

HB

238

FISCAL NOTE (Continuation)

ANALYSIS: (Exploration Incentive Credits HB238 Draft H)

House Bill 238, as well as the proposed committee work draft will result in the annual submittal of a significant number of maps, cross-sections, drill logs, geochemical analyses, airphotos, and geological reports to DNR. At a minimum, these materials will have to be audited, i.e. peer reviewed to determine whether they qualify for acceptance as a basis for establishing a mineral exploration tax credit. Such an audit is not a trivial exercise. It requires the attention of experienced professional geologists.

In 1996 there were 52 major mineral exploration programs active in Alaska and scores of small scale prospecting efforts that could qualify for the HB238 incentive tax credit. Disregarding the prospector-scale efforts, the 52 major programs represent the generation of a multi-million dollar volume of data. In practice, a large portion of that data volume would have to be audited, organized, and entered into an active database each year. Thereafter, there would be a continually growing volume of data to be actively maintained so that it is readily accessible to the public throughout Alaska.

In 1947 the province of British Columbia started a similar but less ambitious mineral property database. Their system is still in use today and similar systems have been created in the other provinces of Canada.

The British Columbia system requires companies or individuals to file an annual property report or pay \$200 per claim for all mineral properties held in good standing. Actual data, maps, drill logs, etc. are optional. The annual reports usually are between 10 -15 type-written pages. Their data base consists of recording the availability of these documents in a PC database, extracting some specific information into the database, and microfilming the occasionally volunteered maps and drill logs. Newfoundland has a similar system but requires that the reports be filed in digital computer format.

British Columbia is maintaining a significantly simpler system of privately contributed data than that which will result from HB238. Nevertheless, the annual maintenance of their system requires¹:

1. One full time professional geologist auditor to examine the reports and data to determine whether they meet the minimum requirements for acceptance.
2. Two full time professional geologists to organize, and archive the reports and geological data - including maintaining the PC-based database.
3. A quarter to half-time system analyst to maintain the PC-computer database system.
4. A contractor who microfilms the maps and reports. (Alaska would most like digitally scan this material)

As written (including proposed language in the committee work draft) HB 238 would require that these resources be on hand ready to function within, or under contract to, the Department of Natural Resources. One can debate whether more or fewer resources would be needed to implement the review, acceptance and archiving of the data that will be submitted as a result of HB238. As a first approximation, however, it is reasonable to expect that the fewer properties in Alaska versus British Columbia is offset by the more voluminous, non-standard, and therefore more costly, data that will have to be processed by DNR as a result of HB238. One can also debate whether the private sector can implement the system more cost effectively than can DNR. Somewhere, however, funding is going to have to be made available to sustain something like the above roster of resources. Some of those resources must be in DNR even if the majority of them are embodied in outside contractors. From a fiscal standpoint this is merely a shift from the 100-line to the 300-line.

Translating the above resources into experienced Alaska-based personnel and contractors leads to an initial estimated maintenance cost of \$250,000 to \$275,000 per year to accommodate the data handling issues initiated by HB238.

¹ Dr. Ron Smyth, Director and Chief Geologist, Geological Survey Branch, British Columbia Division of Energy and Mines

LEGAL SERVICES

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MEMORANDUM

April 2, 1997

SUBJECT: Bill to amend the mineral exploration incentive credit program (Work Order No. 0-LS0845\B)

TO: Representative Al Vezey
ATTN: Joseph Easaw

FROM: Jack Chenoweth
Legislative Counsel



When we met to review the then-current draft, I promised a memo of explanation to accompany the next bill draft.

Bill section 1 adds "geological mapping" as an eligible cost upon which the credit may be calculated.

Bill section 2 adds a new subsection, subsection (e), to AS 27.30.010. Subsection (e) specifically addresses the determination of the mineral exploration incentive credit to expenses associated with surveying by geophysical or geochemical methods and by geological mapping "when a mining operation is not initiated based on that mapping or surveying activity"--in other words, when the party conducting the mapping or surveying decides not to go forward to production. The party may still claim the benefit of the credit if, under subparagraph (1)(A), the information or data recovered from the mapping or surveying is made public or if, under subparagraph (1)(B), the party allows the commissioner to release the information to the public, and if, under paragraph (2), the commissioner determines that the exploration activity data meets minimum general or technical standards otherwise applicable to the mapping or surveying of state land. (There are existing regulations on this.) If a party meets these requirements, even though the party determines not to proceed forward to production of the land that has been mapped or surveyed, the party may claim the credit.

The operative provision, for purposes of this bill, in **bill section 3** is the addition of subparagraph (C) at the middle of page 3. I propose, there, to allow the person who maps or surveys and meets the requirements of new AS 27.30.010(e) to claim the credit against the party's tax liability under the Alaska Net Income Tax (AS 43.20). In other words, the incentive to mapping or surveying, providing technologically acceptable reports, and

Representative Al Vezey

April 2, 1997

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allowing those reports to be shared with the public even if production is not initiated is the ability to offset part of the mapping or surveying expenses against the one tax that the party is liable to pay--that is not tied to production from the land--the person's income tax liability.

Bill section 4 makes a conforming amendment to pick up the new material set out in AS 27.30.030(a)(1)(C) that relates to claim of the credit for mapping and surveying when the claim is presented to offset the taxpayer's liability under the mining production tax.

Bill section 5 adds an exception for disclosure when authorized by the party under AS 27.30.010(e)(2) (disclosure by the Department of Natural Resources has been authorized).

