

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

4/6/83

Date: 4-12-83

Mr. Speaker:

The Committee on FINANCE has had SS HB 258

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

under consideration and reports it back as follows:

do pass [] do not pass

[] do pass with attached amendments(s)

replace with CS for SS HB 258 (L?C) same title
and recommends DO PASS new title

[] AND attaches a "Letter of Intent" New Fiscal Note
 Zero Fiscal Note Attached

[] reports it back without recommendation

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

[Signature] (No Rec No Timber)
[Signature]
[Signature]

[Signature]
CHAIRMAN

Offered: 4/6/83
Referred: Finance

Original sponsors: Hayes and Szymanski

1 IN THE HOUSE BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 258 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 * Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds
10 and declares that

11 (1) there exist areas of the state south of the Arctic Circle in
12 which the factors of established population centers, established infra-
13 structure, access to ice-free ports, and substantial uncommitted reserves
14 of natural gas combine to provide an optimum basis for gas processing
15 development for an export market;

16 (2) development of gas processing facilities in the areas will
17 minimize adverse population and environmental impacts on the other areas of
18 the state;

19 (3) development of gas processing facilities in the areas will
20 promote full and stable employment, promote the creation of export markets
21 for the natural energy resources of the state, and promote the long-term
22 development of other natural resources in the state;

23 (4) it is in the statewide public interest, and is declared to
24 be a public purpose, to promote the prosperity and general welfare of all
25 citizens of the state by stimulating the development of gas processing
26 facilities in such areas;

27 (5) it is further in the statewide public interest, and is
28 declared to be a public purpose, to promote the exploration, drilling of
29 wells, development, and mining of minerals and other natural deposits

1 (other than oil and gas) in the state, to assist the state by diversifying
2 its economy, to make it less dependent on oil and gas, provide increased
3 employment opportunities and provide an incentive for investment in the
4 state; and

5 (6) the establishment of a special investment tax credit is
6 necessary in order to promote and accomplish the objectives listed in (1) -
7 (5) of this section.

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

9 (d) Where a credit allowed under the Internal Revenue Code is
10 also allowed in computing Alaska income tax, it is limited to 18
11 percent for corporations of the amount of credit determined for fed-
12 eral income tax purposes which is attributable to Alaska. This limi-
13 tation shall not apply to the credits allowed by AS 43.20.036(j) and
14 (k).

15 * Sec. 3. AS 43.20.036 is amended by adding new subsections to read:

16 (j) For purposes of calculating income tax payable under this
17 chapter the taxpayer may apply as a credit against a tax liability 100
18 percent of the investment credit allowed as to federal taxes under
19 Internal Revenue Code Section 38 (26 U.S.C. 38 P.L. 87-834) on the
20 full amount of qualified investment put into use south of the Arctic
21 Circle in the state for each taxable year for gas processing facili-
22 ties; for the purposes of this paragraph, "gas processing facilities"
23 means plants and facilities for processing any product, other than
24 crude oil, of an oil or gas well, including but not limited to lique-
25 fied natural gas, methanol and urea processing plants and facilities,
26 excluding any pipelines from oil and gas wells to any plants and
27 facilities. The amount of credit allowed under this subsection shall
28 not be subject to the limitations imposed by (b) of this section, but
29 any credit which is allowed under this subsection shall not also be

1 allowed under (b) of this section. No credit shall be allowed under
2 this subsection for any investment credit which is allowed as to
3 federal taxes for leased property by reason of section 168(f)(8) P.L.
4 97-34 of the Internal Revenue Code (26 U.S.C. 168(f)(8) P.L. 97-34).

5 (k) For purposes of calculating income tax payable under this
6 chapter the taxpayer may apply as a credit against a tax liability 100
7 percent of the investment credit allowed as to federal taxes under
8 Internal Revenue Code Section 38 (26 U.S.C. 38 P.L. 87-834) on the
9 full amount of qualified investment put into use in the state for each
10 taxable year for exploration, drilling of wells, development, or
11 mining of the natural deposits listed in Section 613(b) of the
12 Internal Revenue Code (26 U.S.C. 613(b))(P.L. 89-809 and P.L. 88-571);
13 for the purpose of this subsection, "mining" has the meaning given in
14 Section 613(c)(2) of the Internal Revenue Code (26 U.S.C. 613(c)(2)
15 P.L. 85-866). The amount of credit allowed under this subsection
16 shall not be subject to the limitations imposed by (b) of this
17 section, but any credit which is allowed under this subsection shall
18 not also be allowed under (b) of this section. Credit shall not be
19 allowed under this subsection for any investment credit which is
20 allowed as to federal taxes for leased property by reason of Section
21 168(f)(8) of the Internal Revenue Code (26 U.S.C. 168(f)(8) P.L.
22 97-34).

23 * Sec. 4. This Act applies to tax years beginning after December 31,
24 1983.

25 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
26 10.070(c).

STATE OF ALASKA
FISCAL NOTE

Revision Date 4/11, 1983

I. REQUEST

Bill/Resolution No: CSSSHB 258
 Title: Special Investment Tax Credit
 Sponsor: Hayes & Szymanski
 Requestor: House Finance

II. FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: Coll. & Mgmt
 BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-

CAPITAL	-	-	-	-	-	-
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REVENUE	-	-	-	-	-	-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Vincent D. Wright
 Division: Revenue - Research

Phone: 465-273
 Date: 4/7/83

Approved by Commissioner: [Signature]
 Department: Revenue

Date: 4/11/83

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

IV. Analysis of CSSHB 258

The incorporation of this expanded credit in effect would reduce state taxes as a deductible item at the federal level and thus increase the federal tax take.

The impact of this bill is negative to the state in terms of lost revenues. The quantitative impact cannot be assessed due to carry forward and carry backward provisions which vary from one existing operation to another. If the bill is intended for new facilities, the effect cannot be assessed until they are completed and in operation.

The following individuals are expected to testify on CS HB 258
(L&C):

Representative Joe Hayes, prime sponsor

Commissioner Bob Heath, Department of Revenue

Dave Heatwell, Alaska Miners Association

A representative of Cook Inlet Region, Inc.

Dick Folta, bill drafter from Legal Services, will be available
for questions

STATE OF ALASKA
FISCAL NOTE

Revision Date 4/11, 1983

I. REQUEST

Bill/Resolution No: CSSSHB 258
 Title: Special Investment Tax Credit
 Sponsor: Hayes & Szymanski
 Requestor: House Finance

II. FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: Coll. & Mgmt
 BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Vincent D. Wright
 Division: Revenue - Research
 Approved by Commissioner: *V. Wright*
 Department: Revenue

Phone: 465-273
 Date: 4/7/83
 Date: 4/11/83

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IV. Analysis of CSSHB 258

The incorporation of this expanded credit in effect would reduce state taxes as a deductible item at the federal level and thus increase the federal tax take.

The impact of this bill is negative to the state in terms of lost revenues. The quantitative impact cannot be assessed due to carry forward and carry backward provisions which vary from one existing operation to another. If the bill is intended for new facilities, the effect cannot be assessed until they are completed and in operation.

Analysis of SSB 258

Page 2 of 2

The incorporation of this expanded credit in effect would reduce state taxes as a deductible item at the federal level and thus increase the federal tax take at the expense of Alaska.

The bill is also discriminatory in that it applies only to specified geographical regions within the state.

The impact of this bill is negative to the state in terms of lost revenues. The quantitative impact cannot be assessed due to carry forward and carry backward provisions which vary from one existing operation to another. If the bill is intended for new facilities, the effect cannot be assessed until they are completed and in operation.

R.D.
4/12/83

STATE OF ALASKA
FISCAL NOTE

Revision Date 6/3/83

Rec'd 5-20-83

I. REQUEST

Bill/Resolution No: SCSCSSHB 258(SA)
Title: Special Investment Tax Credit
Sponsor: Hayes & Szymanski
Requestor: Senate State Affairs

II. FISCAL DETAIL

Agency Affected: Revenue
Program Category Affected: Coll. & Mgmt
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-

CAPITAL	-	-	-	-	-	-
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REVENUE	-	-	-	-	-	-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Vincent D. Wright
Division: Revenue - Research

Phone: 465-2173
Date: 6/13/83

Approved by Commissioner: *[Signature]*
Department: Revenue

Date: 6/14/83

Distribution:

- Original to Legislative Finance
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IV. Analysis of SCSCSSHB 258 (SA)

The incorporation of this expanded credit in effect would reduce state taxes as a deductible item at the federal level and thus increase the federal tax take.

The impact of this bill is negative to the state in terms of lost revenues. Since the bill is intended for new facilities, the effect cannot be assessed until they are completed and in operation.



ALASKA MINERS ASSOCIATION, INC.

509 W. Third Ave., Suite 17, Anchorage, Alaska 99501 (907) 276-0347

April 1, 1983

Representative Albert P. Adams, Chairman
House Finance Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Adams:

The Statewide Board of Directors of the Alaska Miners Association unanimously passed the attached resolution urging enactment of HB-258. The Alaska Miners Association represents approximately 1600 miners located throughout Alaska.

