ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

2895 SRES HB 258

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 these 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.

STATE OF ALASKA
FISCAL NOTE

Revision Date 4/11, 1983

I. REQUEST
Bill/Resolution No: CSSSHB 258 (L&C)
Title: Special Investment Tax Credit
Sponsor: Hayes & Szymanski
Requestor: Labor, Commerce & Finance

II. FISCAL DETAIL
Agency Affected: Revenue
Program Category Affected: Coll. & Mgmnt
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)

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|---|---|---|---|---|---|---|
| GENERAL FUND | - | - | - | - | - | - |
| FEDERAL FUNDS | - | - | - | - | - | - |
| OTHER (Specify Source) | - | - | - | - | - | - |
| | - | - | - | - | - | - |

POSITIONS:

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|---|---|---|---|---|---|---|
| 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
Phone: 465-273
Division: Revenue - Research
Date: 4/7/83

Approved by Commissioner: [signature]
Date: 4/11/83
Department: Revenue

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

## IV. Analysis of CSSSHB 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.

Alaska State Legislature

Speaker of the House of Representatives

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

Official Business

## 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 proprty 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 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.

# # # # # # #

# Alaska State Legislature

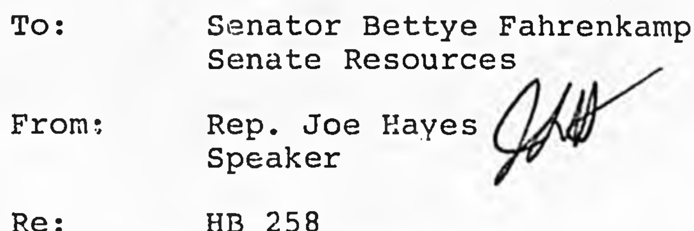
## Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-[illegible]720

Official Business

MEMORANDUM

April 27, 1983



To: Senator Bettye Fahrenkamp
Senate Resources

From: Rep. Joe Hayes
Speaker

Re: HB 258

I have been told the Senate resources committee will hear HB 258 re: special investment tax credit on Friday. My staff has given backup on this legislation to your staff. This memo is additional material to be considered.

There were several amendments proposed in the House which were opposed. In anticipation of a similar offering in the Senate, I wish to outline my objections in several areas.

The Department of Revenue wishes to list minerals in the bill which the tax credit would apply to rather than reference the IRS code as the bill now does. For the sake of uniformity and consistency it seems appropriate to maintain the IRS code reference rather than list minerals separately. Investment companies have a legitimate concern in expecting some consistency in taxation policies. In that regard, it makes sense that companies should expect the same provisions of a federal tax credit to apply to a state credit. If the IRS code should at some time delete a mineral that is of benefit to the state, it would be a minor matter to then amend our statutes. I think it most prudent to maintain the current reference as the bill does.

I also have some problems with any type of a sunset provision which may be proposed. Many developments, especially in mining are long term projects of 30 years or more. I think a sunset could discourage potential investment. Investors should not be under the threat of a sunset provision which would terminate the consitions under which an investment was originally made.

If, at some time, it is determined the tax credit is no longer accomplishing the goals for which it is intended, it would be possible for a future legislature to terminate the credit. I think this would be a more beneficial attitude than including a sunset clause which could still cause uncertainty and borderline investors to hold off from committing to an Alaskan investment.

There was a proposal to define gas processing facilities as those which produce only urea, methane and liquified natural gas. The bill now defines them as facilities which produce but are not limited to the production of those items. A facility can produce over one hundred by-products. I do not feel we should withhold the credit from production of the byproducts which may also be of benefit.

Finally, this bill is aimed at encouraging investment and jobs in three major areas...coal mining, general mineral development and gas processing. These areas will likely result in the greatest number of jobs in Alaska. While I am not specifically opposed to credits in other areas, I think the bill should be restricted to the areas it now addresses at this time. Further credits should be examined on their own merits and potential.

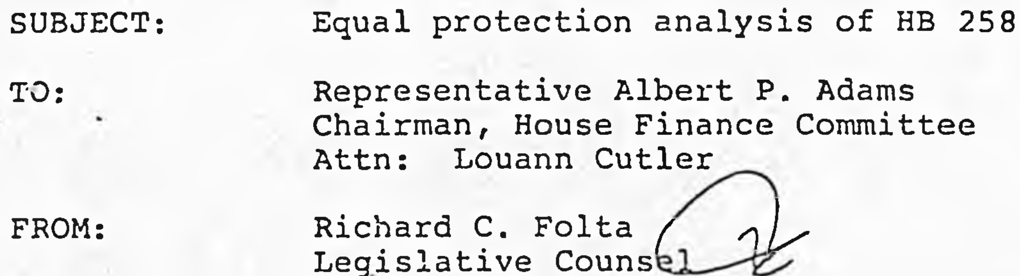
Thank you for your consideration and I encourage the committee's quick action on this important legislation.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M                    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

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

# 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

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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. Ptasynski 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

BEFORE THE SENATE RESOURCES COMMITTEE

LEGISLATURE OF THE STATE OF ALASKA

# PREPARED STATEMENT

OF

WAYNE B. ALLRED

ASSISTANT CONTROLLER OF TAXES FOR

NORTHWEST ALASKAN PIPELINE COMPANY

HOUSE BILL NO. 258

APRIL 29, 1983

MY NAME IS WAYNE B. ALLRED. I AM THE ASSISTANT CONTROLLER OF TAXES FOR NORTHWEST ALASKAN PIPELINE COMPANY ("NORTHWEST"), WHICH IS THE AGENT AND OPERATOR FOR THE ALASKAN NORTHWEST NATURAL GAS TRANSPORTATION COMPANY. NORTHWEST, ON BEHALF OF THE PROJECT SPONSORS, HOLDS THE AUTHORIZATION TO CONSTRUCT A PIPELINE IN ALASKA TO TRANSPORT GAS FROM PRUDHOE BAY TO THE CANADIAN BORDER, AT WHICH POINT THE CANADIANS WILL FURTHER TRANSPORT THE GAS TO THE BORDER OF THE LOWER 48 STATES. NORTHWEST HAS RECEIVED NUMEROUS APPROVALS AND ENDORSEMENTS FOR THE PROJECT, WHICH IS OFFICIALLY TERMED THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM (ANGTS). IN 1977, THE PRESIDENT OF THE UNITED STATES OFFICIALLY DESIGNATED THE ANGTS AS THE PREFERRED SYSTEM TO DELIVER ALASKA'S NORTH SLOPE GAS TO THE CONTINENTAL UNITED STATES, AND THE UNITED STATES CONGRESS RATIFIED HIS DECISION THAT SAME YEAR. ALSO DURING 1977, THE FEDERAL ENERGY REGULATORY COMMISSION ISSUED ITS PRELIMINARY APPROVAL, AND THE CANADIAN GOVERNMENT AND ITS NATIONAL ENERGY BOARD ENDORSED THE ANGTS PROJECT. IN DECEMBER OF 1981, THE U.S. CONGRESS VOTED TO APPROVE THE INCLUSION OF A GAS PROCESSING FACILITY IN THE PREVIOUSLY APPROVED GAS TRANSPORTATION SYSTEM. THIS GAS PROCESSING FACILITY IS TO BE CONSTRUCTED ON ALASKA'S NORTH SLOPE AT PRUDHOE BAY.

DUE TO THE RECENT RECESSIONARY ECONOMY, THE UPHEAVAL IN THE WORLD OIL MARKET, AND THE CURRENT SUPPLY-DEMAND-PRICING

IMBALANCE IN THE NATURAL GAS INDUSTRY, A DECISION WAS MADE BY THE PROJECT SPONSORS TO DELAY THE CONSTRUCTION OF THE PROJECT. HOWEVER, NORTHWEST AND ITS PARTNERS, ALONG WITH THE THREE PRODUCERS WHO OWN THE VAST MAJORITY OF THE PRUDHOE BAY GAS, ARE CONVINCED THAT THE FACTORS CAUSING THE DELAY ARE TEMPORARY AND THAT THIS NATION WILL HAVE AN ULTIMATE NEED FOR THE ALASKAN NORTH SLOPE NATURAL GAS. THEY ARE, THEREFORE, CONTINUING TO PROVIDE THE FUNDS NEEDED FOR THE ACTIVITIES NECESSARY TO MEET THE REVISED SCHEDULE FOR COMPLETION.