Bill section 6 extends the definition of "eligible costs" (for purposes of valuing the credit) to cover all expenses incurred in mapping or surveying "without regard to whether a mining operation is initiated based on [those] activities."

Bill section 7 adds "geological mapping" as part of the definition of "exploration activity data"--this is the data that the commissioner considers in evaluating the application for the credit.

Bill sections 8 and 9: On the chance that people wanting to make use of the credit will take action and incur expenses in this calendar year for geological mapping, the bill is made retroactive to January 1, 1997, and has an immediate effective date.

*

Questions? Please contact me.

JBC:jdr
97-236.jdr

Enclosure

Alaska State Legislature



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Representative Al Vezey

SPONSOR STATEMENT

HB 238

"An Act amending the program of exploration incentive credits for activities involving locatable or leasable minerals or coal deposits on certain land in the state; and providing for an effective date."

The State of Alaska currently spends about \$300,000 annually for airborne geophysical surveys. The federal government spends a similar amount. This investment in cataloging our resource base has resulted in an economic boom many times greater than the investment.

The propose of this bill is to increase the amount of basic geological survey data that is available to the public by greatly leveraging the state's investment dollars. HB 238 accomplishes this by expanding our existing Mineral Exploration Incentive Program to include geological survey data that is released to the public regardless of whether the property is actually put into production.

Under existing laws, a person may deduct explorations expenses only to the extent that it applies to a property put into production. This bill will result in an increased amount of geological survey data in the public domain by giving incentives to private parties to allow the DNR to release the information to the public.

Direct state investment in this program will be zero as the incentive is a credit on taxes due. Credits are limited to a maximum of 50% of taxes owed for any one year.

CS FOR HOUSE BILL NO. 238()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES VEZEY, Foster, Ivan

A BILL

FOR AN ACT ENTITLED

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

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

5 * Section 1. AS 27.30.010(a) is amended to read:

6 (a) Except as provided in AS 27.30.012, the [THE] commissioner shall grant
7 to a person described in (d) of this section an exploration incentive credit for the
8 eligible costs of each of the following exploration activities that are performed on or
9 for the benefit of land in the state for the purpose of determining the existence,
10 location, extent, or quality of a locatable or leasable mineral or coal deposit, regardless
11 of whether the land is state-owned land:

- 12 (1) surveying by geophysical or geochemical methods;
- 13 (2) drilling exploration holes;
- 14 (3) conducting underground exploration;

- 1 (4) surface trenching and bulk sampling; [OR]
2 (5) geological mapping; or
3 (6) performing other exploratory work, including aerial photographs,
4 geological and geophysical logging, sample analysis, and metallurgical testing.

5 * Sec. 2. AS 27.30 is amended by adding a new section to read:

6 Sec. 27.30.012. Credit for certain additional mapping or surveying
7 activities. (a) For the eligible costs incurred in conducting geological mapping or
8 geophysical or geochemical surveying when a mining operation is not initiated based
9 on that mapping or surveying activity, an exploration incentive credit may not be
10 certified for the eligible costs of an exploration activity set out in AS 27.30.010(a)(1)
11 or (5)

12 (1) unless the person requesting the taking of the credit has first
13 obtained a determination that

14 (A) the surveying information described under
15 AS 27.30.010(a)(1) and the results of the geological mapping described under
16 AS 27.30.010(a)(5), as appropriate, are of value to the state because they do
17 not duplicate existing data and meet appropriate general or technical standards
18 applicable to mapping or surveying of state land; the determination of value to
19 the state and of compliance with standards under this subparagraph may be
20 made on the basis of a review made

21 (i) by the department; or

22 (ii) at the discretion of the department, by a professional
23 geologist certified or eligible for certification under AS 08.02.011,
24 functioning as a consultant to the department; if a review is to be made
25 by a professional geologist, the geologist must be a person acceptable
26 to both the department and the person requesting the taking of the
27 credit, and the geologist's services shall be retained under a contract
28 entered into by the person requesting the taking of the credit that is
29 approved by the department;

30 (B) the surveying information recovered and geological mapping
31 obtained were first recovered or obtained after the effective date of this Act or,

1 if earlier first recovered or obtained, the department determines that the value
2 of the data to the public is substantial and that the data is specifically eligible
3 for a credit under this chapter; and

4 (C) the surveying information described under
5 AS 27.30.010(a)(1) and the results of the geological mapping described under
6 AS 27.30.010(a)(5) have been made available to the public or will be made
7 available to the public

8 (i) by publication in a recognized professional journal
9 acceptable to the department;

10 (ii) by publication by the person seeking the credit in a
11 manner and at a price acceptable to the department; or

12 (iii) in a manner that is otherwise acceptable to the
13 department; or

14 (2) if, based on material submitted to the commissioner, the
15 commissioner determines that the state will not accept the exploration activity data
16 obtained from the mapping or surveying because that data duplicates existing data,
17 does not conform to appropriate general or technical standards applicable to mapping
18 or surveying of state land, does not comply with the standard of (1)(B) of this
19 subsection, or cannot be made available to the public under (1)(C) of this subsection.

20 (b) The deadlines set out in AS 27.30.020 for the submission of requests for
21 an exploration incentive credit, for certification of expenditures relating to an
22 application for the credit, and for approval or disapproval of the taking of the credit
23 do not apply to a credit based solely on activity that qualifies for a credit authorized
24 by this section.