The Alaska Miners Association believes that the investment tax credits proposed in HB-258 will broaden Alaska's economic base. The people of Alaska are concerned about our state's dependence upon oil revenues and diversification of our state's economy is very important for the long term economic health in Alaska.

Many members of the legislature may be hesitant to consider a tax credit bill in the face of declining oil revenues. However HB-258 is an income - producing bill. It will send a strong signal to investors that Alaska is seriously attempting to attract mineral development and increase exploration and mining activity. The economic benefits accruing to the state will far outweigh the revenues lost by the tax credit.

The initial reduction in revenues by mineral investment would be small, less than ten million dollars annually. The tax credits will make Alaskan mineral investments more competitive on a world wide basis and lead to the establishment of a long term healthy mining industry.

We are asking for your help to obtain passage of this bill and make an investment in Alaska's long term economic future.

Sincerely yours,

ALASKA MINERS ASSOCIATION

Paul S. Glavinovich
President

PSG/vd
Attachment



ALASKA MINERS ASSOCIATION, INC.

509 W. Third Ave., Suite 17, Anchorage, Alaska 99501 (907) 276-0347

RESOLUTION - HOUSE BILL 258

Whereas the Alaska Miner's Association desires to foster the development of Alaska's mineral resources and,

Whereas the people of Alaska desire to broaden the economic basis of our state and,

Whereas the Investment Tax Credits proposed in HB-258 would provide financial incentives for the development of minerals in Alaska and indicate the strong support of the State of Alaska for a mining industry.

The Board of Directors hereby resolves to urge the Governor of Alaska, the Speaker of the Alaska State House, the President of the Alaska State Senate and the Chairpersons of House and Senate Resources Committee for expeditious passage of HB-258.

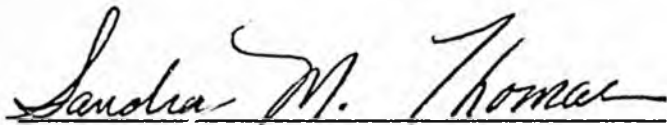
Approved

Fairbanks, Alaska

March 29, 1983



Paul Glavinovich - President



Sandra M. Thomas - Secretary

HOUSE BILL #258

TESTIMONY BY ROY M. HUHNDORF

GOOD AFTERNOON, LADIES AND GENTLEMEN. I AM HERE TO TESTIFY IN SUPPORT OF HOUSE BILL #258. MY NAME IS ROY HUHNDORF AND I AM PRESIDENT OF COOK INLET REGION, INC., THE ALASKA NATIVE REGIONAL CORPORATION IN THE ANCHORAGE AREA. I ALSO SERVE ON THE ANCHORAGE CHAMBER OF COMMERCE BOARD OF DIRECTORS AND HAVE BEEN ACTIVE IN SEVERAL COMMUNITY ORGANIZATIONS OVER THE YEARS.

I AM HERE TO SPEAK ~~IN~~ FAVOR OF THIS BILL
HOUSE BILL #258, AN INVESTMENT TAX CREDIT FOR STATE INCOME TAX PURPOSES, WILL HELP STIMULATE INVESTMENT IN WHAT MIGHT BE CALLED SECOND GENERATION RESOURCE PROJECTS. WE HAVE ALL BECOME AWARE OF THE PROBLEMS OF RELYING ON THE PRODUCTION AND EXPORT OF A FEW NATURAL RESOURCES. COMMODITIES SUCH AS OIL ... AND FISH ... AND TIMBER ... ARE EXTREMELY SENSITIVE TO THE WORLD MARKET AND HAVE BEEN LARGELY RESPONSIBLE ^{TO SOME EXTENT} FOR THE LARGE SWINGS THAT OFTEN BESET THE ALASKAN ECONOMY. HOUSE BILL #258 WOULD HELP TO STABILIZE THIS SITUATION BY STIMULATING THE PRODUCTION OF A BROADER RANGE OF NATURAL RESOURCES AND BY ENCOURAGING SECONDARY PROCESSING ACTIVITY WITHIN THE STATE.

THE BILL IS SPECIFICALLY DESIGNED TO ENCOURAGE DEVELOPMENT IN THREE AREAS IN WHICH THERE IS NOW LITTLE ACTIVITY - COAL PRODUCTION, MINERAL MINING, AND NATURAL GAS PROCESSING. AS THE BILL WOULD OPERATE, A PORTION OF THE SUBSTANTIAL INVESTMENTS REQUIRED TO DEVELOP THESE RESOURCES WOULD BE ELIGIBLE FOR A TAX CREDIT AGAINST STATE INCOME TAXES.

BY WAY OF BACKGROUND, IT IS CURRENTLY ESTIMATED THAT OUR STATE HAS COAL RESERVES EQUAL TO THOSE OF THE REST OF THE U.S. IT ALSO APPEARS THAT THE MINERAL AND NATURAL GAS RESERVES OF OUR STATE ARE OF A COMPARABLE SCALE. ~~FURTHERMORE,~~ ^{THE} FEASIBILITY OF EXPORTING THESE RESOURCES APPEARS TO BE MOVING CLOSER AND CLOSER TO THE POINT OF BEING COMPETITIVE IN THE WORLD MARKET. THE ASSISTANCE PROVIDED BY THE INCOME TAX CREDIT IN HOUSE BILL #258 COULD BRIDGE REMAINING COMPETITIVE DIFFERENCES AND STIMULATE DEVELOPMENTS TO OCCUR YEARS SOONER THAN CURRENTLY ANTICIPATED.

PRODUCING AND
A

WHAT IS OF CONCERN IS

~~ONE MIGHT ASK WHAT~~ THE COSTS OF THIS LEGISLATION ~~ARE~~ IN RELATION TO ITS BENEFITS. TO HELP ANSWER THIS QUESTION, I HAVE TRIED TO DEVELOP TWO REALISTIC EXAMPLES BASED UPON ROUGH, BUT REPRESENTATIVE ESTIMATES.

MY FIRST EXAMPLE IS DRAWN FROM A DETAILED FEASIBILITY STUDY OF A COAL MINE AT BELUGA. THIS WORK WAS DONE AS PART OF THE COAL-TO-METHANOL FEASIBILITY STUDY CONDUCTED BY COOK INLET REGION, INC. AND PLACER-AMEX INC.

HYPOTHETICAL
A

~~THE~~ THIS MINE WAS DESIGNED TO PRODUCE APPROXIMATELY 5 MILLION TONS OF COAL ANNUALLY. THE TOTAL CAPITAL EXPENDITURE OVER THE 30-YEAR LIFE OF THE MINE QUALIFYING FOR THE PROPOSED TAX CREDIT IS ESTIMATED AT ABOUT \$250,000,000, ^{OR} AN AVERAGE OF ABOUT \$8 MILLION PER YEAR. THE 10% TAX CREDIT WOULD THEN MEAN A POTENTIAL REVENUE LOSS TO THE STATE OF ALASKA OF \$800,000 PER YEAR ON AVERAGE ^{ONCE} PROFITABILITY OF THE OPERATIONS HAD BEEN ATTAINED.

THE MAXIMUM POSSIBLE REVENUE LOSS OVER THE 30-YEAR LIFE OF THE PROJECT WOULD BE ABOUT \$25,000,000.

AGAINST THIS LOSS, THE FOLLOWING GAINS HAVE TO BE MEASURED:

1. 400-500 PERMANENT JOBS ^{CREATED BY} IN THE PROJECT ITSELF, PLUS APPROXIMATELY 100-150 INDUCED SERVICE JOBS ^{ELSEWHERE} DUE TO THE ECONOMIC MULTIPLIER EFFECT.
2. A TOTAL PROJECT PAYROLL OF \$25-30,000,000 PER YEAR OR ABOUT \$850,000,000 OVER THE PROJECT LIFE.
3. IF THE COAL WAS MINED FROM STATE LANDS, ADDITIONAL ROYALTY PAYMENTS OF \$100-150,000,000 OVER THE PROJECT LIFE.

THE DOLLAR IN-FLOW OF LOCAL PAYROLLS AND ROYALTY PAYMENTS EXCEEDS LOST REVENUES BY A RATIO OF APPROXIMATELY 40:1. BY ANY MEASURE, THIS SEEMS TO BE A VERY GOOD RETURN ON INVESTMENT, PARTICULARLY SINCE THE STATE DOES NOT ACTUALLY EXPEND THE MONEY. IN EFFECT, IT PUTS ITS MONEY IN BY NOT COLLECTING SOME OF THE TAXES DUE ONCE A PROJECT HAS ACTUALLY BEEN BUILT.

MY SECOND HYPOTHETICAL EXAMPLE IS A ^{LIQUID NATURAL GAS} LNG PLANT TO PROCESS APPROXIMATELY 80,000,000 MCF OF NATURAL GAS FOR EXPORT EACH YEAR. THE TOTAL QUALIFYING CAPITAL EXPENDITURE OVER THE 20-YEAR LIFE OF THE PLANT WILL BE ABOUT \$500,000,000, OR AN AVERAGE OF ABOUT

\$25,000,000 PER YEAR. A 10% TAX CREDIT IMPLIES AN ANNUAL REVENUE LOSS TO THE STATE OF ALASKA OF \$2,500,000 ON AVERAGE. THE TOTAL MAXIMUM POSSIBLE REVENUE LOSS OVER THE 20-YEAR LIFE OF THE PROJECT WOULD BE \$50,000,000.