THE PROJECT SPONSORS ARE CONTINUING TO EXAMINE ALTERNATIVES FOR MARKETING THE GAS AND FINANCING THE PROJECT. AS YOU KNOW, IN THE PAST, WE HAVE OFFERED THE STATE AN OPPORTUNITY TO INVEST IN THE PROJECT. WE HAVE NEVER, TO THIS DATE, REQUESTED THAT THE STATE SUBSIDIZE THE PROJECT -- ONLY THAT IT CONSIDER MAKING AN INVESTMENT WITH A REASONABLE RATE OF RETURN TO ASSIST A PROJECT WHICH WILL HAVE SIGNIFICANT BENEFITS FOR CITIZENS OF ALASKA. HOUSE BILL NO. 258, HOWEVER, WHICH IS CURRENTLY BEFORE YOU, SEEKS SOMETHING ENTIRELY DIFFERENT. THE BILL PROPOSES TO ESTABLISH A SPECIAL INVESTMENT CREDIT FOR GAS PROCESSING FACILITIES CONSTRUCTED SOUTH OF THE ARCTIC CIRCLE. IT IS, IN FACT, AN INDIRECT STATE SUBSIDY FOR GAS PROCESSING FACILITIES WHICH MAY BE CONSTRUCTED IN THAT GEOGRAPHIC AREA OF THE STATE.

TO GIVE YOU AN IDEA OF THE FISCAL IMPACT OF THIS BILL, LET ME ILLUSTRATE WITH AN EXAMPLE RELATED JUST TO GAS PROCESSING FACILITIES.

IF, UNDER CURRENT ALASKA TAX LAWS, NORTHWEST WERE TO CONSTRUCT AND PLACE IN SERVICE A GAS PROCESSING FACILITY ON THE NORTH SLOPE, COSTING 5 BILLION DOLLARS, IT WOULD RECEIVE AN INVESTMENT CREDIT, OR TAX SUBSIDY, OF ROUGHLY 4 MILLION DOLLARS.

IF A SIMILAR GAS PROCESSING FACILITY WERE CONSTRUCTED SOUTH OF THE ARCTIC CIRCLE, SAY IN THE COOK INLET, AS ENVISIONED UNDER THE TAGS PROPOSAL, THE STATE COULD BE REQUIRED UNDER THIS BILL, TO PROVIDE ROUGHLY $400 MILLION IN TAX CREDITS OR TAX SUBSIDIES TO SUCH A FACILITY. ADDITIONALLY, THE STATE MAY ADDITIONALLY BE REQUIRED TO PROVIDE CREDITS OF SIMILAR MAGNITUDE FOR LIQUIFICATION FACILITIES.

IN CONCEPT, WHILE WE HAVE NOT SOUGHT LEGISLATION OF THIS NATURE, WE DO NOT OPPOSE THE ESTABLISHMENT OF AN INVESTMENT CREDIT CREDIT FOR GAS PROCESSING FACILITIES. IN FACT, WE WOULD SUPPORT THE PROPOSED CREDIT ABSENT ITS UNACCEPTABLE LIMITATION TO FACILITIES WHICH MAY BE LOCATED SOUTH OF THE 160th PARALLEL. H.B. 258 IN ITS PRESENT FORM, IS CLEARLY DISCRIMINATORY, PROBABLY UNCONSTITUTIONAL, AND APPEARS TO BE SPECIFICALLY DESIGNED TO GRANT AN UNWARRANTED PREFERENCE TO THE RECENTLY CONCEPTUALIZED TRANS ALASKA GAS SYSTEM ("TAGS").

THE TAGS PROPONENTS, HOWEVER, HAVE NOT YET EVEN DEMONSTRATED THAT THEIR PROPOSAL IS TECHNICALLY OR ENVIRONMENTALLY SOUND, THAT THERE ARE ANY REAL MARKETS FOR THE GAS, OR THAT CONGRESS WOULD CONSIDER IT A VIABLE ALTERNATIVE TO THE ANGTS.

RECENTLY, YOUR CONSULTANTS, BOOZ, ALLEN AND HAMILTON, ADVISED THE LEGISLATURE THAT ECONOMIC FACTORS WILL DETERMINE WHICH GAS LINE WILL BE BUILT AND WHEN IT WILL BE BUILT. THE CONSULTANTS ADVISED THAT WHILE YOUR ACTIONS COULD DO LITTLE TO HELP EITHER THE ANGTS PROJECT OR THE NEW TAGS PROPOSAL, YOU COULD, THROUGH YOUR ACTIONS, HARM THE PROSPECTS OF EITHER PROJECT. WE DO NOT BELIEVE THAT IT IS THE LEGISLATURE'S INTENT IN THIS BILL TO IMPEDE, DELAY OR HARM THE LIKELIHOOD OF CONSTRUCTION OF THE ANGTS PROJECT. WE, THEREFORE, RESPECTFULLY REQUEST THAT THE ANGTS PROJECT RECEIVE EQUAL TREATMENT IN THE BILL, AND THAT ALL GEOGRAPHICAL REFERENCES LIMITING THE USE OF THE TAX CREDIT, INCLUDING THE DESIGNATION "SOUTH OF THE ARCTIC CIRCLE," BE REMOVED FROM THE BILL. WITHOUT SUCH MODIFICATION, THE REAL MESSAGE YOU WILL SEND TO THE FINANCIAL MARKETS IS THAT YOUR SUPPORT FOR THE ANGTS PROJECT IS SO LUKEWARM THAT YOU ARE WILLING TO GIVE A TAX PREFERENCE, OF THE SORT NEVER OFFERED TO THE ANGTS, TO A MERE CONCEPT -- ONE THAT HAS NOT YET DEMONSTRATED ITS CREDIBILITY AND WHICH HAS NO SUBSTANTIAL SPONSORS, MUCH LESS ANY SOURCE OF THE MAJOR FUNDS REQUIRED.

IN SUMMARY, WE RESPECTFULLY SUGGEST THAT HOUSE BILL NO. 258 BE REVISED TO ELIMINATE ITS GEOGRAPHICAL LIMITATIONS WHICH ARBITRARILY DISCRIMINATE AGAINST ONE REGION OF THE STATE VIS-A-VIS ANOTHER AND UNFAIRLY PROMOTE A RECENT IDEA FOR TRANSPORTATION OF NORTH SLOPE GAS AT THE EXPENSE OF THE ANGTS PROJECT, WHICH IS MUCH MORE THAN AN IDEA. IT IS, IN FACT, A PROJECT WITH OVER SIX YEARS OF WORK, STUDY, GOVERNMENTAL REVIEW, AND LEGAL PROCEEDINGS BEHIND IT; AND ONE IN WHICH ALMOST $500 MILLION HAS ALREADY BEEN INVESTED. MUCH OF THAT MONEY, AS YOU KNOW, HAS BEEN SPENT HERE IN ALASKA.

THANK YOU FOR THE OPPORTUNITY TO PRESENT THESE VIEWS.

HB 258

# ALASKA MINERS ASSOCIATION, INC.

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

April 6, 1983

Senator Bettye Fahrenkamp
Alaska State Legislature
Pouch V (MS3100)
Juneau, Alaska 99811

Dear Bettye:

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

Ronald Rosander

Ron Rosander
Vice President

RR/dlw
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,

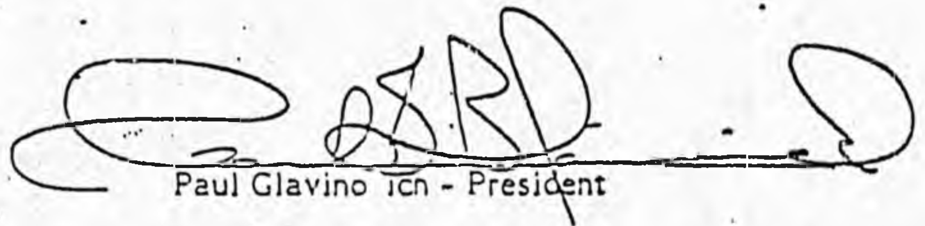
Whereas the Investment Tax Credits proposed in HB-258 would provide financial incentives for the development of minerals in Alaska and indicate the strong support of the State of Alaska for a mining industry.

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.

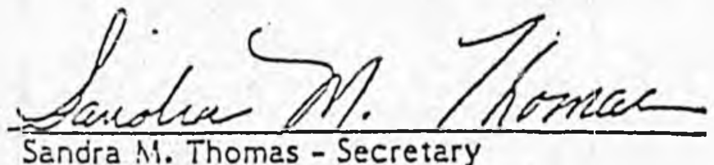
Approved

Fairbanks, Alaska

March 29, 1983



Paul Glavino ich - President



Sandra M. Thomas - Secretary

Department of Revenue
H.B. 258 Example

FACTS

A mining company doing business exclusively in Alaska makes a $500,000,000 investment on January 1, 1984 and a like investment on January 1, 1985.