25 (c) A credit may not be

26 (1) obtained under this section for eligible costs that are paid for or
27 reimbursed to the person by the federal government or the state; or

28 (2) applied for and obtained under this section for eligible costs that are
29 eligible for the credit authorized by AS 27.30.010, whether or not the credit authorized
30 by that section is requested or whether or not the credit authorized by that section is
31 denied by the commissioner or taken by the person.

1 * Sec. 3. AS 27.30.030(a) is amended to read:

2 (a) In a tax year or royalty payment period, subject to (c) of this section and
3 the respective limitations of this subsection, the person may apply the credit, the taking
4 of which was approved under AS 27.30.020(2), against

5 (1) taxes payable by the person

6 (A) under AS 43.65; application of the credit under this
7 subparagraph may not exceed the lesser of

8 (i) 50 percent of the person's tax liability under
9 AS 43.65 for the tax year that is related to production from the mining
10 operation at which the exploration activities occurred, as shown under
11 (b) of this section; or

12 (ii) 50 percent of the person's total tax liability under
13 AS 43.65 for the tax year;

14 (B) under AS 43.20; when the claim of the credit does not
15 contain eligible costs of surveying information described under
16 AS 27.30.010(a)(1) or the results of geological mapping described under
17 AS 27.30.010(a)(5), or when the claim of the credit contains eligible costs
18 of surveying information described under AS 27.30.010(a)(1) or the results
19 of geological mapping described under AS 29.30.010(a)(5) and the
20 surveying information or results of geological mapping cannot be certified
21 by the commissioner as eligible costs under AS 27.30.012, application of the
22 credit under this subparagraph may not exceed the lesser of

23 (i) an amount equal to the amount determined under
24 (A)(i) of this paragraph; or

25 (ii) 50 percent of the person's total tax liability under
26 AS 43.20 for the tax year; [AND]

27 (C) under AS 43.20; when the claim of the credit contains
28 eligible costs of either surveying information described under
29 AS 27.30.010(a)(1) or the results of geological mapping described under
30 AS 27.30.010(a)(5) and the surveying information or results of geological
31 mapping are certified as eligible costs by the commissioner under

1 AS 27.30.012, application of the credit under this subparagraph may not
2 exceed the greater of

3 (i) an amount equal to the amount determined under

4 (A)(i) of this paragraph; or

5 (ii) 50 percent of the person's total tax liability under

6 AS 43.20 for the tax year; and

7 (2) mineral production royalty payments payable by the person under
8 AS 38.05.135 - 38.05.175 and 38.05.212 for production from the mining operation at
9 which the exploration activities occurred; application of the credit under this paragraph
10 may not exceed 50 percent of the person's mineral production royalty payment liability
11 from the mining operation at which the exploration activities occurred.

12 * Sec. 4. AS 27.30.030(b) is amended to read:

13 (b) If the person applies the credit against the person's tax liability under
14 (a)(1)(A)(i), [OR] (a)(1)(B)(i), or (a)(1)(C)(i) of this section, the commissioner of
15 revenue shall disallow application of the credit under that provision unless the person
16 files with the person's tax return an accounting of the person's mining operation
17 activities for each mining operation that is included in the tax return and as to which
18 the credit is being applied. The accounting of mining operation activities required by
19 this subsection shall be made

20 (1) on a form prescribed by the Department of Revenue; on the form,
21 the person shall

22 (A) identify the mining operations for which the credit is
23 claimed; and

24 (B) set out the gross income attributable to the mining
25 operations and other information about the mining operations that the
26 Department of Revenue may require;

27 (2) without regard to an exemption to which the person may be entitled
28 under AS 43.65.010(a).

29 * Sec. 5. AS 27.30.050 is amended to read:

30 Sec. 27.30.050. Limit on application of credit. (a) The grant of all
31 exploration incentive credits for a mining operation under AS 27.30.010, including

1 credits authorized by AS 27.30.012 for geological mapping or geophysical or
2 geochemical surveying when a mining operation is not initiated, made to a person
3 described in AS 27.30.010(d) may not exceed \$20,000,000.

4 (b) An exploration incentive credit for a mining operation [MAY NOT
5 EXCEED \$20,000,000 AND] must be applied within 15 tax years or royalty payment
6 periods after the taking of the credit is approved under AS 27.30.020(2), but the tax
7 years or royalty payment periods in which the credit is applied need not be

8 (1) the tax year or royalty payment period in which the person first
9 incurs liability for payment of tax or royalty based on the person's activity that is the
10 basis of the claim of the exploration incentive credit; or

11 (2) consecutive periods.

12 * Sec. 6. AS 27.30.090(a) is amended to read:

13 (a) Except as to information the disclosure of which has been authorized
14 by AS 27.30.012, the [THE] commissioner shall keep the exploration activity data
15 provided under AS 27.30.020 confidential for 36 months after receipt by the
16 department.

