulations than to a lack of markets. The turmoil over land conveyance, coupled with the disparity of timber regulations on Federal, State and private lands, has made it difficult for the industry to negotiate for long term timber contracts. An investment tax credit would, in the long run, make an investment in Alaskan timber a better bargain.

d) With regard to fishing, the memo states that "Tax credits would not expand the market nor provide higher prices." Staff notes that an expansion of the market is achieved through the dynamic process of supply or demand. An investment tax credit is not intended to 'expand the market.' An investment tax credit is not intended to provide higher prices either. Thus, staff notes, the statement by the Department of Revenue is true, but it has no bearing on the effect of an investment tax credit on the fishing industry.

e) Finally, the statement concerning U. S. Borax is one-sided. Mathematically the numbers are correct and the total 'loss' to the state would be \$82 million over 15 years. But this does not take into account the amount of money that U. S. Borax would be pumping into the economy on the local level. Of course if U.S. Borax chooses to mine elsewhere, the State would not 'lose' \$82 million. But it would not gain the corporate income tax and subsequent dollar turnover in the economy either.

MEMORANDUM

State of Alaska

Department of Revenue

TO: R. D. Stevenson
Special Assistant

DATE: February 24, 1982

FILE NO:

TELEPHONE NO:

FROM: Robert R. Kessel *AK*
Director, Audit Division

SUBJECT: HB 866

The bill would substantially expand the Investment Tax Credit for certain corporations. However, the bill falls short of its intended purpose to promote the development of farming, fishing, timber and mining and, in addition, is potentially very expensive.

There are many more qualified farmers than there is farmland available. The additional investment tax credit would give the existing farmers additional tax benefits but would do little to expand ownership to a new influx of farmers.

Most timber related companies already have more tax credits and carry-over losses than they can utilize. It is markets, not tax credits, that are needed.

For fisheries, all except bottom fishing appears overly crowded. That fact is witnessed by the limited entry system controlling the harvest of fishery resources. Tax credits would not expand the market nor provide higher prices.

Mining, in general, is a highly capital intensive industry. The expanded investment tax credit would serve the purpose of providing almost permanent assurance that no tax would be due because of the fifteen year carry-over provision available for the investment tax credit.

Finally, the expanded credit could be very costly particularly in one instance. If U. S. Borax develops its Ketchikan Molybdenum mine to the extent publicly indicated, the investment tax credit to that corporation would be \$100,000,000 (based on investment cost of \$1 billion). With the fifteen year carry-over provision for the investment tax credit, the investment tax credit of \$100,000,000 could equate to the following revenue loss to Alaska:

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x 10% 100,000,000

Net Loss in revenue \$ 82,000,000

RRK/gb

In a Time of Storm, Save the Safe Harbor

In this period of economic uncertainty, it is perhaps natural for patience to run thin and the hunt for scapegoats to intensify, and one should not be too surprised that this sometimes leads to superficial thinking and snap judgments. A case in point is the current storm over the leasing provisions of the Economic Recovery Tax Act that Congress passed and the President signed last year.

The subject is complicated and not easily explained, and this makes it liable to misleading analysis and false conclusions. But the mining industry should not throw up its hands in frustration and hope for the best, because its cause is right and its case is just. Its stake in the leasing provisions is enormous, and it must mount a vigorous defense of their retention.

The 1981 tax legislation liberalized depreciation rules for the purpose of accelerating capital investment by American industry, thereby making this nation more competitive in the marketplace of the globe, creating more and better jobs, and broadening the government's tax base in a vibrant and freshly reindustrialized economy.

A major problem with this worthy intention was that a number of highly capital-intensive industries, including mining, were earning little or no profits and consequently paying low corporate income taxes. More liberal depreciation rules would do little good for companies that couldn't afford to invest in the first place in needed new plants and equipment, and new tax breaks wouldn't mean much for those whose tax obligations were already low.

The leasing provisions were consciously devised to get around these problems by letting firms use their tax benefits through leasing that would generate the money for capital investments.

Since then, the press has carried sensationalist stories about companies "selling their tax breaks" to flourishing corporations, which reaped huge gains at the expense of the U.S. Treasury. Because the facts are complicated, these stories seldom gave an accurate account of the transactions and left some distinct and distasteful impressions.