ASSUMPTIONS

1. 65% of the investment in each year is qualified investment credit property.

   Examples of Qualified Investment Credit property would be:

   a. machinery & equipment
   b. other property which is an integral part of the manufacturing process, eg. silos, elevators, etc.

   Property that does not qualify would be:

   a. real property (other than that which is an integral part of the manufacturing process), eg. warehouses, office buildings, parking lots, etc.
   b. intangible personal property, eg. leases, royalty agreements, etc.

2. The investment produces a 15% pre-tax net rate of return on the new investment in the first year and a constant 7 1/2% pre-tax return thereafter.

3. Federal taxable income from 1981-1992 is $5M per year excluding that income attributable to the new investment.

4. Tax rates and limitations remain constant from 1984-1992.

5. No investments in qualifying property are made after 1985.

2200I

A M E N D M E N T

Vic Fischers

Offered in the SENATE

TO: CSSSHB 258(L&C)

Page 2, line 6:
Delete: "and (k)"
Insert: "- (l)"

Page 2, line 9:
Delete: "For"
Insert: "Subject to (l) of this section, for"

Page 2, line 11, following "liability"
Insert: "up to"

Page 3, line 2:
Delete: "For"
Insert: "Subject to (l) of this section, for"

Page 3, line 7, following "liability"
Insert: "up to"

Page 3, following line 23, insert a new subsection to read:

"(l) To claim an investment credit under (j) or (k) of this section, an application by the taxpayer shall be made to the department demonstrating that the credit is necessary to the viability of the taxpayer's proposed project and is advantageous to the economic growth of the state. After the commissioners of revenue, commerce and economic development, natural resources, labor, and the director of the office of management and budget have made recommendations, the application shall be forwarded to the governor. Credits under (j) or (k) of this section may be granted by the department only if the governor finds that the proposed project could not be reasonably undertaken without an investment credit and that it would be advantageous to the economic growth of the state. An investment tax credit up to 100 percent under (j) or (k) of this section may not exceed a term of 20 years."

INVESTMENT TAX CREDIT
HOUSE BILL 258

PURPOSE: The bill would provide investment tax credits on state corporate taxes for gas processing facilities, as long as they were located south of the Arctic Circle, and for the development of mineral prospects anywhere in the state.

CURRENT ALASKA INVESTMENT CREDIT: Alaska currently has a provision allowing corporations to deduct 1.8% of qualified capital investments as credits from their corporate taxes. The federal law allows 10% of qualifed investments as a credit. Current Alaska law also limits the investment tax credit allowable to the first $20 million of investments each year.

PROVISIONS OF HOUSE BILL 258: The bill would give additional tax credits (an increase from 1.8% to 10%) for capital investments in mineral development and gas processing. The bill also removes the $20 million limitation.

MAIN POINTS OF CONTENTION:

(1) The stated purpose of the bill is to provide a stimulus to get mineral and gas processing development underway. The logic is that this incentive would provide "spin-off" jobs that would make up the difference in lost revenue. Economists over the years have generally argued over whether the investment tax credit does indeed stimulate investment. Some maintain that it is a very important factor in investment decisions and in setting a favorable investment climate. Others argue that tax credits are a very minimal factor in industry startup, and that the most critical factors are resource availability, support infrastructure, and market conditions.

(2) The bill as currently drafted excludes gas processing plants north of the Arctic Circle. The concern centers around the question of whether a state can discrimate on the basis of geography. The Department of Law will be testifying on this point. Northwest Pipeline Company is especially interested in this question for obvious reasons. Cook Inlet who are the main proponents of the measure, have stated that they do not wish to get into the middle of the gas pipeline routing debate.

(3) The Department of Revenue has no idea about how much state revenue will be lost from enactment of the bill. A fiscal note cannot be prepared because of the unknowns involved in future capital investment plans.

(4) The final major concern is over whether giving the investment tax credit is in the best interest of the miners and persons interested in gas processing. This concern can be explained as follows: for every dollar the state loses in revenue, the individual investor would receive 54¢. The federal government would receive the other 46¢. Which way would investment in the state be helped, by a 54¢ tax break or by expending that dollar on infrastructure, loan funds, etc.

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

## Senate
## Committee on Resources

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff

RE: CSHB 258 (L&C) Establishing a special investment tax credit.

DATE: April 28, 1983

---

HB 258 would provide additional tax credits for gas processing facilities located south of the Arctic Circle and for development of mineral prospects anywhere in the state.

Alaska Statutes currently provide for a tax credit for qualified investments of 1.8% of the amount invested up to the first $20 million of investment each year. The proposed legislation would increase the percentage to 10% (same as federal tax law) and remove the investment ceiling.

The Committee will be receiving testimony on the bill from the Departments of Revenue and Law. Their testimony will address several concerns in the legislation. Some of these concerns are: the constitutionality of excluding development above the Arctic Circle from the investment tax benefits; the loss of State revenue; and whether the investment tax credit would be a stimulus to mineral and gas processing projects in the state.

STATE OF ALASKA
FISCAL NOTE

Revision Date 4/11, 1983

I. REQUEST
Bill/Resolution No: CSSSHB 258 (L&C)
Title: Special Investment Tax Credit
Sponsor: Hayes & Szymanski
Requestor: Labor, Commerce & Finance

II. FISCAL DETAIL
Agency Affected: Revenue
Program Category Affected: Coll. & Mgmnt
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|---|---|---|---|---|---|---|
| 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)

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|---|---|---|---|---|---|---|
| GENERAL FUND | - | - | - | - | - | - |
| FEDERAL FUNDS | - | - | - | - | - | - |
| OTHER (Specify Source) | - | - | - | - | - | - |
| | - | - | - | - | - | - |

POSITIONS:

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|---|---|---|---|---|---|---|
| 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
Phone: 465-273
Division: Revenue - Research
Date: 4/7/83

Approved by Commissioner: [signature]
Date: 4/11/83
Department: Revenue

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 CSSSHB 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.

# Alaska State Legislature

## Speaker of the House of Representatives

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

Official Business

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 proprty 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 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.

# # # # # # #

# Alaska State Legislature

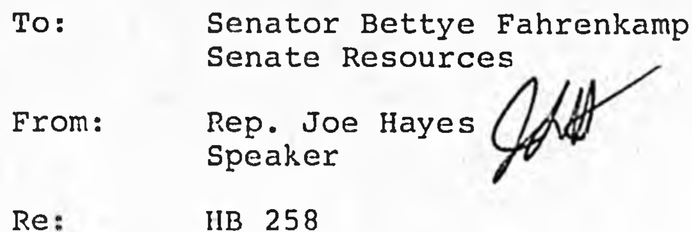
## Speaker of the House of Representatives

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

Official Business

MEMORANDUM

April 27, 1983



To: Senator Bettye Fahrenkamp
Senate Resources

From: Rep. Joe Hayes
Speaker

Re: HB 258

I have been told the Senate resources committee will hear HB 258 re: special investment tax credit on Friday. My staff has given backup on this legislation to your staff. This memo is additional material to be considered.

There were several amendments proposed in the House which were opposed. In anticipation of a similar offering in the Senate, I wish to outline my objections in several areas.

The Department of Revenue wishes to list minerals in the bill which the tax credit would apply to rather than reference the IRS code as the bill now does. For the sake of uniformity and consistency it seems appropriate to maintain the IRS code reference rather than list minerals separately. Investment companies have a legitimate concern in expecting some consistency in taxation policies. In that regard, it makes sense that companies should expect the same provisions of a federal tax credit to apply to a state credit. If the IRS code should at some time delete a mineral that is of benefit to the state, it would be a minor matter to then amend our statutes. I think it most prudent to maintain the current reference as the bill does.

I also have some problems with any type of a sunset provision which may be proposed. Many developments, especially in mining are long term projects of 30 years or more. I think a sunset could discourage potential investment. Investors should not be under the threat of a sunset provision which would terminate the consitions under which an investment was originally made.

If, at some time, it is determined the tax credit is no longer accomplishing the goals for which it is intended, it would be possible for a future legislature to terminate the credit. I think this would be a more beneficial attitude than including a sunset clause which could still cause uncertainty and borderline investors to hold off from committing to an Alaskan investment.

There was a proposal to define gas processing facilities as those which produce only urea, methane and liquified natural gas. The bill now defines them as facilities which produce but are not limited to the production of those items. A facility can produce over one hundred by-products. I do not feel we should withhold the credit from production of the byproducts which may also be of benefit.