THE GAIN TO THE STATE AND OUR LOCAL ECONOMY WOULD BE AS FOLLOWS:

1. 150-200 PERMANENT JOBS CREATED BY THE PROJECT PLUS 1,200 OR MORE JOBS DURING CONSTRUCTION. (ADDITIONAL JOBS WOULD BE CREATED INDIRECTLY AS WELL.)
2. A TOTAL PROJECT PAYROLL OF \$15-20,000,000 PER YEAR OR \$350,000,000 OVER THE PROJECT LIFE.
3. STATE TAX REVENUES FROM A PRODUCTION TAX AMOUNTING TO \$20-30,000,000 PER YEAR OR \$500,000,000 OVER THE LIFE OF THE PROJECT.
4. ADDITIONAL STATE REVENUE ROYALTIES FOR PRODUCTION IF THE GAS CAME FROM STATE LANDS.

THE DOLLAR IN-FLOW OF LOCAL PAYROLLS AND ROYALTY PAYMENTS ^{WOULD} ~~WILL~~ LIKELY EXCEED \$1,000,000,000 ... VERSUS A LOSS OF REVENUES OF \$50,000,000 ... A RETURN-TO-LOSS RATIO OF MORE THAN 20:1.

THESE EXAMPLES POINT OUT A NUMBER OF ^{THE} ADVANTAGES ^{OF} OF THE PROPOSED LEGISLATION. THEY ARE:

1. THE STATE DOES NOT HAVE TO EXPEND DOLLARS TO CREATE JOBS: INSTEAD IT FOREGOES A SMALL PORTION OF FUTURE REVENUES CONTINGENT UPON PRIVATE ENTERPRISE ACTUALLY MAKING VERY LARGE INVESTMENTS INTO OUR STATE WHICH IN TURN CREATE JOBS.
2. MOST OF THESE JOBS WILL GENERALLY BE PERMANENT OPERATING JOBS RATHER THAN THE TEMPORARY CONSTRUCTION JOBS TYPICAL OF LARGE PUBLIC WORKS PROJECTS.

3. THE ITC IS A FORM OF LEVERAGED INVESTMENT -- ^{FOR EVERY} ~~A \$100,000,000 DOLLAR OF TAX REVENUE FOREGONE BY THE STATE, CAPITAL IMPROVEMENTS PROGRAM COSTS THE STATE AS MUCH AS 10 DOLLARS OF PRIVATE INVESTMENT IS REQUIRED -- \$1,000,000,000 IN PRIVATE INVESTMENT QUALIFYING FOR THE ITC. YET AND THE STATE DOES NOT PUT UP ITS MONEY UNTIL THE PRIVATE INVESTMENT CREATES MANY MORE PERMANENT JOBS. THE ENTERPRISE IS SUCCESSFULLY OPERATING.~~

FOR THESE REASIN

IN SUMMARY, I BELIEVE HOUSE BILL #258 IS OF GREAT POTENTIAL BENEFIT TO OUR STATE AND I URGE YOU TO PASS THE BILL ^{IN SUBSTANTIAL} AS CURRENTLY FORMULATED ITS CURRENT FORM.

T H A N K Y O U

HOUSE LABOR AND COMMERCE COMMITTEE

TESTIMONY OF DAVE HEATWOLE

for

HOUSE BILL 258

April 5, 1983

My name is Dave Heatwole and I am here to represent Alaska's mining industry. I am Chairman of the State Oversight Committee of the Alaska Miners Association, representing some 1,600 miners from large and small companies, and I have spent my entire professional career in the mining industry.

I believe all of you can agree with me that most Alaskans are very concerned about broadening out state's economic base. Why are we so dependent upon oil revenues? What are we going to do when the oil runs out?, are questions frequently asked by Alaskan public forums. What I would like to do today is give you some idea what the future mining industry could do for Alaska's economy and tell you why House Bill 258 is important to stimulate mining activity in our state.

Historically mining has always been important to Alaska -- The discovery of gold at the turn of the century led to Alaska's first great economic boom. Hard rock mining became active in the early 1900's with the development of the Kennecott and Alaska-Juneau mines. Mining was the mainstay of Alaska's economy until men and material restrictions of the second world war forced the closure of Alaska mines. After the war placer gold mining revived and is a significant part of Alaska's current economy. During 1982, the placer mining employed approximately 3,000 Alaskans and contributed approximately \$250 million to the state's economy.

In the late 1960's - early 70's, a few major mining companies returned to Alaska to begin mineral exploration programs. These companies returned to Alaska to begin mineral exploration programs, because foreign expropriations and pending domestic mineral shortages-made domestic mineral investments much more attractive. Alaska offered the United State's last great unexplored frontier. This recent mineral exploration activity has produced a few major mineral discoveries which have announced plans to be in production before 1990:

- o The Red Dog Deposits in Delong Mts., North of Kotzebue
- o Green's Creek Deposit on Admiralty Island
- o The Quartz Hill Deposit, near Ketchikan

The development of these deposits and other known occurrences could create a substantial addition to Alaska's economy -- mining, unlike oil, is a very labor intensive business. A majority of the new wealth created would stay in the state in the form of wages and goods purchased. John Whitney, a noted mineral economist, in 1979 predicted that the development of the deposits of NW Alaska, Red Dog and Ambler, would create over 1,000 new jobs in Alaska and produce annual gross sales on the order of \$570 million (1979 dollars). The Alaska Miners Association published a report last July which predicted, that given the proper combination of world metal prices, Alaska investment climate and infrastructure development, Alaska's major mining industry, could by the year 2000 provide 6,000 new jobs and add an estimated 3.0 billion to Alaska's economy.

I believe these studies indicate that mining has the potential to significantly impact Alaska's future economy.

The development of major mining, depends on two factors which involve state government.

1. Availability of infrastructure.
2. A stable investment climate

I am not going to discuss infrastructure today, suffice to say it is of equal importance to investment climate.

In order to be developed, Alaskan mineral deposits are going to have to compete on a world-wide basis. Metals produced in Alaska are going to be sold at the same price as those produced in Western U.S., South America, or South Africa. To be competitive, Alaska's costs of production must be comparable. Fortunately, nature has given Alaska some high grade deposits, which will help keep them competitive, but Alaskan costs are high.

By allowing investors to recoup their risk capital quicker the investment tax credits proposed in House Bill 258 will help keep the costs of Alaskan mineral development competitive. But more importantly, enactment of House Bill 258 will send a strong signal to outside investors that the State of Alaska is serious about developing its mineral industry by providing incentives for investment.

As stated in the attached letter to Speaker Hayes, House Bill 258 should be considered an income producing bill. The immediate cost of enactment is very small, but potential impact on the Alaska's future economy is quite substantial. For a diversified economy in Alaska, I urge you to pass this bill.



ALASKA MINERS ASSOCIATION, INC.

509 W. Third Ave., Suite 17, Anchorage, Alaska 99501 (907) 276-0347

April 1, 1983

Representative Joe L. Hayes
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Hayes:

The Statewide Board of Directors of the Alaska Miners Association unanimously passed the attached resolution urging enactment of HB-258. The Alaska Miners Association represents approximately 1600 miners located throughout Alaska.

The Alaska Miners Association believes that the investment tax credits proposed in HB-258 will broaden Alaska's economic base. The people of Alaska are concerned about our state's dependence upon oil revenues and diversification of our state's economy is very important for the long term economic health in Alaska.

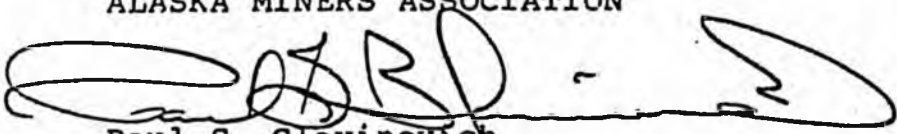
Many members of the legislature may be hesitant to consider a tax credit bill in the face of declining oil revenues. However HB-258 is an income-producing bill. It will send a strong signal to investors that Alaska is seriously attempting to attract mineral development and increase exploration and mining activity. The economic benefits accruing to the state will far outweigh the revenues lost by the tax credit.

The initial reduction in revenues by mineral investment would be small, less than ten million dollars annually. The tax credits will make Alaskan mineral investments more competitive on a world wide basis and lead to the establishment of a long term healthy mining industry.

We are asking for your help to obtain passage of this bill and make an investment in Alaska's long term economic future.

Sincerely yours,

ALASKA MINERS ASSOCIATION


Paul S. Glavinovich
President

PSG/vd
Attachment



ALASKA MINERS ASSOCIATION, INC.

509 W. Third Ave., Suite 17, Anchorage, Alaska 99501 (907) 276-0347

RESOLUTION - HOUSE BILL 258

Whereas the Alaska Miner's Association desires to foster the development of Alaska's mineral resources and,

Whereas the people of Alaska desire to broaden the economic basis of our state and,

Whereas the Investment Tax Credits proposed in HB-258 would provide financial incentives for the development of minerals in Alaska and indicate the strong support of the State of Alaska for a mining industry.