Let's set the record straight.

- If capital-intensive enterprises with low earnings cannot gain access to financing, the incentives of the 1981 law become meaningless.

- The government itself has imposed tremendous capital requirements on many of these industries through such means

as mandated pollution controls, which seldom contribute an iota to profitability.

- No matter how the tax credit is divided, it cannot exceed what the government allows for a capital investment.

- This capital investment—the very reason for the tax change—must be made, before any benefits accrue. And this is exactly what's been happening. Money is being infused into necessary improvements in the mining industry. Jobs are being preserved. Technology is being advanced. The industry is gradually gaining the firmer footing it requires to serve the needs of American society. It is a process that must not be reversed.

- The companies that make available the cash for the investment, often when it cannot be obtained from banks or other institutions, are entitled to a return on their money and some reward for their risks.

In times of widespread economic distress, it is easy to single out so-called faceless corporations for special abuse and call upon them to bear more of the burden. But this evades the problem, instead of going to the heart of it.

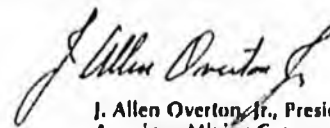
A *Wall Street Journal* survey earlier this month comparing fourth quarter 1981 earnings with those of 1980, showed a 91 percent drop for the mining and nonferrous metals industries.

As I've pointed out many times, these industries are at the bedrock of modern society. They are crucial to our national defense. All other industries and jobs ultimately depend on their vitality; they produce the stuff from which things are made. They have had the most severe proportional costs thrust upon them for environmental protection of all industries in the nation. They face increasing competition from foreign producers who labor under fewer burdens and often with governmental subsidies to yield foreign exchange.

In short, the mining industry of the United States is in serious straits and trying to ride out a rough storm. The leasing provisions of last year's tax legislation were aptly named a "safe harbor," and they now offer the chance for refuge and replenishment when these are needed most.

All members of the mining fraternity should immediately make vigorous representations to the Congress, especially where personal contacts and constituent interests obtain, on behalf of retaining the leasing provisions of the Economic Recovery Tax Act as they apply to the mining industry.

If this nation will not provide a "safe harbor" for its most basic industries in the troubled present, it may well end up scuttling its more promising future.



J. Allen Overton, Jr., President
American Mining Congress

From the American "Mining Congress Journal"

SUBSTITUTE FOR HOUSE BILL NO. 866

A BILL

For an Act entitled: "An Act establishing a special investment tax credit; and providing for an effective date."

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

*Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that the establishment of a special investment tax credit will assist the state by diversifying its economy, provide increased employment opportunities, and provide an incentive for investment in the state.

*Sec. 2. AS 43.20.021(d) is amended to read:

(d) Except as provided in AS 43.20.036(b), where
[WHERE] a credit allowed under the Internal Revenue Code is also allowed in computing Alaska income tax, it is limited to 18 percent for corporations of the amount of credit determined for federal income tax purposes which is attributable to Alaska.

*Sec. 3. AS 43.20.036(b) is amended to read:

(b) For purposes of calculating income tax payable under this chapter the taxpayer may apply as a credit against his tax liability 100 percent of the investment credit allowed as to federal taxes under Internal Revenue Code sec. 38 (26 U.S.C. 38) upon the full amount of qualified investment put into use in the state for each taxable year.

*Sec. 4. This Act is retroactive to January 1, 1982, and applies to tax years beginning after December 31, 1981.

*Sec. 5. This Act takes effect immediately in accordance with AS 01.10.070(c).

PHIL R. HOLDSWORTH, P.E.
CONSULTING ENGINEER & LEGISLATIVE COUNSEL
MINING — GEOLOGY — LANDS

PHONE 907-586-1383

326 FOURTH STREET, No. 1009
JUNEAU, ALASKA 99801

March 25, 1982

MEMORANDUM

TO: Steven Levi

FROM: Phil Holdsworth *PH*

SUBJECT: HB 866

Would suggest the following amendment to the subject bill to eliminate the potential problem of the "sale" of tax credits by the actual developer to others. A new Sec. 3 could be inserted between lines 17 and 18, page 2 as follows:

→ Limit to within state

* Sec. 3. The investment tax credit allowed under sec. 2 of this Act may be claimed only by the taxpaying entity actually conducting the qualifying activity, and is not transferable.