Finally, this bill is aimed at encouraging investment and jobs in three major areas...coal mining, general mineral development and gas processing. These areas will likely result in the greatest number of jobs in Alaska. While I am not specifically opposed to credits in other areas, I think the bill should be restricted to the areas it now addresses at this time. Further credits should be examined on their own merits and potential.

Thank you for your consideration and I encourage the committee's quick action on this important legislation.

# STATE OF ALASKA
# THE LEGISLATURE
## LEGISLATIVE AFFAIRS AGENCY

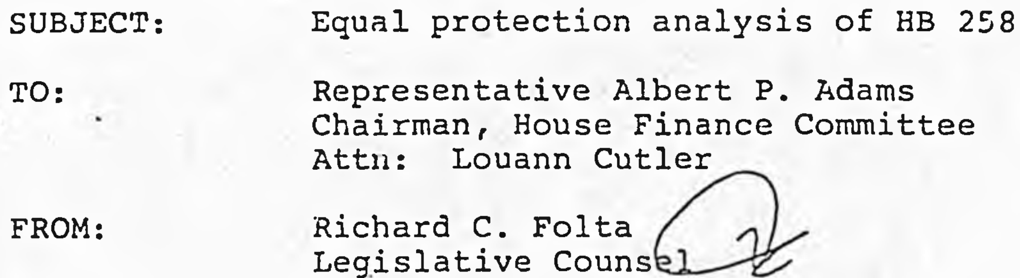
POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

M E M O R A N D U M 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

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

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 (1976). 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

22-141 50 SHEETS
22-142 100 SHEETS
22-144 200 SHEETS

Hypothetical Mine - Alaska

David Heatwole. Alaska Miners Assoc.

Senate Resources Comittee

<u>Ball Park Figures</u>

A medium sized high grade mine

Production Rate - 1000 Tons/day

Mine Life- 20 years

Capitial Investment $ 200 million

Subject to I.T.C 50% - $100 million

Total I.T.C. for project = $10 million.

Annual Net Revenue - $ 35 million

State IC tax at 10% = $3.5 million
Mining License tax of 7% - $2.5 million

Total Revenue to State

17 years state I.C. Tax = $45 million
17 years Mining License tax = $40 million

Total = $85 million

Total I.C. tax Credit $10 million

from Dave Heatwole

# INVESTMENT TAX CREDIT

Prepared by:

Alaska Department of Revenue

Robert D. Heath
Commissioner

# Foreword

The federal tax laws are highly complex, and the interplay between the Alaska and federal law adds to that complexity. However, a basic understanding of the applicable tax principles and their ramifications is a prerequisite to any analysis of HB 258. The materials compiled in this document are designed to explain and illustrate the operation of those principles, as well as to present such other information necessary in the formulation of an informed decision on the appropriateness of the proposed legislation.

## Introduction

Sponsor substitute for HB 258 establishes 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 south of the Arctic Circle. The bill greatly expands the current Investment Tax Credit.

This handout is intended to provide information which will explain the investment tax credit provisions and provide other information for consideration before the bill becomes law:

This handout is sectionalized as follows:


Section 1: Provides a brief introduction to federal and state Investment Tax Credit Principles.

Section 2: There has been substantial controversy regarding what qualifies for the credit. This section discusses what qualifies.

Section 3: Provides a hypothetical example on the potential impact using various percentage and dollar limitations which might be suggested as modification to HB 258.

Section 4: Dramatically emphasizes the potential for tax leakage to an oil and gas corporation purchasing mining property.

Section 5: Mining Taxes - Brief Summary

Section 6: Brief review of property taxes

Section 7: Provides a synopsis of the results of a special study performed on Mineral Taxation in various states.

Section 8: Contains comments regarding Tax Incentive in general as well as comments on the reasonableness of Mining Taxes in Alaska.

Section 9: Tax benefits for corporations, in general

Section 10: Brief summary of future production which could well avail itself of large tax savings because of the expanded investment tax credit.

Section 11: Brief summary of Alaska Industrial Incentive Act (AS 43.25) and Alaska Industrial Tax Incentive Act (AS 43.26).

Section 12: Historical review of Alaska's revenues

## Section 13: Executive Summary

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## Section 1

### Federal Income Tax Principles - Investment Credit

Investment credit is a dollar for dollar reduction in computed tax. IRC § 38(a).

The amount of the credit for newly acquired property is based upon "qualified investment". IRC § 46(a)(2)(A). Eligible 5, 10, and 15 year ACRS recovery property has a qualified investment equal to 100% of the cost of such property. In the case of eligible 3 year property, only 60% of the cost of the property qualifies as a "qualified investment". IRC § 46(c)(7).

10% of the total "qualified investment" equals the amount of the investment credit. IRC § 46(a)(2). The investment credit must be taken in the year the property is placed in service. Reg. § 1.46-3(d).

In 1983 and following years, the investment credit allowed in any one year is limited to the first $25,000 of tax plus 85% of the tax above $25,000. The percentage was 90% in 1982 and 80% in 1981. IRC § 46(a)(3).

Any investment credit which cannot be used because of the limitation isn't wasted as it is carried back to the 3 previous years and used to offset tax in those earlier years. If the carryback does not exhaust the credit, it may then be carried forward over the 15 years following the year in which the credit arose. If the credit is not fully used over this 19 year period, the remainder is allowed as a deduction from taxable income. IRC § 46(b).

Alaska adopts by reference in AS 43.20.021 the investment credit provisions of the Internal Revenue Code. However, part (d) of that section limits the credit to 18% of the credit determined for federal income tax purposes. In addition, AS 43.20.036 further limits the credit to only that computed on the first $20,000,000 of qualified investment put into use in Alaska for each taxable year.

Prior to 1976, the Alaska Corporation Net Income tax was computed as 18% of the federal tax payable. Legislation in 1975 amended that method to provide for a tax equal to 5.4% of taxable income and a surtax equal to 4.0% of taxable income. Also, the alternative tax on capital gains was set at 4.5% for corporations. Those percentages, when divided by the federal tax rates, produced an approximate effective tax rate of 18% for Alaska purposes. Thus, while the method of computing the Alaska tax changed, the envisioned tax rate was left intact. Both

federal and Alaska tax rates have decreased in the last few years.

The 18% Alaska tax rate prior to 1976 was somewhat deceptive because the effective rate of tax was actually less. In computing federal tax liability, a taxpayer is allowed to deduct from taxable income all state income taxes. Applying the 18% rate to the federal tax payable allowed a taxpayer to deduct Alaska taxes in computing the Alaska tax. The effect was to reduce what was envisioned as an 18% tax rate. The 1975 amendments remedied that result by enacting specific Alaska tax rates and disallowing any Alaska deduction for taxes based on or measured by net income.

Attachments: AS 43.20.021
AS 43.20.036
15 AAC 20.110

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 43.20.010 — 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 43.20.010 — 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 43.20.010 — 43.20.350 unless excepted to or modified by other provisions of AS 43.20.010 — 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 1980.

(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 1980)

**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 maximum 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 second 1980 amendment.

**Editor's notes.** — Section 52, ch. 113,

**Editor's notes.** — The repealed section derived from § 6, ch. 70, SLA 1975; § 2, ch. 8, SLA 1978; § 1, ch. 64, SLA 1980; § 19, ch. 113, SLA 1980.

For legislative findings and purpose of repealing acts, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980 Temporary and Special Acts and Resolves.

NOTES TO DECISIONS

**Constitutionality of chapter.** — See note under same catc[illegible] ie following chapter analysis.

**Income derived from sale of crab to Alaska processors.** — Where income is derived from the sale of crab to Alaska processors, that income should be subject to the income tax. Where the crab were actually caught makes no difference. Sjong v. State, Dep't of Revenue, Sup. Ct. Op. No. 2269 (File No. 4255), 622 P.2d 967 (1981).

**Sec. 43.20.036. Federal tax deductions and credits.** (a) For purposes of calculating the income tax payable under AS 43.20.010 — 43.20.350, the taxpayer may not apply as a credit against his liability the foreign tax credit allowed as to federal taxes under Internal Revenue Code § 33 (26 U.S.C. § 33).

(b) For purposes of calculating the income tax payable under AS 43.20.011 — 43.20.350, the taxpayer may apply as a credit against his tax liability the investment credit allowed as to federal taxes under Internal Revenue Code sec. 38 (26 U.S.C. 38) upon only the first $20,000,000 of qualified investment put into use in the state for each taxable year. This limitation does not apply to the amounts invested in equipment which meets the definition of a certified pollution control facility as defined under Internal Revenue Code sec. 169 (26 U.S.C. sec. 169) as in effect on June 19, 1975, except that the date specified in Internal Revenue Code section 169(d) as a condition of qualifying a certified pollution control facility for a deduction does not apply.