The Board of Directors hereby resolves to urge the Governor of Alaska, the Speaker of the Alaska State House, the President of the Alaska State Senate and the Chairpersons of House and Senate Resources Committee for expeditious passage of HB-258.

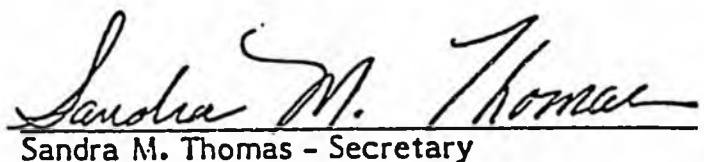
Approved

Fairbanks, Alaska

March 29, 1983



Paul Glavinovich - President



Sandra M. Thomas - Secretary

STATE OF ALASKA
DEPARTMENT OF REVENUE

BILL ANALYSIS

Sponsor Substitute for House Bill No. 258

Title: An Act establishing a special investment tax credit and providing for an effective date.

General Effect of Bill: The Bill would create a special investment tax credit on qualified investments for corporations putting into use gas processing facilities south of the Arctic Circle and corporations engaged in the exploration, drilling of wells, development, or mining of the natural deposits listed in I.R.C. §613(b) south of the Arctic Circle.

Effect on Current Law: Current law provides for an investment credit of 18 percent of the investment credit allowed under the I.R.C. upon the first \$20,000,000 of qualified investment put into use in the State for each taxable year. The new Act provides that the investment credit allowed for those corporations subject to the Act shall be the full amount of the investment credit allowed under the I.R.C. with no limit on the amount of qualified investment credit.

Recommendation of Department: The Department of Revenue recommends a thorough study of the effects of the Bill be conducted. The study should include an analysis of the incentive the Bill will provide to the targeted corporations, a review by the Department of Law as to the constitutionality of the geographic limitations of the Bill, the projected revenue impacts to the State. **Current Position of Department:** The Department is naturally in favor of encouraging the best and highest use of the State's resources but further analysis of the means proposed in the Bill is required before taking a position.

TECHNICAL ASPECTS OF BILL

Section 1: This section of the Bill presents the legislative findings and intent for the Bill. It is found that the development of gas processing facilities south of the Arctic Circle and mineral development is in the best of the interests of the State. Subsection 6 finds that the establishment of the special investment tax credit is necessary in order to promote and accomplish the objectives listed in the first five subsections.

Section 2: Section 2 adds a sentence to AS 43.20.021(d) which effectively states that the Alaska Investment Credit which is normally limited to 18% of the credit allowed under the I.R.C. would not apply to the special investment credit created in the Bill.

Section 3: Section 3 amends AS 43.20.036 by adding subsection (j). The new subsection would provide that the amount of investment credit

allowed on qualified investment put into use south of the Arctic Circle for gas processing facilities is equal to the full amount of the credit under the I.R.C. Whereas the current investment credit is limited to the first \$20,000,000 of qualified investment put into use in the State for each taxable year, this section would remove that limitation. The section also defines what constitutes gas processing facilities.

Section 4: Section 4 is similar to section 3 but applies to corporations putting into use investments south of the Arctic Circle for exploration, drilling of wells, development, or mining of the natural deposits listed in §613(b) of the Internal Revenue Code. The section again provides for the credit to equal 100% of the federal investment credit and removes the limitation of the credit being applicable to the first \$20,000,000 of qualified investment put into use in the State.

Explanation of Changes from Current law: AS 43.20.021(d) and AS 43.20.036(b) provide for an investment credit equal to 18% of the investment credit allowed as to federal taxes under the Internal Revenue Code on the first \$20,000,000 of qualified investment put into use in the State for each taxable year. For example, if a corporation had a qualified investment of \$25,000,000 during tax year 1983, it would be allowed an investment tax credit on the first \$20,000,000 of that investment. If the federal credit was 10% of the qualified investment, the federal credit would be equal to \$2,000,000 and the Alaska credit equal to 18% of that or \$360,000. The corporation could then apply that credit to its tax liability for 1983 and reduce its tax payment to the State.

If the investment credit for the corporation is greater than the tax liability before the application of the credit, the corporation can carryback the excess credit to each of the 3 prior taxable years preceding the unused credit year and carryover the excess credit to each of the 15 years following the unused credit year. For example, if the corporation above had a tax liability to the State of \$180,000 for tax year 1983 before the application of the credit, the credit would completely eliminate the tax due to the State and leave \$180,000 of credit to be carried back or forward and applied to other years.

The Bill would remove the limitation that the credit would be limited to the first \$20,000,000 of qualified investment put into use in the state for each taxable year. In addition, the amount of the credit would be equal to the full amount of the credit allowed as to federal taxes under I.R.C. § 38. Returning to the example above, the corporation making \$25,000,000 of qualified investment in the State in 1983 would be entitled to an investment credit of \$2,500,000. Again, if the 1983 tax liability prior to the application of the credit was \$180,000, the corporation would have \$2,320,000 of unused credit to carry back and carry forward.

It is important to note that not all of the investment credit given to a corporation as a result of the Bill would be enjoyed on a dollar for dollar

basis. Corporations enjoy a deduction for State taxes in computing their Federal income tax liability. With a tax rate of 46% on taxable income over \$100,000, 46¢ out of every dollar saved in Alaska taxes would go to the Federal Treasury. Again using the example above, of the \$180,000 credit enjoyed by the taxpayer in 1983, 46% or \$82,800 would be paid to the Internal Revenue Service.

The Bill would effectively increase the investment credit on the first \$20,000,000 of qualified investment by more than 550%, from 18% of the Federal credit to 100%. It would also allow for the first time, an investment credit on qualified investment in any taxable year which exceeds the \$20,000,000. The fiscal impact of the credit would not be limited to the year in which the investment was made, but may have an effect for 3 prior years and 15 subsequent years.

Fiscal Impacts Of Bill: The actual fiscal impacts of the Bill are indeterminate. The impacts are dependent on corporate decisions regarding business investments, the future profitability of mining and gas processing ventures in the State and the number of years in which the investment tax credit could be applied to reduce tax liabilities.

Legal Ramifications: There are several legal problems with the Bill, both in its substance and in its drafting. In the area of substance, the Bill has a geographic limitation, the new credit will only be available south of the Arctic Circle. There would be potential for an equal protection challenge by corporations operating North of the Arctic Circle. The rational basis standard would probably be the standard to be applied in such a challenge and some argument could be made in favor of the distinction for gas processing plants because of the findings in § 1 of the bill however, no findings or intent are supported for the limitation on the exploration, drilling of wells, development and mining of minerals and other natural deposits. The State is currently involved in litigation with \$2.3 billion at stake involving the taxation of oil producers and pipeline operators under AS 43.21. The plaintiff taxpayers challenged that tax on the basis of equal protection. To the extent that this Bill would endow a greater benefit on corporations operating south of the Arctic Circle a similar equal protection challenge could be expected from corporations otherwise qualifying for the credit but making investments north of the Arctic Circle.

There are drafting problems in the Bill itself. In §§ 3 and 4 the limitations imposed under AS 43.20.036(b) are deemed not to apply to the new credits. AS 43.20.036(b) contains two limitations: (1) that the investment credit is only available to the first \$20,000,000 of qualified investment; and (2) that the qualified investment must be put into use in the State. The Bill should be amended and the applicable sentences changed to read:

The amount of credit allowed under this subsection shall be subject to the limitations imposed by (b) of this section except that the amount of qualified investment will not be limited to the first \$20,000,000.

The Bill incorporates provisions of the Internal Revenue Code by Reference and sometimes problems arise where the Code changes with resulting impacts in Alaska law. For example, the natural deposits for which a corporation must explore, drill, develop or mine are listed in § 613(b) of the Internal Revenue Code. That subsection has been amended several times since its first enactment and will probably be subject to further amendments. The Drafter has cited P.L. 89-809 and P.L. 88-571 as parallel authority, however, those Public Laws merely amended § 613(b) rather than listed the deposits currently in § 613(b). The better alternative would be to list those specific deposits which the Bill would encourage the development of through the special investment tax credit.

OTHER CONSIDERATIONS AND ALTERNATIVES TO THE BILL

Mining operations in Alaska are subject to three non-federal taxes, the Alaska Corporation Net Income Tax (AS 43.20), the Alaska Mining License Tax (AS 43.65) and local property taxes. A study by the Department of Commerce and Economic Development compared the mineral tax structure in Alaska with eleven other states. The conclusions were positive: 1) Alaska's tax structure is average compared with the eleven other states in the study and provides a relatively attractive tax environment for mining; 2) Alaska's progressive tax structure is based on net proceeds, superior to gross-proceeds types of taxes because tax rates go down as production declines.