17 * Sec. 7. AS 27.30.099(2) is amended to read:

18 (2) "eligible costs" means all expenses incurred by a person
19 described in AS 27.30.010(d) in conducting geological mapping or geophysical and
20 geochemical surveying without regard to whether a mining operation is initiated
21 based on the mapping or surveying activities and, in addition, [MEAN] the costs
22 incurred for activities in direct support of exploration activity conducted at the mining
23 operation of the exploration activity for the purpose of determining the existence,
24 location, extent, or quality of a mineral or coal deposit; when used with reference to
25 activities in direct support of exploration activity conducted at the mining
26 operation, the term

27 (A) includes

28 (i) the costs of obtaining the approvals, permits, licenses,
29 and certificates for an exploration activity set out in AS 27.30.010(a)
30 [AS 27.30.010(a)(1) - (5)];

31 (ii) direct labor costs and the cost of benefits for

1 employees directly associated with work described in AS 27.30.010(a)
2 [AS 27.30.010(a)(1) - (5)];

3 (iii) the cost of renting or leasing equipment from parties
4 not affiliated with the person requesting and taking the credit;

5 (iv) the reasonable costs of owning, maintaining, and
6 operating equipment;

7 (v) insurance and bond premiums associated with the
8 activities set out in (i) - (iv) of this subparagraph;

9 (vi) payments to consultants and independent
10 contractors; and

11 (vii) the general expense of operating the person's
12 business, including the costs of materials and supplies, if those expenses
13 and costs are directly attributable to the work described in
14 AS 27.30.010(a) [AS 27.30.010(a)(1) - (5)];

15 (B) does not include return on investment, insurance or bond
16 premiums not covered under (A)(v) of this paragraph, or any other expense that
17 the person has not incurred to complete work described in AS 27.30.010(a)
18 [AS 27.30.010(a)(1) - (5)];

19 * Sec. 8. AS 27.30.099(3) is amended to read:

20 (3) "exploration activity data" includes, as applicable,

21 (A) a representative skeleton core for each hole cored or a
22 representative set of cuttings for each hole rotary drilled;

23 (B) chemical analytical data, [AND] noninterpretive geophysical
24 data, and geological mapping;

25 (C) aerial photographs or a topographic or geologic map
26 showing the location of the drill holes, sample locations, or the other
27 exploration activities undertaken;

28 * Sec. 9. This Act is retroactive to January 1, 1997, and applies to activities that qualify
29 for the exploration incentive credit authorized by AS 27.30.012, added by sec. 2 of this Act,
30 that are undertaken after December 31, 1996.

31 * Sec. 10. This Act takes effect immediately under AS 01.10.070(c).

0-LS0845\F
Chenoweth
4/21/97

CS FOR HOUSE BILL NO. 238()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVE VEZEY

A BILL

FOR AN ACT ENTITLED

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

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

5 * Section 1. AS 27.30.010(a) is amended to read:

6 (a) Except as provided in AS 27.30.012, the [THE] commissioner shall grant
7 to a person described in (d) of this section an exploration incentive credit for the
8 eligible costs of each of the following exploration activities that are performed on or
9 for the benefit of land in the state for the purpose of determining the existence,
10 location, extent, or quality of a locatable or leasable mineral or coal deposit, regardless
11 of whether the land is state-owned land:

- 12 (1) surveying by geophysical or geochemical methods;
- 13 (2) drilling exploration holes;
- 14 (3) conducting underground exploration;

- 1 (4) surface trenching and bulk sampling; [OR]
2 (5) geological mapping; or
3 (6) performing other exploratory work, including aerial photographs,
4 geological and geophysical logging, sample analysis, and metallurgical testing.

5 * Sec. 2. AS 27.30 is amended by adding a new section to read:

6 Sec. 27.30.012. Credit for certain additional mapping or surveying
7 activities. (a) For the eligible costs incurred in conducting geological mapping or
8 geophysical and geochemical surveying when a mining operation is not initiated based
9 on that mapping or surveying activity, an exploration incentive credit may not be
10 certified for the eligible costs of an exploration activity set out in AS 27.30.010(a)(1)
11 or (5)

12 (1) unless the person requesting the taking of the credit has first
13 obtained a determination that

14 (A) the surveying information described under
15 AS 27.30.010(a)(1) and the results of the geological mapping described under
16 AS 27.30.010(a)(5), as appropriate, are of value to the state because they do
17 not duplicate existing data and meet appropriate general or technical standards
18 applicable to mapping or surveying of state land; the determination of value to
19 the state and of compliance with standards under this subparagraph may be
20 made on the basis of a review by

21 (i) the department; or

22 (ii) a professional geologist certified or eligible for
23 certification under AS 08.02.011, functioning as a consultant to the
24 department, whose services have been retained by the person requesting
25 the taking of the credit;

26 (B) the surveying information recovered and geological mapping
27 obtained were first recovered or obtained after the effective date of this Act or,
28 if earlier first recovered or obtained, the department determines that the value
29 of the data to the public is substantial and that the data is specifically eligible
30 for a credit under this chapter; and

31 (C) the surveying information described under

1 AS 27.30.010(a)(1) and the results of the geological mapping described under
2 AS 27.30.010(a)(5) have been made available to the public or will be made
3 available to the public

4 (i) by publication in a recognized professional journal
5 acceptable to the department;

6 (ii) by publication by the person seeking the credit in a
7 manner and at a price acceptable to the department; or

8 (iii) in a manner that is otherwise acceptable to the
9 department; or

10 (2) if, based on material submitted to the commissioner, the
11 commissioner determines that the state will not accept the exploration activity data
12 obtained from the mapping or surveying because that data duplicates existing data,
13 does not conform to appropriate general or technical standards applicable to mapping
14 or surveying of state land, does not comply with the standard of (1)(B) of this
15 subsection, or cannot be made available to the public under (1)(C) of this subsection.

16 (b) A credit may not be obtained under this section for eligible costs that are

17 (1) paid for or reimbursed to the person by the federal government or
18 the state; or

19 (2) eligible for the credit authorized by AS 27.30.010, whether or not
20 the credit authorized by that section is requested or whether or not the credit
21 authorized by that section is denied by the commissioner or taken by the person.