(c) For purposes of calculating the income tax payable under AS 43.20.010 — 43.20.350, the taxpayer may apply as an exemption from his tax liability the tax exemption for domestic international sales corporations under Internal Revenue Code § 991 (26 U.S.C. § 991), except those taxpayers who are engaged in the exportation of nonrenewable resources.

(d) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

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

(f) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(g) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(h) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(i) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980. (§ 1 ch 153 SLA 1975; § 1 ch 171 SLA 1975; am § 3 ch 22 SLA 1980; am § 10 ch 1 SSSLA 1980; am § 9 ch 2 SSSLA 1980; am § 1 ch 117 SLA 1981)

to determine total unitary income subject to apportionment. This requirement applies to taxpayers who have elected to file a consolidated return under (a) of this section. (Eff. 4/14/82, Reg. 82)

Authority: AS 43.05.080
AS 43.20.031
AS 43.20.072

15 AAC 20.110. INVESTMENT TAX CREDIT. (a) For tax years beginning after June 30, 1980, a taxpayer may apply as a credit against his tax liability computed under AS 43.20 18 percent of the investment credit allowed under Internal Revenue Code section 38 upon only the first $20,000,000 of qualified investment put into use in the state for each taxable year.

(b) For calendar year 1980 and for any fiscal tax year which includes July 1, 1980. expenditures made before July 1, 1980 shall be used in calculating the credit upon only the first $500,000 of qualified investment put into use. Expenditures made after June 30, 1980 must be used in calculating the credit upon only the first $20,000,000 of qualified investment put into use in the state. For tax years which include July 1, 1980, the total qualified investment upon which credit may be claimed may not exceed $20,000,000 under any circumstances.

(c) Expenditures qualifying for the investment credit and subject to the $20,000,000 limitation must

(1) qualify for federal investment credit under section 38 of the Internal Revenue Code;

(2) be cash expenditures or binding payment agreements entered into after June 30, 1980; and

(3) be made for assets placed in service in the state.

(d) For purposes of this section, "placed in service in the state" means that the first use of the qualified investment is in this state. If the property is used elsewhere in the taxable year of acquisition and brought to this state during that same year, that property is considered used property and is subject to the limitations as provided in the Internal Revenue Code. If the property is to be used elsewhere during the taxable year of acquisition and brought to this state in another taxable year, the property does not qualify for the investment credit. Transportation equipment used within and outside of this state whose use commences in this state is considered new property. The qualified expenditure for interstate transportation equipment must be based on a prorated formula of days used in this state compared to days used elsewhere.

(e) The recapture of any credit taken must be done under Internal Revenue Code section 47 and must apply when the property is sold, transferred, abandoned, or removed from the state. Transportation equipment used in interstate transportation in this state on a regular basis which originally qualified for investment credit but which is subsequently not used in this state on a regular basis is subject to the recapture provisions of Internal Revenue Code section 47 at that subsequent time. (Eff. 6/2/82, Reg. 82)

Authority: AS 43.05.080
AS 43.20.021
AS 43.20.036
§ 24, Ch. 117, SLA 1981

15 AAC 20.120. ALTERNATIVE ENERGY EXPENDITURE CREDIT; ELIGIBILITY. (a) A taxpayer engaged in a trade or business who purchases, constructs, or installs an alternative energy system or an energy conservation improvement on behalf of or under contract for another is not entitled to the credit provided under AS 43.20.037.

(b) A credit will not be allowed under AS 43.20.037 for the purchase, construction, or installation of an alternative energy system or an energy conservation improvement which occurred before January 1, 1981, or after December 31, 1985. (Eff 3/28/82; Reg. 81)

Authority: AS 43.05.090
AS 43.20.037
Secs. 50, 53 and 55, ch. 83, SLA 80

15 AAC 20.122. ALTERNATIVE ENERGY SYSTEM SUBSTANTIATION. (a) A taxpayer engaged in a trade or business who purchases, constructs, and installs an alternative energy system must, in addition to maintaining a record of the cost of the system, be able to substantiate that the system has provided

## Section 2

### Roads and Other Property Qualifying for the Investment Credit

Property which qualifies for the investment credit is known as section 38 property. Section 38 property means property of which:

1. depreciation is allowable;
2. has an estimated useful life of three years or more; and
3. is either tangible personal property, or other tangible property (not including a building and its structural components) but only if such is used as an integral part of manufacturing, production, or extraction, or as an integral part of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services by a person engaged in a trade or business of furnishing any such services, or is a research or storage facility used in connection with any of the foregoing activities.

The terms "manufacturing," "production," and "extraction," include the construction, reconstruction, or making of property out of scrap, salvage, or junk material, as well as from new or raw material, by processing, manipulating, refining, or changing the form of an article, as well as the mining of minerals. Thus, Section 38 property would include property used as an integral part of the extracting, processing, or refining of metallic and nonmetallic minerals, including oil, gas, rock, marble, or slate, as well as the construction of roads, bridges, or housing.

Property such as pavements and parking areas ordinarily is not used as an integral part of any of the specified activities. However, property is used as an integral part of one of the specified activities if it is used directly in the activity and is essential to the completeness of the activity. All properties used in acquiring or transporting raw materials or supplies to the point where actual processing commences (such as docks, railroad tracts and bridges) or in processing raw materials would be considered as property used as an integral part of manufacturing.

Following the introduction last session of other investment credit legislation, specifically CS HB 866, the question whether "roads" constructed by mining companies would qualify as Section 38 property was posed to the Department. That question can be answered best by reference to various Internal Revenue Service Rulings pertaining to that issue.

Roads may qualify as an integral part of a specified activity depending upon the purpose and use of the road. For example, roads (including marking devices, guardrails, and lighting) devoted solely to truck traffic relating to manufacturing activity and roads used regularly by trucks in transporting raw materials, supplies and finished and semi-finished products have been ruled by the IRS to qualify as Section 38 property for investment credit purposes. By contrast, roads provided solely for employee and visitor vehicle traffic would not be an integral part of the manufacturing activity and would not qualify. Revenue Ruling 71-555, 1971 2 C.B. 65. Paved parking lots of a manufacturing complex devoted to truck and trailer parking and paved outdoor storage areas used for the storage or raw materials, supplies, machinery temporarily removed from productive service, and finished and semi-finished products have been ruled to constitute other tangible property used as an integral part of a manufacturing operation qualifying as Section 38 property. Revenue Ruling 72-397, 1972 2 C.B. 8. That ruling also held that paved employee and visitor parking lots do not qualify as Section 38 property because such "does not contribute directly to the flow of production." Private Letter Ruling 8201002, 1982 PH 54,732 concluded that that phrase was not to be given an overly restrictive interpretation and ruled that a reconstructed portion of a dam used to generate hydroelectric power for a cotton wearing mill constituted Section 38 property.

Thus, roads and other tangible property will qualify as Section 38 property to the extent such directly contribute to the flow of production. Presumably, most if not all roads constructed for mining related purposes will qualify for the investment credit.

Attachment: Additional Rulings

## Additional Rulings on Secton 38 Property

Concrete silo storage structures, located in the distribution and marketing areas of a taxpayer engaged in the production of cement, which structures are used for the bulk storage of fungible cement, qualified as "section 38 property" because they were storage facilities used in connection with the taxpayer's manufacturing and production of cement. [Rev. Rul. 72-365, 1972-2 C.B. 8.]

The Service has ruled that improvements consisting of a paved yard, concrete aprons, concrete pad, yard bumpers, and yard lighting made to a trucking terminal by a taxpayer engaged in short and long-haul trucking consistuted "other tangible property" used as an integral part of the furnishing of transportation services and thus, qualified as §38 property for purposes of the investment credit. [Rev. Rul. 68-1, 1968-1 C.B. 8] The paving was considered essential to the completeness of the transportation activity; the concrete aprons and pads were necessary in certain critical areas of the terminal yard to provide parking support in areas where heavy loads must be supported on small surface areas; and the yard bumpers defined the terminal yard and allowed for the safe parking and positioning of trailers of various lengths. The yard lighting was also considered an integral part of the transportation activity since a large part of the terminal work was performed at night.