In February, 1983, the Resource Development Council, Inc., along with the Office of Minerals Development, Alaska Department of Commerce & Economic Development, sponsored the International Conference on Coal, Minerals and Petroleum. In Carl Portman's "Executive Summary" for the proceedings of the conference, after recognizing that Alaska's mining activity was at an all time high, noted three obstacles to development of mineral deposits. The major obstacle to development of mineral deposits is the lack of transportation infrastructure. Another problem was that land allocations by the Federal government withdrew much of the State's high potential mineral land and restricted access to other State areas. Taxes were also mentioned, but the problems with taxes arose not out of the present tax structure, which was found to be reasonable, but out of the fear that mining taxes would be increased as the mining industry becomes increasingly productive.

Two out of the three concerns mentioned above are in the jurisdiction of the Alaska legislature, transportation infrastructure and taxation. Improving the transportation infrastructure in the state through the development of more and better roads, access to the railroad, marine shipping facilities and airports would benefit and encourage the industry with no leakage to the Federal Government such as that created by State tax credits. Improved transportation infrastructure also benefits the non-mining sectors because the high costs of transportation in the State are borne by every Alaskan who buys anything from bubble gum to bulldozers.

There are no current problems with taxation other than the fear that the structure might change with the success of mining operations. The non-petroleum mineral developers have not been blind to the fact that the severance tax

rates have increased and there have been changes in the corporation income tax since oil was first discovered at Prudhoe Bay. Though the opportunity to change tax structures presents itself at each legislative session, persons seeking to develop mineral deposits must forecast the future economic climate and decide whether the changes can be weathered and the mine remain profitable.

A tax credit, such as that proposed in the Bill could partially insulate the miner to the extent that carryover credits would reduce the liability in future years. However, because of the federal leakage, a tax credit is a mixed blessing, providing little more than half of the benefit to the miner compared to the cost to the State in lost revenue. Whereas the State has been able to support its operations largely through taxes on the petroleum industry, oil prices are dropping and current reservoirs are being depleted; lost revenues in other tax types correspondingly taken on greater significance.

For the tax years 1978, 1979 and 1980 corporate income taxes on mining businesses constituted between 6 1/2% and 10% of the total non-petroleum corporate net income tax collections. In turn, total non-petroleum corporate income tax collections were slightly more than 3% of the revenues from petroleum corporations. Because revenue estimates based on petroleum production are decreasing, the non-petroleum corporations will be contributing a greater proportion of total State revenues. In 1980, the mining industry was the fifth largest corporate income tax group of taxpayers in the non-petroleum sector.

The conclusion of this analysis is that tax benefits granted the non-petroleum sector should be carefully scrutinized to ensure that the costs to State revenue do not exceed total benefits to the State. Other incentive mechanisms, such as improvement of the transportation infrastructure, as above, or other incentives, such as those described below, should be examined to see which alternatives score higher under a cost versus benefit analysis.

One alternative would be a mineral development loan program. State funds or bond proceeds could be used to finance mineral development, or for that matter, gas processing facilities, without affecting tax revenue. The rates could be favorable and would directly benefit the mineral developer without Federal leakage. Loan applications could be reviewed within legislative guidelines to encourage the highest and best use of the State's natural resources, the interest would partially fund the operation of the program, and the developer would enjoy interest deductions for both State and Federal purposes. Either the current or a modified investment credit provision would supplement the tax benefits from such a loan program.

Another alternative would be to enact legislation similar to the Alaska Industrial Incentive Act, AS 43.25, or adopt industrial incentive tax credits such as those previously found in AS 43.26. The advantages of those alternatives over the investment credit approach in the Bill are that the effect on revenue to the State would be for a known period of time, and that businesses able to benefit from the tax exemptions would be selected by a State agency within legislative guidelines which encourage mineral development and construction of gas processing facilities.

SUGGESTIONS FOR IMPROVING THE PRESENT BILL

1. Remove the geographic limitations in the Bill. Development of gas processing facilities and State resources would be beneficial without regard to the region of development. Major oil companies have mining and gas processing interests and would be likely to raise a constitutional challenge to a geographic limitation.
2. Either keep the present limit on qualified investment or keep the current 18% of the Federal limit on the amount of the credit. The State has the potential of having 19 years of fiscal impact from an investment tax credit, the year it arises, 3 prior years and 15 subsequent years. Anything to make the impact predictable will aid the budget process.
3. Limit the number of years to which the investment credit could be carried backward or forward. As stated above, the Internal Revenue Code provides for 3 years back and 15 forward. A shorter period of time would be in the State's best interest.
4. Specifically list the minerals which the State wishes to encourage the development of rather than refer to the code. For example, the code lists gravel in the referenced section; is this a mineral the legislature wishes to subsidize with an investment tax credit?
5. Research whether the Bill would actually reach the desired results. Is an investment credit really going to make a difference in development decisions?

SUMMARY

This Bill seeks to encourage investing in gas processing facilities and certain mining activities south of the Arctic Circle through special investment tax credits. The special investment tax credits differs from the current credit in that there is no limit to the amount of qualified investment and the credit is equal to the full amount of the Federal credit. The new credits would have fiscal impacts on the tax year in which they arise and may have an effect in 3 prior and 15 subsequent years.

The legislature should explore the actual effectiveness of the proposed credit and whether other programs would reach the desired end more directly without such fall-out effects such as Federal leakage and unpredictability of future State revenue.

CIRI COOK INLET REGION INC.

Inter - Office Memorandum

TO: Lance Anderson, Vice President, Finance
FROM: Steve Hillard, Vice President and General Counsel
Date: March 28, 1983
Subject: CONSTITUTIONALITY OF GEOGRAPHIC CLASSIFICATION IN INVESTMENT TAX CREDIT BILL

You have asked for a review of the constitutionality of a geographic distinction contained in an bill drafted by CIRI and introduced in the Alaska State Legislature. The legislation will grant certain investment tax credits to those gas processors located south of the Arctic Circle. The question presented is whether this type of classification, based on geography, violates the United States or Alaska Constitutions.

Based upon a review of pertinent federal and state authorities, it is my view that the proposed legislation does not violate the United States or Alaska Constitutions.

I. Federal Constitutional Issues

It is useful to note at the outset that there is one significant constitutional provision which does not appear to apply to the proposed tax credit. The United States Constitution provides that all taxes levied by Congress shall be uniform throughout the United States. U.S. Const. Art. 1, Section 8. The United States Supreme Court has consistently interpreted this requirement to mean geographic uniformity. Knowlton v. Moore, 178 U.S. 41 (1900); Steward v. Davis, 301 U.S. 494 (1938). Under this interpretation, distinctions among the states are impermissible. Thus, the United States District Court for the District of Wyoming has recently held that the Crude Oil Windfall Profits Tax Act of 1980 is unconstitutional because it exempts oil produced from north of the Arctic Circle. Ptasvnski v. United States, 82-2 USTC Para. 9654 (D.C. Wyo. 1982). The court noted that although rational justifications for the exemption do exist, the exemption is specifically forbidden by the Constitution. In short, the court appeared to hold that geographic distinctions are per se unconstitutional. The United States Supreme Court recently has determined to review this distinction.

In light of these precedents, it would appear that if Congress were to enact the proposed bill, the bill would run a strong risk of being held unconstitutional. The federal uniformity provision, however, by its terms applies only to acts of Congress, not acts of the states. Generally it has been held, for example, that there is nothing in the United States Constitution which requires state taxation to be uniform. See Carmichael v. Southern Coal Co., 301 U.S. 495 (1937). Thus, the proposed legislation does not violate the uniformity clause of the United States Constitution.

It is also possible to assert that the legislation violates the Equal Protection Clause of the Fourteenth Amendment. It might be contended, in other words, that the proposed legislation impermissibly discriminates against gas processors

located north of the Arctic Circle. The United States Supreme Court, however, has consistently held that where state "taxation is concerned and no special right, apart from equal protection, is imperiled, the States have large leeway in making classifications and drawing lines which in their judgment produce reasonable systems of taxation." Lehnhauser v. Lake Shore Auto Parts, 410 U.S. 356 (1973); State Board of Tax Comm'rs of Indiana v. Jackson, 283 U.S. 527 (1931). The appropriate test to be applied to state taxation schemes is whether the state classification has a "rational basis" or whether it is "palpably arbitrary" or "capricious." Id. If "any state of facts reasonably can be conceived" to justify a classification, the Court will sustain it.

Applying the foregoing principles to the proposed legislation, it appears that the Supreme Court would uphold the classification. Although not in the context of a taxation case, the Supreme Court has specifically stated that the "Equal Protection Clause relates to equality between persons as such rather than between areas Territorial uniformity is not a constitutional requisite." Salsburg v. Maryland, 346 U.S. 545 (1954). In the tax area, the Court has upheld a state tax which provided for different tax rates based on the "gravity" of certain oil and which arguably discriminated between oil produced in Northern and Southern Louisiana. Ohio Oil Co. v. Conway, 228 U.S. 146 (1930). The Court held that the classification based on "gravity" was not unreasonable. Although not directly on point, since the case did not involve a specific geographic distinction, Conway does confirm that the Court will apply a relaxed standard of review to state taxation schemes and that all areas of a state need not have an equal tax burden.