22 * Sec. 3. AS 27.30.020 is amended to read:

23 Sec. 27.30.020. Procedure for requesting and taking the credit. To obtain
24 the credit authorized by this chapter,

25 (1) a person shall submit a request for the credit as follows:

26 (A) the person shall submit a request and a statement of
27 expenditures for the previous calendar year not later than 60 days after the
28 close of that calendar year; however, if a request for the credit is based
29 solely on activity that may qualify for the credit under AS 27.30.012, the
30 deadline set out in this subparagraph does not apply;

31 (B) the request must

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(i) describe the work accomplished during the previous year, the number of employees, and the names and number of consultants; and

(ii) provide a detailed list or ledger of expenditures of the accomplishments described in (i) of this subparagraph and a list of exploration activity data that in the future will be made available to the commissioner under (2)(A) of this section;

(C) the person submitting the request is not required to transmit copies of receipts with the request, but the statement of expenditures is subject to audit in the discretion of the commissioner;

(D) if the commissioner determines to audit the statement of expenditures, the commissioner may require the person submitting the request to justify claims of expenditures with receipts and other reliable information;

(E) the commissioner shall respond to the request by September 30 by certifying or not certifying the person's expenditures; if the commissioner

(i) does not certify expenditures, the commissioner shall state the reasons for denial of certification and give the person making the request an opportunity to correct any problems or to provide additional information;

(ii) certifies expenditures, the commissioner shall specify the exploration activity data requirements for that year that must be presented to the department at the time of the taking of the credit;

(F) if the commissioner neither certifies nor denies certification of expenditures by September 30, the expenditures are certified as submitted;

(2) the person whose expenditures have been certified under (1) of this subsection may thereafter request the taking of the credit for the certified expenditures as follows:

(A) the person shall deliver to the commissioner the exploration activity data identified by the commissioner under (1)(E)(ii) of this section, and shall request the commissioner's approval of the taking of the credit;

1 (B) the commissioner shall approve or disapprove the taking of
2 the credit within six months after receipt of the request for taking of the credit;
3 if the

4 (i) exploration activity data complies with the
5 requirements identified by the commissioner under (1)(E)(ii) of this
6 section, the commissioner shall approve the taking of the credit;

7 (ii) request is disapproved, the commissioner shall state
8 the reasons for disapproval and offer the person seeking to take the
9 credit an opportunity to correct any problems or to provide additional
10 exploration activity data or other information;

11 (C) if the commissioner neither approves nor disapproves the
12 request to take the credit within six months after submission of the request, the
13 taking of the credit is approved.

14 * Sec. 4. AS 27.30.030(a) is amended to read:

15 (a) In a tax year or royalty payment period, subject to (c) of this section and
16 the respective limitations of this subsection, the person may apply the credit, the taking
17 of which was approved under AS 27.30.020(2), against

18 (1) taxes payable by the person

19 (A) under AS 43.65; application of the credit under this
20 subparagraph may not exceed the lesser of

21 (i) 50 percent of the person's tax liability under
22 AS 43.65 for the tax year that is related to production from the mining
23 operation at which the exploration activities occurred, as shown under
24 (b) of this section; or

25 (ii) 50 percent of the person's total tax liability under
26 AS 43.65 for the tax year;

27 (B) under AS 43.20; when the claim of the credit does not
28 contain eligible costs of surveying information described under
29 AS 27.30.010(a)(1) or the results of geological mapping described under
30 AS 27.30.010(a)(5), or when the claim of the credit contains eligible costs
31 of surveying information described under AS 27.30.010(a)(1) or the results

1 of geological mapping described under AS 29.30.010(a)(5) and the
2 surveying information or results of geological mapping cannot be certified
3 by the commissioner as eligible costs under AS 27.30.012. application of the
4 credit under this subparagraph may not exceed the lesser of

5 (i) an amount equal to the amount determined under

6 (A)(i) of this paragraph; or

7 (ii) 50 percent of the person's total tax liability under

8 AS 43.20 for the tax year; [AND]

9 (C) under AS 43.20; when the claim of the credit contains

10 eligible costs of either surveying information described under
11 AS 27.30.010(a)(1) or the results of geological mapping described under
12 AS 27.30.010(a)(5) and the surveying information or results of geological
13 mapping are certified as eligible costs by the commissioner under
14 AS 27.30.012. application of the credit under this subparagraph may not
15 exceed the greater of

16 (i) an amount equal to the amount determined under

17 (A)(i) of this paragraph; or

18 (ii) 50 percent of the person's total tax liability under

19 AS 43.20 for the tax year; and

20 (2) mineral production royalty payments payable by the person under
21 AS 38.05.135 - 38.05.175 and 38.05.212 for production from the mining operation at
22 which the exploration activities occurred; application of the credit under this paragraph
23 may not exceed 50 percent of the person's mineral production royalty payment liability
24 from the mining operation at which the exploration activities occurred.

25 * Sec. 5. AS 27.30.030(b) is amended to read:

26 (b) If the person applies the credit against the person's tax liability under
27 (a)(1)(A)(i), [OR] (a)(1)(B)(i), or (a)(1)(C)(i) of this section, the commissioner of
28 revenue shall disallow application of the credit under that provision unless the person
29 files with the person's tax return an accounting of the person's mining operation
30 activities for each mining operation that is included in the tax return and as to which
31 the credit is being applied. The accounting of mining operation activities required by

1 this subsection shall be made

2 (1) on a form prescribed by the Department of Revenue; on the form,
3 the person shall

4 (A) identify the mining operations for which the credit is
5 claimed; and

6 (B) set out the gross income attributable to the mining
7 operations and other information about the mining operations that the
8 Department of Revenue may require;

9 (2) without regard to an exemption to which the person may be entitled
10 under AS 43.65.010(a).