In addition, logging truck roads (both permanent and temporary) constructed to harvest timber and transport the cut lumber to the taxpayer's mills and plants where the timber was processed was held to constitute "section 38 property" since they were integral parts of the taxpayer's operation of sawmills, his production of lumber, lumber products, or other building material, or his manufacture of paper, and thus integral parts of "manufacturing," "production," and "extraction." [Rev. Rul. 68-281, 1968-1, C.B. 22; Rev. Rul. 73-217, 1973-1 C.B. 35]

## Section 3

Department of Revenue
H.B. 258 Example

### FACTS

A mining company doing business exclusively in Alaska makes a $500,000,000 investment on January 1, 1984 and a like investment on January 1, 1985.

### ASSUMPTIONS

1. 65% of the investment in each year is qualified investment credit property.

2. The investment produces a 15% pre-tax net rate of return on the new investment in the first year and a constant 7 1/2% pre-tax return thereafter.

3. Federal taxable income from 1981-1992 is $5M per year excluding that income attributable to the new investment. The $5 million taxable income is all derived from non-mining production activities.

4. Tax rates and limitations remain constant from 1984-1992.

5. No investments in qualifying property are made after 1985.

6. Mining production begins in 1984.

# HB 258 Example

| | 1981 | 1982 | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Federal** | | | | | | | | | | | | |
| Tax. inc. attributable to prior investment[3] | $5M | 5M | 5M | 5M | 5M | 5M | 5M | 5M | 5M | 5M | 5M | 5M |
| Tax. inc. attributable[2] | - | - | - | 75M | 75M | 75M | 75M | 75M | 75M | 75M | 75M | 75M |
| Total taxable income | $5M | 5M | 5M | 80M | 80M | 80M | 80M | 80M | 80M | 80M | 80M | 80M |
| Tax before I/C | 2,280,750 | 2,280,250 | 2,279,750 | 36,779,750 | 36,779,750 | 36,779,750 | 36,779,750 | 36,779,750 | 36,779,750 | 36,779,750 | 36,779,750 | 36,779,750 |
| I/C before limitation[1] | 0 | 0 | | 32,500,000 | 32,500,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| I/C allowed | 1,233,462 | 1,233,462 | 0 | 31,266,538 | 31,266,538 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Tax payable | 1,047,288 | 1,047,288 | 2,279,750 | 5,513,212 | 5,513,212 | 36,779,750 | 36,779,750 | 36,779,750 | 36,779,750 | 36,779,750 | 36,779,750 | 36,779,750 |
| **Alaska** | | | | | | | | | | | | |
| Taxable income | 5.5M | 5.5M | 5.5M | 80M | 80M | 80M | 80M | 80M | 80M | 80M | 80M | 80M |
| Tax | 513,040 | 513,040 | 513,040 | | | | | | | | | |
| Tax before I/C | | | | 7,516,000 | 7,516,000 | 7,516,000 | 7,516,000 | 7,516,000 | 7,516,000 | 7,516,000 | 7,516,000 | 7,516,00 |
| I/C as computed before limitation | | | | 32,500,000 | 32,500,000 | | | | | | | |
| I/C allowed for fed. purposes | | | | 31,266,538 | 31,266,538 | | | | | | | |
| I/C utilized | | | | (7,516,000) | (7,516,000) | (7,516,000) | (7,516,000) | (7,516,000) | (7,516,000) | (7,516,000) | (7,516,000) | (3,332,880) |
| Tax payable | | | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4,183,120 |
| I/C CB from 1984 | 513,040 | 513,040 | 513,040 | | | | | | | | | |
| Tax payable as adjusted | 0 | 0 | 0 | | | | | | | | | |
| Refund to taxpayer | 513,040 | 513,040 | 513,040 | | | | | | | | | |
| I/C CF to following year | | | | 23,444,880 | 48,428,880 | 40,912,880 | 33,396,880 | 25,880,880 | 18,364,880 | 10,848,880 | 3,332,880 | 0 |

**Abbreviations**

M - Million
Tax. inc. - Taxable income
I/C - Investment credit
Fed. - Federal
CF - Carryforward
CB - Carryback

$ - all numbers in dollars

## Comparison Schedule Showing Alaska Revenue Loss Attributable to Investment Credit Provisions

| | Percentage of Federal Credit | Alaska Investment Credit | Total Federal and Alaska Tax | Federal Tax | Alaska Tax | Alaska Revenue Leakage to Federal Government | Increased Leakage Compared to Present Law | Decrease in Alaska Revenue Compared to Present Law | Decrease in Alaska Revenue From Under Present Law Which Is Available to Taxpayers |
|---|---|---|---|---|---|---|---|---|---|
| Present Law: $20,000,000 Limitation on Qualified Investment and Alaska Investment Credit set at: | | | | | | | | | |
| | 18% | 360,000 | 311,947,720 | 243,124,600 | 68,823,120 | 165,600 | 0 | 0 | 0 |
| $100,000,000 Limitation on Qualified Investment and Alaska Investment Credit set at: | | | | | | | | | |
| | 18% | 1,800,000 | 311,170,120 | 243,787,000 | 67,383,120 | 828,000 | 662,400 | 1,440,000 | 777,600 |
| | 36% | 3,600,000 | 310,198,120 | 244,615,000 | 65,583,120 | 1,656,000 | 1,490,400 | 3,240,000 | 1,749,600 |
| | 50% | 5,000,000 | 309,442,120 | 245,259,000 | 64,183,120 | 2,300,000 | 2,134,400 | 4,640,000 | 2,505,600 |
| | 75% | 7,500,000 | 308,092,120 | 246,409,000 | 61,683,120 | 3,450,000 | 3,284,400 | 7,140,000 | 3,855,600 |
| | 100% | 10,000,000 | 306,742,120 | 247,559,000 | 59,183,120 | 4,600,000 | 4,434,400 | 9,640,000 | 5,205,600 |
| No Limitation on Qualified Investment and Alaska Investment Credit set at: | | | | | | | | | |
| | 18% | 11,700,000 | 305,842,120 | 248,341,000 | 57,483,120 | 5,382,000 | 5,216,400 | 11,340,000 | 6,123,600 |
| | 36% | 23,400,000 | 299,506,120 | 253,723,000 | 45,783,120 | 10,764,000 | 10,598,400 | 23,040,000 | 12,441,600 |
| | 50% | 32,500,000 | 294,592,120 | 257,909,000 | 36,683,120 | 14,950,000 | 14,784,400 | 32,140,000 | 17,355,600 |
| | 75% | 48,750,000 | 285,817,120 | 265,384,000 | 20,433,120 | 22,425,000 | 22,259,400 | 48,390,000 | 26,130,600 |
| [HB 258] | 100% | 65,000,000 | 277,042,120 | 272,859,000 | 4,183,120 | 29,900,000 | 29,734,400 | 64,640,000 | 34,905,600 |

## Alaska Revenue Effect Under Corporation and Mining Tax Provisions

| PRESENT LAW | 1981-1992 Example |
|---|---|
| Alaska Tax Revenues Generated Under Corporation Income Tax Provisions | $68,823,120 |
| Alaska Tax Revenues Generated Under Mining License Tax Provisions | 28,858,500 |
| | $97,681,620 |

| H.B. 258 | |
|---|---|
| Alaska Tax Revenues Generated Under Corporation Income Tax Provisions | $4,183,120 |
| Alaska Tax Revenues Generated Under Mining License Tax Provisions | 31,295,487[1] |
| | $35,478,607 |

| | |
|---|---|
| Revenue Under Present Law | $97,681,620 |
| Revenue Under HB 258 | 35,478,607 |
| Revenue Loss | $ 62,203,013 |

[1] Adjusted to reflect increased mining taxes due to the reduction of corporation taxes which otherwise would be deducted.

## Section 4

## Tax Leakage - Oil & Gas Corporations

Alaska's Corporate Income Tax collections for FY83 are projected to reach $270 million. A majority of that amount ($235 million) will be received from oil and gas corporations taxed under the new income tax law (SB 524 - 1981). That law provides that if a corporation engaged in oil or gas production or pipeline transportation has taxable income from both its petroleum business and its other business, it shall report its total taxable income on a single return except that it shall compute its Alaska taxable income from its petroleum business separately on its return from its other Alaska business. The law provides, however, that the combined investment tax credit of the petroleum business and the other business can be applied to the consolidated tax liability of the petroleum business and other business. HB 258 provides for an opportunity for the major oil corporations to invest in property qualifying for the special investment tax credit provisions and thereby substantially offset the income tax liability of its oil and gas income. A handful of oil and gas corporations provide the majority of the $235 million, and it is those few corporations which will be in a position to substantially benefit from HB 258.