A number of lower courts have specifically addressed state tax classifications based on geography. These courts have held that "distinctions based on geographical areas are not, in and of themselves, violative of the Fourteenth Amendment." Levy v. Parker, 346 F.Supp. 877 (E.D. La. 1972); McCarthy v. Jones, 449 F.Supp. 480 (S.D. Ala. 1973) (no "rational basis" for different tax rates for different counties); Weissinger v. Boswell, 330 F.Supp. 615 (M.D. Ala. 1979) (same). These courts have explained that a state "must demonstrate, if it wishes to establish different classes of property based on different geographical locations -- e.g., rural areas as opposed to urban areas -- that the classification is neither capricious nor arbitrary but rests upon some reasonable consideration of difference or policy." Id.

The question thus remains whether the justification asserted for the geographic classification in this case -- to encourage the location of a certain industry in a certain region of the State -- is sufficient to sustain the classification. Although I have not found a case directly on point, the Supreme Court has suggested that tax classifications designed to create incentives for business to locate within a state are permissible. In Allied Stores of Ohio v. Bowers, 358 U.S. 522 (1959), the Court stated that a tax statute which "encourages the location within the state of needed and useful industries by exempting them, though not also others, from its taxes is not arbitrary and does not violate the Equal Protection Clause of the Fourteenth Amendment." The same rationale would appear to apply equally well to the proposed legislation here, since it is designed to encourage location of a business in a particular part of the state.

II. Alaska Constitutional Issues

There are at least three potential issues under the Alaska Constitution. First, the legislation might violate an implied requirement of "equality and uniformity" of all state taxes. Second, the legislation might violate the Equal Protection Clause found in the Alaska Constitution, Article I, Section 1, which has been interpreted somewhat differently from the Equal Protection Clause of the Fourteenth Amendment. Third, the legislation might constitute a "local or special act" prohibited by Article II, Section 19 of the Alaska Constitution. Let me address the first two issues together, since they are interrelated.

It is necessary to begin with a bit of background. The vast majority of state constitutions embody some provisions for "uniform or equal" taxes. There is, however, no such provision in the Alaska Constitution. The general rule appears to be that in the absence of express provision in the state constitution, it is not essential that state tax statutes operate equally and uniformly. See generally 84 C.J.S. 2d. Taxation, Section 21 (discussing authorities). However, at least one court has held that the principle of uniformity in taxation applies even in the absence of an explicit constitutional provision. See, e.g., Commissioners of Sinking Fund of City of Louisville v. Ohio Valley Grocery Store Co., 240 S.W. 2d 56 (Ky.). Thus, there is at least some possibility that a court might imply a uniformity requirement in the Alaska Constitution.

This possibility is further complicated in the State of Alaska. Although the Constitution of the State of Alaska nowhere requires state taxes to be uniform, Section 9 of the Organic Act of Alaska, 48 U.S.C. Section 28, provides that "all taxes should be uniform upon the same class of subjects." Under the Organic Act, the courts have interpreted the requirement of uniformity to require geographic uniformity. In Hess v. Mullaney, 91 F.Supp. 139 (D.C. Alaska 1950), reversed on other grounds, 189 F.2d 417 (9th Cir. 1950), the court considered whether Alaska's first property tax violated the uniformity requirement of the Organic Act. The property tax levied a tax on all properties in the state, provided that if the property was located within an incorporated city, town or school district, that entity should assess and collect the tax. Plaintiff claimed that the tax was unlawful, since property would be taxed differently depending on where it was located. The District Court agreed, reasoning that classifications may not be based on geographical lines or mere location of the property.

This view was somewhat modified in a successor case, Hess v. Mullaney, 102 F. Supp. 430 (D.C. Alaska 1952), affirmed, 213 F.2d 635 (9th Cir. 1954). Although the court ultimately upheld the property tax, it acknowledged that "unquestionably, systematic geographical discriminations in the burdens of taxation have been held void." The court found, however, that "we assume that the uniformity clause of the Organic Act requires the same measure of uniformity or equality which is required by the Equal Protection Clause of the Fourteenth Amendment." The court held that under the "rational basis" test, it was reasonable for the legislature to have cities assess and collect taxes for property within their jurisdiction.

In light of the foregoing, a strong argument can be made that a separate and distinct "uniformity" requirement no longer exists in Alaska. First, the Alaska Constitution does not provide for uniformity. The Organic Act is a mere act of Congress, and, whatever its continuing effect in light of Alaska statehood, it

probably adds little to the provision of the Alaska Constitution. Second, even if the uniformity requirement of the Organic Act is still controlling, the Ninth Circuit in Hess v. Mullaney held that the Alaska uniformity requirement is no stricter than the equal protection requirement.

A recent case, State v. Reefer King Co., Inc., 559 P.2d 56 (Alas. 1976), support this view and is particularly relevant to this case. The case involved the constitutionality of a state tax which drew a distinction between "floating" and "shore-based" fish processors. Because the tax placed a higher tax rate on floating processors, the floating processors claimed that the statute created an illegal classification under the State equal protection clause. The Alaska Supreme Court rejected that contention. Although the classification could in one sense be deemed to be a "geographical" classification, the Court did not even mention the Hess v. Mullaney cases. Instead, the Court held that the classification should be tested against the State's equal protection analysis, which provides that a statutory classification must

"be reasonable, not arbitrary, and must rest upon some ground of difference having fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced, shall be treated alike."

The Court held that the classification reflected a legislative judgment that shore-based processors make a more valuable contribution to the State's local economies than the floating processors. According to the Court, it is not arbitrary for the legislature to conclude that shore-based processors were to be preferred over floating processors, which distributed economic benefits over several locations. And, in important language for the present issue, the Court concluded that

"The state may legitimately encourage, through tax incentives or exemptions, industries or types of industries which it considers desirable, and this method of encouragement does not deprive other taxpayers, who do not qualify for the benefit, of equal protection of the laws."

Two additional points should be made with respect to Reefer King. First, the case strongly supports the notion that the State of Alaska may make a classification in order to encourage businesses to locate in a particular area. A primary reason for CIRI's proposed legislation, of course, is to encourage gas processors to locate south of the Arctic Circle. Second, the equal protection test adopted by the Alaska Supreme Court is somewhat more demanding than the test used in interpreting the Equal Protection Clause of the Fourteenth Amendment. The Alaska test, for example, requires the classification to bear a "fair and substantial" relation to the purpose of the statute, rather than merely a "reasonable" relationship. More significantly, under the Alaska test, unlike the federal test, the courts will "no longer hypothesize facts which would otherwise sustain questionable litigation." Isakson v. Rickey, 550 P.2d 359 (1975). This means that in order to survive constitutional scrutiny, the proposed legislation must clearly articulate the purpose of the legislation and the rationale for the geographic classification. The rationale for the geographic classification is expressly contained in the investment tax credit bill.

There is one final issue. Article II, Section 19 of the Alaska Constitution provides that the "legislature shall pass no local or special act if a general act can be made applicable." In this case, it could be argued that the proposed legislation is a local or special act in that it favors a particular region of the State.

It is doubtful that the proposed legislation constitutes a local or special act. In Baucher v. Engstrom, 528 P.2d 456 (Alas. 1974), the Alaska Supreme Court stated that "legislation does not become local merely because it operates only on a limited number of geographical areas rather than on a statewide geographical basis. A legislative act may affect only one of a few areas and yet relate to a matter of statewide concern or common interest." Accord, Abrams v. State, 534 P.2d 91 (Alas. 1975); State v. Lewis, 559 P.2d 630, cert denied, 432 U.S. 901 (1977) (upholding the land exchange between CIRI, the United States and Alaska). Thus, to the extent the proposed legislation is a matter of statewide concern, which we believe it is, the proposed legislation is permissible.

More significantly, the Alaska Supreme Court in State v. Lewis held that the test for determining what constitutes "local or special" acts is substantially the same for determining what violates the State equal protection clause. If the equal protection standard is satisfied, "the legislation will not be invalid because of incidental local or private advantages." Id. In terms of our case, then, the crucial issue is whether the proposed legislation violates the State standard of equal protection. If not, Article II, Section 19 will not pose a problem.

SCH:lw

Alaska State Legislature



Speaker of the House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

SPECIAL INVESTMENT TAX CREDIT LEGISLATION

As projections of declining revenue loom in Alaska's near future, we must begin to diversify our economy so that both state government and local economies are not so heavily dependent on oil derived revenues. I have introduced legislation which would accomplish this goal by establishing a special investment tax credit. Such a credit would apply for investments to develop gas processing facilities South of the Arctic Circle and to investments for exploration, development and mining of minerals other than oil and gas throughout Alaska. A major priority of both myself and the House Majority is diversification of our economy. I believe enactment of this legislation would go a long way towards achieving that goal.

Currently state law limits the amount of investment tax credit (ITC) which is allowed to corporations in computing their Alaska income taxes to 18% of the amount of investment tax credit which is allowed for federal income tax purposes. So while the Federal ITC is 10%, the Alaska investment tax credit is only 1.8%. Current law also limits the ITC which is allowed in computing Alaska income taxes to the first \$20 million of qualified investment put into use in the state for each taxable year. That limitation would be removed by this bill.