11 * Sec. 6. AS 27.30.050 is amended to read:

12 Sec. 27.30.050. Limit on application of credit. (a) The grant of all
13 exploration incentive credits for a mining operation under AS 27.30.010, including
14 credits authorized by AS 27.30.012 for geological mapping or geophysical or
15 geochemical surveying when a mining operation is not initiated, made to a person
16 described in AS 27.30.010(d) may not exceed \$20,000,000.

17 (b) An exploration incentive credit for a mining operation [MAY NOT
18 EXCEED \$20,000,000 AND] must be applied within 15 tax years or royalty payment
19 periods after the taking of the credit is approved under AS 27.30.020(2), but the tax
20 years or royalty payment periods in which the credit is applied need not be

21 (1) the tax year or royalty payment period in which the person first
22 incurs liability for payment of tax or royalty based on the person's activity that is the
23 basis of the claim of the exploration incentive credit; or

24 (2) consecutive periods.

25 * Sec. 7. AS 27.30.090(a) is amended to read:

26 (a) Except as to information the disclosure of which has been authorized
27 by AS 27.30.012, the [THE] commissioner shall keep the exploration activity data
28 provided under AS 27.30.020 confidential for 36 months after receipt by the
29 department.

30 * Sec. 8. AS 27.30.099(2) is amended to read:

31 (2) "eligible costs" means all expenses incurred by a person

1 described in AS 27.30.010(d) in conducting geological mapping or geophysical and
2 geochemical surveying without regard to whether a mining operation is initiated
3 based on the mapping or surveying activities and, in addition, [MEAN] the costs
4 incurred for activities in direct support of exploration activity conducted at the mining
5 operation of the exploration activity for the purpose of determining the existence,
6 location, extent, or quality of a mineral or coal deposit; when used with reference to
7 activities in direct support of exploration activity conducted at the mining
8 operation, the term

9 (A) includes

10 (i) the costs of obtaining the approvals, permits, licenses,
11 and certificates for an exploration activity set out in AS 27.30.010(a)
12 [AS 27.30.010(a)(1) - (5)];

13 (ii) direct labor costs and the cost of benefits for
14 employees directly associated with work described in AS 27.30.010(a)
15 [AS 27.30.010(a)(1) - (5)];

16 (iii) the cost of renting or leasing equipment from parties
17 not affiliated with the person requesting and taking the credit;

18 (iv) the reasonable costs of owning, maintaining, and
19 operating equipment;

20 (v) insurance and bond premiums associated with the
21 activities set out in (i) - (iv) of this subparagraph;

22 (vi) payments to consultants and independent
23 contractors; and

24 (vii) the general expense of operating the person's
25 business, including the costs of materials and supplies, if those expenses
26 and costs are directly attributable to the work described in
27 AS 27.30.010(a) [AS 27.30.010(a)(1) - (5)];

28 (B) does not include return on investment, insurance or bond
29 premiums not covered under (A)(v) of this paragraph, or any other expense that
30 the person has not incurred to complete work described in AS 27.30.010(a)
31 [AS 27.30.010(a)(1) - (5)];

1 * Sec. 9. AS 27.30.099(3) is amended to read:

2 (3) "exploration activity data" includes, as applicable,

3 (A) a representative skeleton core for each hole cored or a
4 representative set of cuttings for each hole rotary drilled;

5 (B) chemical analytical data, [AND] noninterpretive geophysical
6 data, and geological mapping;

7 (C) aerial photographs or a topographic or geologic map
8 showing the location of the drill holes, sample locations, or the other
9 exploration activities undertaken;

10 * Sec. 10. This Act is retroactive to January 1, 1997, and applies to activities that qualify
11 for the exploration incentive credit authorized by AS 27.30 that are undertaken after
12 December 31, 1996.

13 * Sec. 11. This Act takes effect immediately under AS 01.10.070(c).

Department of Natural Resources

Preliminary Analysis of HB 238

by
Division of Geological and Geophysical Surveys

This analysis addresses the financial implication of implementing the state's receipt and archiving of mineral-related geologic data from private companies seeking to earn a mineral exploration incentive tax credit.

The concept of acquiring mineral exploration data on Alaskan lands in exchange for a corporate tax credit is certainly worthy of serious consideration. It offers a means of building an in-state minerals-related database at a more rapid rate than can be achieved by the state alone. If done correctly, these data would provide a valuable and growing incentive to future exploration ventures in Alaska.

To be of any value to the state of Alaska or to future private sector mining ventures, the geologic data submitted for the tax credit would have to be timely, of suitable quality, and systematically organized and preserved. The archive system would have to allow for convenient public access at nominal cost to the public. If not maintained, the data submitted would soon be worthless. On the other hand, if adequately supported the database created would continually grow in value and could materially contribute to the creation of new employment opportunities throughout the state.

House Bill 238 will result in the annual submittal of a significant number of maps, cross-sections, drill logs, geochemical analyses, airphotos, and geological reports to DNR. At a minimum, these materials will have to be audited to determine whether they qualify for acceptance as a basis for establishing a mineral exploration tax credit. Such an audit is not a trivial exercise. It requires the attention of an experienced professional geologist.