Exhibit A (page 15) compares tax of two companies standing alone with tax if an oil and gas company which owns a mining company. The example assumes for Alaska purposes no limitation on the amount of qualifying investment and full federal investment tax credit.

Major oil companies and mining company subsidiaries are as follows:

1. Atlantic Richfield (ARCO)
   a. Anaconda Mining Company

2. Standard Oil of Ohio (SOHIO)
   a. Kennecott Copper Company

3. Standard Oil of California (SOCAL)
   a. Chevron Resources

4. Gulf Oil
   a. Gulf Minerals

5. American Oil Company (AMOCO)
   a. Amoco Minerals

6. Phillips Petroleum Company
   a. Phillips Coal Company

7. Getty Oil Company
    a. Getty Minerals
    b. Getty Mining
    c. Plateau Mining
    d. Colorado Yampa Coal

Exhibit A

Example 1:

Separate Filers - HB 258 Provision

| | | HB 258 Qualifying Company | Oil and Gas Company | Total Alaska Tax |
|---|---|---|---|---|
| 1. | Qualifying Investment Property | $500,000,000 | $500,000,000 | |
| 2. | Taxable Income | 10,000,000 | 1,000,000,000 | |
| 3. | Alaska Income Tax before ITC | 936,000 | 93,996,040 | |
| 4. | Investment Tax Credit (Federal Limitation) | 4,124,500 | 50,000,000 | |
| 5. | Investment Tax Credit - AK | 936,040 | 360,000 | |
| 6. | Alaska Tax Liability (3-5) | $ 0 | $ 93,636,040 | $93,636,040 |

Example 2:

Consolidated Return

| | | |
|---|---|---|
| 1. | Consolidated Taxable Income | $1,010,000,000 |
| 2. | Consolidated Alaska Income Tax before ITC | 94,936,040 |
| 3. | Consolidated Qualifying Investment Property | 1,000,000,000 |
| 4. | Consolidated Investment Tax Credit (Federal Limitation) | 100,000,000 |
| 5. | Alaska Investment Tax Credit - HB 258 Qualifying Company | 50,000,000 |
| 6. | Alaska Investment Tax Credit - Oil & Gas Company | 360,000 |
| 7. | Alaska Tax Liability (2- [illegible] -6) | $ 44,576,040 |

Net savings to oil and gas company (loss of revenue to State) $49,060,000

Note: See following page for comments regarding the investment tax credit and consolidations and reorganizations.

## Investment Tax Credit and Consolidations and Reorganizations

1. There appears to be no prohibition or substantial restriction wherein an oil and gas corporation could not invest in non-oil and gas mining activity and wherein the available investment tax credit of the non-oil and gas mining activity could not be used to offset the consolidated tax liability.

2. An investment tax credit which would otherwise be unavailable to a member of the consolidated group in a separate return (because of insufficient income or tax) might become available to the group in a consolidated return.

3. The successor corporation in a reorganization stands in the "tax shoes" of the predecessor with respect to unused investment tax credit.

## Section 5

### License Tax on Mines and Mining
### AS 43.65

Mining operations are subject to a mining license tax computed as follows:

| | |
|---|---|
| Net Income Over $40,000 and not over $50,000 | 3% |
| Over $50,000 and not over $100,000 | $1,500 plus 5% of excess over $50,000 |
| Over $100,000 | $4,000 plue 7% of excess over $100,000 |

All new mining operations are exempted from the tax for three and one-half years after production begins.

The Mining License Tax allows for generous deductions from gross income in computing taxable income, including:

1. Percentage depletion which often allows for a deduction from gross income an amount far in excess of the cost invested in the property.

2. Accelerated depreciation methods are allowed which enable a taxpayer to deduct a greater portion of asset investment in the early years of the asset life.

3. Income taxes paid to the State of Alaska are an allowable deduction on the Mining License Tax Return. Mining License Taxes are a deduction on the Corporation Income Tax Return.

4. Direct and indirect expenses.

The following page provides a history of Mining License Tax collection since FY 59 and compares that tax to the value of Mineral production. In FY 79, for example, for every $1 of mineral production, less then .1 of one cent was paid in mining license tax.

The total mining license tax collected between FY 59 and FY 82 (24 years) was $1,333,648 for an average of about $55,000 per year.

# Historical Comparison
## Mining License Tax vs. Mineral Production Value

| | Mining License Tax ($) | Value of Min. Prod. (Millions $) | % (Tax vs. Value) |
|---|---|---|---|
| FY 59 | 7314 | 20.2 | .036 |
| FY 60 | 33841 | 20.6 | .164 |
| FY 61 | 4865 | 17.0 | .029 |
| FY 62 | 15958 | 22.5 | .071 |
| FY 63 | 30248 | 34.1 | .089 |
| FY 64 | 46450 | 30.6 | .152 |
| FY 65 | 88127 | 47.6 | .185 |
| FY 66 | 66217 | 35.9 | .185 |
| FY 67 | 45671 | 41.7 | .110 |
| FY 68 | 57575 | 30.6 | .188 |
| FY 69 | 78279 | 30.5 | .257 |
| FY 70 | 45000 | 59.1 | .076 |
| FY 71 | 16600 | 47.4 | .035 |
| FY 72 | 30700 | 32.0 | .100 |
| FY 73 | 16000 | 47.4 | .034 |
| FY 74 | 28400 | 69.1 | .041 |
| FY 75 | 10500 | 67.7 | .016 |
| FY 76 | 69100 | 241.8 | .029 |
| FY 77 | 65200 | 170.5 | .038 |
| FY 78 | 95500 | 163.7 | .058 |
| FY 79 | 129000 | 185.5 | .070 |
| FY 80 | 138300 | 158.2 | .087 |
| FY 81 | 56000 | 181.6 | .031 |
| FY 82 | 158803 | 196.4 | .081 |

## Section 6

## Property Taxes

Mining companies are subject to property taxes if the property is located in one of those taxing jurisdictions which subject property to taxes. These include the cities and boroughs of Anchorage, Naknek, Fairbanks, Pelican, Cordova, Craig, Haines, Dillingham, Juneau, Petersburg, Soldotna, Ketchikan, Kodiak, Palmer, Barrow, Sitka, Nenana, Nome, Skagway, Unalaska, Valdez, Wrangell, Yakutat, North Slope Borough, Kenai, Bristol Bay and Matanuska-Susitna. There is no statewide property tax.

Personal and real property are subject to property taxes. "Personal property" is defined to mean tangible property other than real property, such as merchandise and stock in trade, machinery and equipment, furniture and fixtures, motor vehicles and vehicles, boats and vessels and aircraft.

"Real property" means land and improvements and all possessory rights and privileges appurtenant to the property, and includes personal property affixed to the land or improvements.

Mining company property, in general, is subject to property taxes if located in one of the boroughs or cities which assess the property. Oil and gas property taxes are administered by the Department of Revenue under AS 43.56.

As of 1980, Alaska had 140 organized cities with 11 Home Rule cities, 21 first class and 108 second class cities. The 11 organized boroughs contain about 90% of the state's population. Since second class cities have limited taxing powers with no educational responsibility, property taxes are generally not levied by those second class cities.

### Revenues - 1981

The commercial property tax revenue was about $22,500,000 in 1981 with the 11 boroughs collecting all but $775,000 of that amount. The revenue for 1982 was about $21,600,000. The amount of taxes paid by mining companies is a small portion of the total amount as most of the commercial property tax is paid by local businesses.

### General

The U. S. Borax plant is located outside the taxing jurisdiction of Ketchikan and would not be subject to that borough's property taxes.

Mining company representatives have publicly stated that mining

companies pay sizable amounts of property taxes. Outside of gravel pits we have not been able to determine which mines pay large amounts. Generally speaking, there is no tax on reserves and most taxes paid on mining property are on personal property (equipment, etc.)

Most mining activity appears to be occurring in unorganized locations (non-tax). However, we have been informed that increased mining activity is occurring in organized boroughs and that assessors are becoming alerted to the potential property tax possibilities.

## Section 7

## Alaska Mineral Taxation Compared with Other States

A report entitled "Alaskan Mineral Taxation Compared to Taxes in Mines in Eleven States" was prepared by Whitney and Whitney, Inc. of Reno, Nevada. That report was an extension of a study done for the Wisconsin Association of Manufacturers & Commerce completed in January 1981. Six models consisting of small, medium and large versions of both underground and open pit mines were developed for computer analysis. These models were then used to compare the tax revenues generated over the life of each mine in eleven major mining states but not including Alaska.

The Whitney and Whitney report provided two conclusions:

1. Alaska's mineral tax structure is average compared with the eleven other states and provides a relatively attractive tax environment for mining.