The Alaska tax credit would only apply to investments which also qualify for the federal credit. This is primarily personal property such as trucks, machinery and manufacturing equipment.

It would not include roads, buildings, mine sites and such things as feasibility studies. Using the \$1 billion Quartz Hill mine project for example, a very limited amount of that development would qualify for the tax credit. But enough of an incentive would be created to attract industry to Alaska that currently is lacking.

The promotion of exploration, development and mining of minerals and other natural deposits in the state will encourage development of Alaska's non oil and gas mineral resources. This legislation would also accelerate the diversification of the state's economy and employment base.

One new addition to this legislation, not included in the version which passed the House last session, is inclusion of gas processing facilities South of the Arctic Circle. There are areas in Alaska where established infrastructure, access to ice free ports and substantial amounts of uncommitted reserves of natural gas combine to provide great potential for gas processing development and export activity. The development of these gas processing facilities will promote full and stable employment and minimize adverse population and environmental impacts.

I expect the impact on state revenues upon enactment of this legislation would be minimal. While initially there would be a slight loss of revenue, the long range goal to promote investment and development would increase non petroleum related revenue in future years. The investment tax credit is a temporary tax reduction directly tied to profitable investment that will produce increased revenues in the future. Additionally, investments in targeted industries may substantially expand local governments sales and property tax bases. If the Prudhoe bay curve is accurate, and oil revenues begin to decline in the late 1980's, it is our responsibility to plan to offset that decline. I am confident it will have the support of the administration, which has stated a desire to reach this goal as well.

#

22, SLA 1980, unconstitutional as violative of the equal protection provision of art. I, § 1 of the Alaska constitution.

Sec. 43.20.021. Internal Revenue Code adopted by reference.

(a) Subtitle F and chapter 1 of subtitle A of the 1954 Internal Revenue Code, Public Law 83-591, as amended, are adopted by reference as a part of AS 43.20.011 — 43.20.350, except that those provisions of the Internal Revenue Code adopted after December 31, 1975 which change or modify exemptions from tax or credits against tax are not adopted by reference as a part of AS 43.20.011 — 43.20.350 until the second January 1 following the effective date of the federal law. These portions of the Internal Revenue Code have full force and effect under AS 43.20.011 — 43.20.350 unless excepted to or modified by other provisions of AS 43.20.011 — 43.20.350.

(b) For purposes of calculating the federal tax payable on personal holding companies provided for in the provisions of Internal Revenue Code § 541, the rate is 12.6 per cent.

(c) For purposes of calculating the alternative tax on capital gains provided for in the provisions of Internal Revenue Code § 1201, the rate is 4.5 percent for corporations.

(d) 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.

(e) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1960

(f) For the purpose of calculating the minimum tax on tax preferences provided for in §§ 56 — 58 of the Internal Revenue Code (26 U.S.C. §§ 56 — 58), the rate is 18 percent for corporations of the applicable minimum federal tax rate.

(g) For purposes of calculating the accumulated earnings tax as provided in § 531 of the Internal Revenue Code, the rate is 4.95 percent of the first \$100,000 of accumulated taxable income and 6.93 percent of accumulated taxable income in excess of \$100,000. (§ 2 ch 70 SLA 1975; am §§ 1, 2 ch 125 SLA 1976; am §§ 12, 13 ch 113 SLA 1980, am §§ 3 — 5, 10 ch 1 SSSLA 1980; am §§ 3 — 5, 9 ch 2 SSSLA 1960)

Effect of amendments. — The first 1980 amendment, retroactive to January 1, 1980, in subsection (d), deleted "of the amount of the credit determined for federal income tax purposes" following "is limited to 16 percent", inserted "and fiduciaries," and added "of the amount of credit determined for federal income tax purposes which is attributable to Alaska"; and added subsection (g).

The second 1980 amendment, retroactive to January 1, 1980, deleted "and 4 percent for individuals and fiduciaries"

from the end of subsection (c). "16 percent for individuals and fiduciaries and following "limited to" in subsection (d), and "16 per cent for individuals and following "the rate is" in subsection (f), and repealed subsection (e), which read "For the purpose of calculating the minimum tax rate on earned income as provided for in § 1348 of the Internal Revenue Code (26 U.S.C. § 1348), the rate is 9.5 percent for individuals."

The third 1980 amendment, retroactive to January 1, 1979, made the same

changes as the se
Editor's notes
SLA 1980 makes
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December 31, 197

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Sec. 43.20.
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STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 11, 1983

SUBJECT: Equal protection analysis of HB 258

TO: Representative Albert P. Adams
Chairman, House Finance Committee
Attn: Louann Cutler

FROM: Richard C. Folta 
Legislative Counsel

I have reviewed the "constitutionality of geographic classification in the investment tax credit bill" memorandum by Cook Inlet Region, Inc., concerning the above referenced bill. I concur in their view that the proposed legislation does not violate the constitution.

The Alaska Supreme Court has a more rigorous equal protection requirement than the U.S. Supreme Court, as elicited in State v. Erickson, 574 P.2d 1 (1978), as follows:

. . . must look to the purpose of the statute, viewing the legislation as a whole, and the circumstance surrounding it. It must be determined that this purpose is legitimate, that it falls within the police power of the state, Examining the means used to accomplish the legislative objective and the reasons advanced. Therefore, the court must then determine whether the means chosen substantially further the goals of the enactment. Finally, the state interest in the chosen means must be balanced against the nature of the constitutional right invaded.

There are five purposes mentioned for the investment tax credit in HB 258, all of which are legitimate and proper. However, only the first purpose relates to why the credit is to be in effect only south of the Arctic Circle. All the other purposes are just as compelling for facilities north of the Arctic Circle. In my opinion the first purpose is constitutionally sufficient to sustain the goal of the

Representative Albert P. Adams
Page 2
April 11, 1983

proposed enactment. The state interest in encouraging development south of the Arctic Circle where ice-free ports are available near established population centers appears to outweigh the tax discrimination that would be in effect on industries north of the Arctic Circle.

RCF:ljb
14-004

Introduced: 3/25/83
Referred: Labor & Commerce
and Finance

1 IN THE HOUSE

BY HAYES AND SZYMANSKI

2

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 258

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act establishing a special investment tax credit;

7

and providing for an effective date."

8

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

9

* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds

10 and declares that

11

(1) there exist areas of the state south of the Arctic Circle in

12

which the factors of established population centers, established infra-

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structure, access to ice-free ports, and substantial uncommitted reserves

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of natural gas combine to provide an optimum basis for gas processing

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development for an export market;

16

(2) development of gas processing facilities in the areas will

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minimize adverse population and environmental impacts on the other areas of

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the state;

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(3) development of gas processing facilities in the areas will

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promote full and stable employment, promote the creation of export markets

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for the natural energy resources of the state, and promote the long-term

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development of other natural resources in the state;

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(4) it is in the statewide public interest, and is declared to

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be a public purpose, to promote the prosperity and general welfare of all

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citizens of the state by stimulating the development of gas processing

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facilities in such areas;

27

(5) it is further in the statewide public interest, and is

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declared to be a public purpose, to promote the exploration, drilling of

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wells, development, and mining of minerals and other natural deposits

1 (other than oil and gas) in the state, to assist the state by diversifying
2 its economy, to make it less dependent on oil and gas, provide increased
3 employment opportunities and provide an incentive for investment in the
4 state; and

5 (6) the establishment of a special investment tax credit is
6 necessary in order to promote and accomplish the objectives listed in (1) -
7 (5) of this section.

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

9 (d) Where a credit allowed under the Internal Revenue Code is
10 also allowed in computing Alaska income tax, it is limited to 18
11 percent for corporations of the amount of credit determined for fed-
12 eral income tax purposes which is attributable to Alaska. This limi-
13 tation shall not apply to the credits allowed by AS 43.20.036(j) and
14 (k).

15 * Sec. 3. AS 43.20.036 is amended by adding new subsections to read:

16 (j) For purposes of calculating income tax payable under this
17 chapter the taxpayer may apply as a credit against a tax liability 100
18 percent of the investment credit allowed as to federal taxes under
19 Internal Revenue Code Section 38 (26 U.S.C. 38 P.L. 87-834) on the
20 full amount of qualified investment put into use south of the Arctic
21 Circle in the state for each taxable year for gas processing facili-
22 ties; for the purposes of this paragraph, "gas processing facilities"
23 means plants and facilities for processing any product, other than
24 crude oil, of an oil or gas well, including but not limited to lique-
25 fied natural gas, methanol and urea processing plants and facilities,
26 excluding any pipelines from oil and gas wells to any plants and
27 facilities. The amount of credit allowed under this subsection shall
28 not be subject to the limitations imposed by (b) of this section, but
29 any credit which is allowed under this subsection shall not also be

1 allowed under (b) of this section. No credit shall be allowed under
2 this subsection for any investment credit which is allowed as to
3 federal taxes for leased property by reason of section 168(f)(8) P.L.
4 97-34 of the Internal Revenue Code (26 U.S.C. 168(f)(8) P.L. 97-34).