(Renumber following sections accordingly)

Stops transfer of these credits to others -

*This bill gives 100% credit of Federal
maybe delit to this? decrease in states for
investments not used
is current a % of investments.*

AMENDMENT Proposed.

Constitutional?

ALASKA STATE CHAMBER OF COMMERCE
STATEMENT IN SUPPORT OF HB 866
HOUSE LABOR & COMMERCE COMMITTEE
MARCH 10, 1982

Mr. Chairman, my name is George Krusz. I am president of the Alaska State Chamber of Commerce. The ASCC is the largest statewide federation of Alaska business, with a membership of some 500 firms and individuals. Our membership represents the spread of Alaska business from individually owned and operated firms to the largest employers in the state. Geographically, representation ranges from Alaska and the Pacific Coast to the Southwest and East Coast. For more than twenty years, the State Chamber has been representing the interest of all Alaskan business in Juneau. The chamber traditionally has been supportive of legislation fair to large and small concerns alike.

Our support of HB 866 could probably be described as conceptual. We strongly support the concept of legislation allowing investment tax credit under 43.20.036 at 100% of the tax credit allowed under federal statutes. As a matter of fact, this very idea is part of the chamber's 1982 legislative program adopted at our annual Prelegislative Conference in December 1981.

However, it escapes us as to why this credit should be discriminatory as in HB 866. Why should it be limited just to the farming, fishing, timber, and mining industries and not to construction, manufacturing, and other Alaska businesses who

wish to invest heavily in Alaska's future. And that certainly includes the oil and gas industry.

To quote liberally from Section 1, HB 866:

"The Legislature finds and declares that the establishment of a special investment tax credit . . . will assist to state by diversifying its economy to make it less dependent on oil and gas, provide increased employment opportunities and provide an incentive for investment in the state." I'm sure even the oil and gas people would agree with that statement, so why not give all Alaska businesses the same investment incentives in order that we truly can diversify our economy and increase employment.

HB 866 is certainly a step in the right direction and for that reason, the ASCC does support it, but it would be so much stronger if it allowed all Alaska businesses to participate.

Thank you for this opportunity to express our viewpoint.

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811

March 9, 1982

The Honorable Terry Martin
Chairman
House Labor and Commerce Committee
Room 211 - Behrends Building
Juneau, Alaska

Dear Mr. Martin:

Re: House Bill No. 866

House Bill No. 866, an Act establishing a special investment tax credit, was introduced in the House on February 16, 1982 and was referred to the House Labor and Commerce and Finance Committees.

For the consideration of the House Labor and Commerce Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Robert R. Kessel, Director, Audit Division and Mr. Vince Wright, Chief, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,



R. D. Stevenson
Special Assis

Enclosures

cc: The Honorable Albert P. Adams
Chairman
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Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Robert R. Kessel, Director
Audit Division
Department of Revenue

Vince Wright, Chief
Research Section
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB 866
 Title An Act establishing a special investment tax credit
 Requested by Hayes Date February 24, 1982

II. FISCAL DETAIL
 Agency Affected Department of Revenue
 Program Category Affected Revenue Collection and Management
 BRU, Program, Or Subprogram(s) Affected Audit Division
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

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700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

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PART TIME						
TEMPORARY						

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

See memo to R. D. Stevenson dated February 24, 1982.

IV. DATE February 24, 1982 PREPARED BY Robert R. Kessel
 AGENCY Audit Division
 Original: Legislative Finance PHONE 465-2320
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

Robert R. Kessel

MEMORANDUM

State of Alaska

Department of Revenue

TO: R. D. Stevenson
Special Assistant

DATE: February 24, 1982

FILE NO:

TELEPHONE NO:

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Net Loss in revenue	<u>\$ 82,000,000</u>
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RRK/gb

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 856
 Title An Act establishing a special investment tax credit.
 Requested by House Labor & Commerce Date 03/09/82
and Finance Committees

II. FISCAL DETAIL

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TOTAL						

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GENERAL FUND	(2.5)	(11.5)	(13.6)			
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