In 1996 there were 52 major mineral exploration programs active in Alaska and scores of small scale prospecting efforts that could qualify for the HB238 incentive tax credit. Disregarding the prospector-scale efforts, the 52 major programs represent the generation of a multi-million dollar volume of data. In practice, a large portion of that data volume would have to be audited, organized, and entered into an active database each year. Thereafter, there would be a continually growing volume of data to be actively maintained so that it is readily accessible to the public throughout Alaska.

In 1947 the province of British Columbia started a similar but less ambitious mineral property database. Their system is still in use today and similar systems have been created in the other provinces of Canada. The British Columbia system requires companies or individuals to file an annual property report or pay \$200 per claim for all mineral properties held in good standing. Actual data, maps, drill logs, etc. are optional. The annual reports usually are between 10 -15 type-written pages. Their data base consists of recording the availability of these documents in a PC database, extracting some specific information into the database, and microfilming the volunteered maps and drill logs. Newfoundland has a similar system but requires that the reports be filed in digital computer format.

British Columbia is maintaining a significantly simpler system of privately contributed data than what will result from HB238. Nevertheless, the annual maintenance of their system requires¹ :

¹ Dr. Ron Smyth, Director and Chief Geologist, Geological Survey Branch, British Columbia Division of Energy and Mines

1. One full time professional geologist auditor dedicated to examining the reports and data to determine whether they meet the minimum requirements for acceptance
2. Two full time professional geologists dedicated to organizing, and archiving the reports and geological data - including maintaining the PC-based database
3. A quarter to half-time system analyst dedicated to maintaining the PC-computer database system
4. A contractor who microfilms the maps and reports.

One can debate whether more or fewer resources would be needed to implement the review, acceptance and archiving of the data that will be submitted as a result of HB 238. As a first approximation, however, it is reasonable to expect that the fewer properties in Alaska versus British Columbia is offset by the more voluminous, non-standard, and therefore more costly, data that will have to be evaluated or processed by DNR as a result of HB 238. One can also debate whether the private sector can implement the system more cost effectively than can DNR. Somewhere, however, funding is going to have to be made available to sustain something like the above roster of resources. Some of those resources must be in DNR even if the majority of them are embodied in outside contractors. From a fiscal standpoint this is merely a shift from the 100-line to the 300-line.

A direct corporation-to-public at large transfer of data is probably an unworkable model. The mineral-related geological and geophysical data base implied in HB238 has value only if it is consistently updated and preserved in a way that the information is easily accessible to the public. Corporations and small mining companies alike are ephemeral entities in this state: companies leave the state, companies cease to exist, many companies are single venture promotions, companies merge. When any of these things happen who does the public turn to? Who does the state hold accountable? It also is hard to believe that the public at large would be very satisfied with having to visit individual companies all over Alaska to acquire the released data. How would anyone know what was available and from whom? How would they deal with out of state companies? What would guarantee the long term preservation of the data the state had given a credit for?

These concerns raise the point that the entire concept of giving a tax credit for data submittals is only viable if the state, itself, makes a long term commitment to provide the resources necessary to preserve, maintain, and update the database.



ALASKA MINERS ASSOCIATION, INC.

501 W Northern Lights Blvd., Suite 203, Anchorage, Alaska 99503 FAX (907) 278-7997 Telephone: (907) 278-0347

April 17, 1997

Honorable Al Vezcy
Alaska State House
Capitol Building
Juneau, AK 99801

RE: House Bill 238, Amending Exploration Incentive Credits

Dear Representative Vezcy,

We are writing in support of your recently introduced House Bill 238 that would amend the statute regarding exploration investment incentive credits. We feel that HB-238 would be complementary both to the existing incentive program and to the state's on-going investments in minerals data collection.

HB-238 addresses a perplexing question that has been discussed for many years within the mining industry. That is, many companies have made investments to collect data about the mineral resources of the state and then, for various reasons, have not continued with the projects. The data generated is proprietary and because it may be of value in the future, it is kept confidential within that company. This bill will provide an incentive for companies to release the information and would provide a mechanism so the data would become available to the public. The cost to the state in the form of a tax credit would be significantly less than the cost for the DNR Division of Geologic & Geophysical Surveys to obtain the same data using its personnel. Also, the release of the data would create new interest and encourage investment in Alaska by other companies.

We see several challenges that need to be addressed and thought through to make this type of a program work effectively. One item is to insure that data submitted for a credit is of value to the state. Data that the state already has should not qualify unless it brings something new to light. A second item concerns the quality, format, detail (spacing of data points), etc. of the data. Another issue is to insure that the final data package for use by the public will be of the same quality as existing DCGS materials.

We have read the bill but have not studied it in sufficient detail to know if these issues are addressed. We do not see these points as problems but rather as issues that need careful review and consideration. The current exploration investment credit program, which you sponsored with Representative Foster, has been a great success and at very little cost to the state. That success is due to the fact that industry, the sponsors, and DNR worked together on the bill for several months to insure that all the relevant questions were addressed.

We would propose that this same approach be taken with HB-238. Specifically, we suggest that over the up-coming summer and fall, we work together with DNR to evaluate the bill and the issues noted above in-depth and then be prepared to move forward with this bill in the Second Session of the 20th Legislature.

Thank you for introducing HB-238. We believe it has tremendous potential and look forward to seeing this bill become an added incentive for companies to invest and create additional new jobs in Alaska.