5 (k) For purposes of calculating income tax payable under this
6 chapter the taxpayer may apply as a credit against a tax liability 100
7 percent of the investment credit allowed as to federal taxes under
8 Internal Revenue Code Section 38 (26 U.S.C. 38 P.L. 87-834) on the
9 full amount of qualified investment put into use south of the Arctic
10 Circle in the state for each taxable year for exploration, drilling of
11 wells, development, or mining of the natural deposits listed in Sec-
12 tion 613(b) of the Internal Revenue Code (26 U.S.C. 613(b))(P.L.
13 89-809 and P.L. 88-571); for the purpose of this subsection, "mining"
14 has the meaning given in Section 613(c)(2) of the Internal Revenue
15 Code (26 U.S.C. 613(c)(2) P.L. 85-866). The amount of credit allowed
16 under this subsection shall not be subject to the limitations imposed
17 by (b) of this section, but any credit which is allowed under this
18 subsection shall not also be allowed under (b) of this section.
19 Credit shall not be allowed under this subsection for any investment
20 credit which is allowed as to federal taxes for leased property by
21 reason of Section 168(f)(8) of the Internal Revenue Code (26 U.S.C.
22 168(f)(8) P.L. 97-34).

23 * Sec. 4. This Act applies to tax years beginning after December 31,
24 1983.

25 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
26 10.070(c).

INTRODUCED:
REFERRED:

Original sponsors: Hayes and Szymanski

IN THE HOUSE

BY THE FINANCE COMMITTEE

Sept. Rev.
2d CS FOR SS FOR HOUSE BILL NO. 258 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

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 OF THE STATE OF ALASKA:

* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that

(1) there exist areas of the state south of the Arctic Circle in which the factors of established population centers, established infrastructure, access to ice-free ports, and substantial uncommitted reserves of natural gas combine to provide an optimum basis for gas processing development for an export market;

(2) development of gas processing facilities in the areas will minimize adverse population and environmental impacts on the other areas of the state;

(3) development of gas processing facilities in the areas will promote full and stable employment, promote the creation of export markets for the natural energy resources of the state, and promote the long-term development of other natural resources in the state;

(4) it is in the statewide public interest, and is declared to be a public purpose, to promote the prosperity and general welfare of all citizens of the state by stimulating the development of gas processing facilities in such areas;

(5) it is further in the statewide public interest, and is declared to be a public purpose, to promote the exploration, drilling of wells, development, and mining of minerals and other natural deposits (other than oil and gas) in the state, to assist the 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; and

(6) the establishment of a special investment tax credit is necessary in order to promote and accomplish the objectives listed in (1) - (5) of this section.

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

(d) 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. This limitation shall not apply to the credits allowed by AS 43.20.036(j) and (k).

* Sec. 3. AS 43.20.036 is amended by adding new subsections to read:

(j) For purposes of calculating income tax payable under under this chapter the taxpayer may apply as a credit against a tax liability 100 percent of the investment credit allowed as to federal taxes under § 38 of the Internal Revenue Code (26 U.S.C. § 38) on the full amount of qualified investment put into use south of the Arctic Circle in the state for each taxable year for gas processing facilities; for the purposes of this para-

graph, "gas processing facilities" means plants and facilities for processing any product, other than crude oil, of an oil or gas well, to produce liquefied natural gas, methanol or urea, excluding any pipelines from oil and gas wells to any plants and facilities. The amount of credit allowed under this subsection shall be subject to the limitations imposed by (b) of this section, except that the amount of qualified investment will not be limited to the first \$20,000,000 of qualified investment. Any credit which is allowed under this subsection shall not also be allowed under (b) of this section. No credit shall be allowed under this subsection for any investment credit which is allowed as to federal taxes for leased property by reason of § 168(f)(8) of the Internal Revenue Code (26 U.S.C. § 168(f)(8)).

(k) For purposes of calculating income tax payable under this chapter the taxpayer may apply as a credit against a tax liability 100 percent of the investment credit allowed as to federal taxes under § 38 of the Internal Revenue Code (26 U.S.C. § 38) on the full amount of qualified investment put into use in the state for each taxable year for exploration, drilling of wells, development, or mining of asbestos, bauxite, block steatite talc, celestite, chromite, coal, corundum, fluorspar, graphite, ilmenite, kyanite, mica, olivine, peat, quartz crystals (radio grade), rutile, sulphur, uranium, zircon, or the ores of the following metals: antimony, beryllium, bismuth, cadmium, cobalt, columbium, copper, gold, iron, lead, lithium, manganese, mercury, molybdenum, nickel, platinum and platinum group metals, silver, tantalum, thorium, tin, titanium, tungsten, vanadium, and zinc; for the purpose of this subsection, "mining" has the meaning given in § 613(c)(2) of the Internal Revenue Code (26 U.S.C.

§ 613(c)(2)). The amount of credit allowed under this subsection shall be subject to the limitations imposed by (b) of this section, except that the amount of qualified investment will not be limited to the first \$20,000,000 of qualified investment. Any credit which is allowed under this subsection shall not also be allowed under (b) of this section. Credit shall not be allowed under this subsection for any investment credit which is allowed as to federal taxes for leased property by reason of § 168(F)(8) of the Internal Revenue Code (26 U.S.C. § 168(F)(8)).

* Sec. 4. This Act applies to qualified investments made after December 31, 1983 and before January 1, 1990.

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

Offered: 4/6/83
Referred: Finance

Original sponsors: Hayes and Szymanski

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 258 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 * Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds
10 and declares that

11 (1) there exist areas of the state south of the Arctic Circle in
12 which the factors of established population centers, established infra-
13 structure, access to ice-free ports, and substantial uncommitted reserves
14 of natural gas combine to provide an optimum basis for gas processing
15 development for an export market;

16 (2) development of gas processing facilities in the areas will
17 minimize adverse population and environmental impacts on the other areas of
18 the state;

19 (3) development of gas processing facilities in the areas will
20 promote full and stable employment, promote the creation of export markets
21 for the natural energy resources of the state, and promote the long-term
22 development of other natural resources in the state;

23 (4) it is in the statewide public interest, and is declared to
24 be a public purpose, to promote the prosperity and general welfare of all
25 citizens of the state by stimulating the development of gas processing
26 facilities in such areas;

27 (5) it is further in the statewide public interest, and is
28 declared to be a public purpose, to promote the exploration, drilling of
29 wells, development, and mining of minerals and other natural deposits

1 (other than oil and gas) in the state, to assist the state by diversifying
2 its economy, to make it less dependent on oil and gas, provide increased
3 employment opportunities and provide an incentive for investment in the
4 state; and

5 (6) the establishment of a special investment tax credit is
6 necessary in order to promote and accomplish the objectives listed in (1) -
7 (5) of this section.

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9 (d) Where a credit allowed under the Internal Revenue Code is
10 also allowed in computing Alaska income tax, it is limited to 18
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12 eral income tax purposes which is attributable to Alaska. This limi-
13 tation shall not apply to the credits allowed by AS 43.20.036(j) and
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19 Internal Revenue Code Section 38 (26 U.S.C. 38 P.L. 87-834) on the
20 full amount of qualified investment put into use south of the Arctic
21 Circle in the state for each taxable year for gas processing facili-
22 ties; for the purposes of this paragraph, "gas processing facilities"
23 means plants and facilities for processing any product, other than
24 crude oil, of an oil or gas well, including but not limited to lique-
25 fied natural gas, methanol and urea processing plants and facilities,
26 excluding any pipelines from oil and gas wells to any plants and
27 facilities. The amount of credit allowed under this subsection shall
28 not be subject to the limitations imposed by (b) of this section, but
29 any credit which is allowed under this subsection shall not also be

1 allowed under (b) of this section. No credit shall be allowed under
2 this subsection for any investment credit which is allowed as to
3 federal taxes for leased property by reason of section 168(f)(8) P.L.
4 97-34 of the Internal Revenue Code (26 U.S.C. 168(f)(8) P.L. 97-34).

5 (k) For purposes of calculating income tax payable under this
6 chapter the taxpayer may apply as a credit against a tax liability 100
7 percent of the investment credit allowed as to federal taxes under
8 Internal Revenue Code Section 38 (26 U.S.C. 38 P.L. 87-834) on the
9 full amount of qualified investment put into use in the state for each
10 taxable year for exploration, drilling of wells, development, or
11 mining of the natural deposits listed in Section 613(b) of the
12 Internal Revenue Code (26 U.S.C. 613(b))(P.L. 89-809 and P.L. 88-571);
13 for the purpose of this subsection, "mining" has the meaning given in
14 Section 613(c)(2) of the Internal Revenue Code (26 U.S.C. 613(c)(2)
15 P.L. 85-866). The amount of credit allowed under this subsection
16 shall not be subject to the limitations imposed by (b) of this
17 section, but any credit which is allowed under this subsection shall
18 not also be allowed under (b) of this section. Credit shall not be
19 allowed under this subsection for any investment credit which is
20 allowed as to federal taxes for leased property by reason of Section
21 168(f)(8) of the Internal Revenue Code (26 U.S.C. 168(f)(8) P.L.
22 97-34).

23 * Sec. 4. This Act applies to tax years beginning after December 31,
24 1983.

25 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
26 10.070(c).