Sincerely,



Steven C. Borell, P.E.
Executive Director

cc. Commissioner John Shively



ALASKA MINERS ASSOCIATION, INC.

801 W Northern Lights Blvd, Suite 203 Anchorage, Alaska 99503 FAX (907) 274-7997 Telephone (907) 276-0347

April 30, 1997

Honorable Al Vezey
Alaska State House
Capitol Building
Juneau, AK 99801

RE: House Bill 238, Amending Exploration Incentive Credits

Dear Representative Vezey,

We are reviewing the Committee Substitute for your House Bill 238, CS HB-238() version "F", that would amend the statute regarding exploration incentive credits. We appreciate your efforts to incorporate comments from our letter of April 17, 1997.

We are still reviewing the CS in detail but have some initial comments that we felt should be raised. An overriding request by several persons I have talked to about this bill is that nothing be done that could complicate the existing statute for either the public or the State. During our review it became apparent that many of the questions we were seeing could be answered better if HB-238 was a stand-alone statute, with possibly some references to the existing statute, rather than an amendment of the existing statute.

It is also apparent that some of the underlying principles of the existing exploration incentive authorized by AS 27.30 are different than those contemplated in HB-238 and that the opportunity for misunderstanding by the industry and the state is significantly greater. The common principles for both bills include encouraging mineral investment that will create new jobs. Principles of the existing statute include: raw data only, not interpretation, tied to a specific mine, clearly defined cut-off point to insure that mine development or operating costs were not included, defined maximum credit per mine. When combined, these aspects result in a narrowly focused bill with clear side-boards.

Conversely, HB-238 has a much broader application and its principles are: get what is otherwise proprietary raw data into public domain, get what is otherwise proprietary interpretation (geologic maps) into public domain, covers both new and previously collected data and interpretation. To make this work effectively and ensure needed side-boards the challenge will be to: insure quality of data and interpretation, get data and interpretation in common, usable, and reproducible form (i.e. the same form as DGGs now sells to the public), insure material is not a duplication, insure material is not data tied to a mine, include procedures to insure that the difficulty and cost to administer the incentive is minimized.

Another factor affecting HB-238 is that HB-46 needs to pass and become law so we know exactly how to reference the existing statute. HB-46 contains changes to when the application must/can be filed, a fee requirement, etc. The need for HB-46 to be in statute applies equally to amending the statute or to adding a new stand-alone portion.

As noted in our previous letter, the success of the current exploration incentive credit program is due in part to the fact that the bill was thoroughly reviewed over a period of several months and this insured that all the relevant questions were addressed. We would like to suggest that once the current session of the Legislature is adjourned DNR, DOR, AMA (T Crafford, D. Manzer & myself), the Council of Alaska Producers, and you get on a teleconference and continue detailed review of the bill. This form of group review is the most effective way to work through the questions that are being raised.

Thank you for your consideration of these items.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steven C. Borell".

Steven C. Borell, P.E.
Executive Director

cc: Commissioner John Shively

DEPARTMENT OF NATURAL RESOURCES

Preliminary Analysis of HB 238

by

*Division of Mining and Water Management
and
Division of Geological and Geophysical Surveys*

April 17, 1997

- The overall concept of increasing the basic geological survey data in Alaska, regardless of land ownership, available to the public has merit.
- Several items of how HB 238 would work are not clear. Accordingly, the two Divisions of the Department of Natural Resources are not yet able to meaningfully recommend a position to the Department on the specifics of HB 238 in its present form or the potential costs to the Department of Natural Resources if implemented in its present form.
- Areas where there is a degree of uncertainty include the following:
 - a. When does the data for a mineral property or area that does not otherwise qualify for the exploration incentive credit become stale?
 - b. How are data that duplicates information already available to the public in part or in total to be credited?
 - c. How is this new credit to be considered when it involves a mineral property that subsequently qualifies for the existing exploration incentive credit program, and is part of the existing \$20 million cap?
 - d. What is the standard of public availability--a professional publication, a draft report on file in a company office in Alaska or elsewhere, a report on file with the Division of Geological and Geophysical Surveys, and other related questions about availability?
 - e. How are the new credits that are totally or partially developed with federal, state, or other public funding to be treated?
 - f. What is the standard for determining whether the eligible costs in the new credit are reasonable?

g. Applications for the existing exploration incentive credit program over the past two years involve 139 individual mineral properties for a total expenditure of about \$50 million. The supporting information with these applications suggest that up to \$37 million might be an "eligible cost" under the HB 238 if none ever resulted in a producing mine. Is the intent of the Legislature?

- Close working relationships were developed between the Legislature, mining industry, Attorney General's Office, Department of Revenue and Department of Natural Resources during the consideration of the Exploration Incentives Credit Act (AS 27.30) in the last Legislature. Those working relationships have continued as a Department form for filing applications for exploration credits was prepared and then reviewed after the first year of use. These same relationships led to proposed amendments to the parent program in this Legislature with the introduction of HB 173 by Representative Foster and its subsequent incorporation into HB 46 (Representatives Kelly and Theriault) in the Senate Resources Committee with the full support and encouragement by the Administration.

Recommendation: Use the existing stakeholder relationships to (1) respond to the questions about how the intent of HB 238 can be effectively implemented and, as appropriate, (2) develop specific amendments to HB 238. This can take place over the summer with amendments developed with the sponsor prior to the next session. At that time the Administration, sponsor, and mining industry can be in a position to develop consensus to the maximum extent possible and for all to understand the rationale on any differences.