2. Alaska's tax structure is progressive as the taxes are proportional to income levels. This is a positive and important aspect of mineral industry taxation because mines subject to gross proceeds taxes, which do not decline proportionately with income, shut down sooner in times of adverse economic conditions.

The study noted that cost differentials between Alaska and other states are significant in the following areas: (not considered in the tax comparison):

1. Exploration and development costs;
2. Capital costs;
3. Operating costs;
4. Infrastructure investment.

The most significant cost relates to infrastructure. Whereas, in most states infrastructure is often a minor component of mine development, it can be the largest cost in Alaska in bringing a mine to the production phase.

Taxes imposed by the states in the study include: (1) severance tax; (2) net proceeds tax; (3) property tax; (4) sales and use tax; and (5) state income tax.

Mineral activities in Alaska are subject to a mining license tax based on net income; corporate income tax based on net income and real and personal property tax levied by municipalities and boroughs. The state administers no general property tax. Property is assessed January 1st of each year at its "full and true value" which is defined as "the estimated price which the property would bring in an open market and under the prevailing market conditions

in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels." The tax rates are fixed locally with a maximum rate of 3% for cities. The different boroughs and city tax rates can vary substantially from year to year.

In various measures used to assure competition for mining business among states, Alaska, for example, in the mine model for 5,000 tons of ore products per day, in open pit mining rated as follows among 12 states: (The higher the rating, the more appealing the tax burden)

1. Total state Tax Burden: Tie 6th and 7th of 12
   State Mineral Tax
   as a percent of sales: 8th of 12

2. Effective State Tax Rate
   (Tax as a percent of operating revenue) 7th of 12

3. Effective State and Federal Tax Rate (Tax as a percent operating revenue) 6th of 12

Summary:

It appears that Alaska taxes would rate in the mid-stream with other states. It further appears that costs other then taxes are a more important factor in Alaska mine development than are taxes.

## Section 8

## Tax Incentives

1. "Tax Incentives For Investments: The State of the Art" - by Richard M. Bird, Director of the Institute for Policy Analysis at the University of Toronto.

   Mr. Bird reaches three disconcerting conclusions relating to tax incentives:

   a. Economists and other researchers know amazingly little about the efficiency and effectiveness of the investment incentives used so profligately by many national governments.

   b. Available research techniques are incapable of improving this sad state of affairs very much.

   c. Available evidence suggests that tax incentives "are neither efficient nor effective in achieving most of the objectives for which they were supposedly introduced."

   Mr. Bird reaches other conclusions such as:

   a. Several studies show that investment incentives "affect not the <u>level</u> but the <u>composition</u> of investment."

   b. The change in composition of investment may reduce overall productivity or defeat whatever other goal the incentive may be pursuing.

   c. Tax incentives reduce government revenues otherwise available. This revenue loss can be financed through higher taxes or through spending cuts and these alternatives have potentially dramatic effects on investment behavior.

   d. Some studies indicate that the typical investment incentive either destroys jobs or, at best, creates a few jobs at enormous cost, though job creation is another of the commonly stated objectives of investment incentives.

2. Quote from article written by Alfred Rappaport, a professor at Northwestern University's Graduate School of Management

   "Tax credits and faster depreciation will not generate more investment unless business remodels its incentives to make managers plan for the long run."

## Bibliography

Bridges, Bengamin, "State and Local Inducements for Industyr; National Tax Journal, Vol. XVIII, No. 1, 1965, pp. 1-14.

Morgan, William E. and Merlin M. Hackbart, "An Analysis of State and Local Industrial Tax Exemption Programs," Southern Economic Journal, Vol. 41, No. 2, 1976, pp. 200-205

Surrey, Stanley S., "Tax Incentives as a Device For Implementing Government Policy: A Comparison With Direct Governent Expenditures," Harvard Law Review, Vol. 83, No. 4, January, 1970, pp. 705-738

Vaughan, Roger J., "State Taxation and Economic Development," pp. 95-111

## Miscellaneous Information

1. International Conference on Coal, Minerals and Petroleum Proceedings

Quotation from Executive Summary by Carl Portman, Public Relations Coordinator, Resource Development Council Inc. of Alaska:

> "The major obstacle to development of mineral deposits is the lack of transportation infrastructure. Another concern is taxation; although state taxes on the mining industry now are reasonable, the industry is wary because of the punitive taxes levied on petroleum production."

Quotation from Mr. David A. Heatwole's article "An objective view of Mining in Alaska":

> "Alaska currently has reasonable state taxes on the mining industry. The corporate income tax is 9 percent and the Alaska mining license tax is 7 1/2 percent net tax and provides a 3 1/2 year "holiday" from capital recoupment. The state does not have a property tax on minerals, but locally borough taxes can be substantial.

2. Extracts from memorandum dated May 10, 1982 to Senator Vic Fischer from Ira Winograd RE: Cook Inlet Regional Incorporated and HB 866, Investment Credit.

   "CIRI states that in a development project the amount of qualifying property will be a minor part of total investment. This is contradicted by Borax which informed the governor's office that 63 percent of its total projected expenditures would be eligible for the investment credit base."

   "CIRI disputes the Department of Revenue financial that the proposed credit would exempt Borax from $82 million in state taxes. This is contradicted by Borax which has informed the governor's office that it plans $950 million of qualifying investments. Thus, under HB 866, Borax would have $95 million worth of investment credit."

3. Investment Tax Credit Allowed - Other States

   As of late 1981, only 17 states allowed some sort of investment tax credit. Most states have a very limited

investment credit, such as:

Alaska: limited to $20 million invested and 18% of Federal limitations

Montana: 30% of Federal credit but limited to small businesses.

New Mexico: 3 3/4% of cost is credited against withholding tax

Oregon: 10% of cost of investment which creates new jobs in economically lagging areas.

Connecticut: The Federal Investment tax is a deductible cost (not a direct tax credit).

## Section 9

### Corporate Income Tax (AS 43.20)
### Current Tax - Business Incentives

Incorporated mining operations along with most other corporations are subject to a corporation income tax. Special tax benefits and credits, in addition to the investment tax credit, allowed corporate taxpayers include:

1. Percentage depletion which often allows for a deduction from gross income an amount far in excess of the costs invested in the property.

2. Accelerated depreciation methods which enable a taxpayer to deduct a greater portion of asset investment in the early years of the asset life. A recent example of a federal provision which was automatically adopted and which erodes our tax base is the "Accelerated Cost Recovery System" (ACRS) which Congress created in 1981 and which increases depreciation and reduces net taxable income.

3. Substantial changes have recently been made to Subchapter S laws. S corporations are, in essence, taxed as partnerships; i.e., the corporation pays no tax but the taxable income is passed through to the shareholders for federal taxation. Neither S corporations nor their share- holders pay any income tax to the State of Alaska. The changes in Subchapter S laws provide the opportunity for more and more corporations to elect S corporate tax status thereby further reducing the State's corporate tax rolls and corporate tax collections.

4. A targeted jobs tax credit is allowed for certain employers who hire individuals from certain target groups.

5. A corporation is entitled to a special deduction from gross income for dividends received from a domestic corporaton subject to income tax. This deduction is generally 85% of the dividend received.

6. Corporations obtain a reduced special tax rate for capital gains.

7. Consolidated tax returns can be filed wherein a profitable corporation can consolidate with an 80% or greater owned loss corporation and reduce its taxes.

8. Tax laws have been relaxed to allow for easier safe harbors for leverage leases. In essence, three-party financing leases can be widely used to transfer tax benefits from lessees who don't have enough tax liability to absorb them to lessors who could.

## Section 10

## Future Production

Three Alaskan companies have announced plans to put Alaskan deposits into production before 1990:

1. U. S. Borax - Quartz Hill Deposit

   a. Probably world's largest molybdenum deposit with reserves of approximately 1.5 billion tons.

   b. Borax is conducting a ten mile access road from tidewater to the deposit (probably eligible for the investment tax credit).

   c. Production to start in late 1987. Preproduction capital expenditure is estimated at $350 million.

2. Noranda -- Green's Creek

   a. Noranda is the operator for the Pan-Sound joint venture (Noranda Martin Marietta, Bristol Bay Native Corporation).

   b. Silver-gold deposit. Announced reserves for the deposit are 3.5 million tons.

   c. Noranda plans to start construction during 1983.

3. NANA/Cominco Alaska, Inc. - Red Dog Deposit

   a. The NANA Corporation (Alaska Native Corporation) and Cominco Alaska, Inc. have announced a joint-venture development of the Red Dog Deposit located in Northwest Alaska.

   b. The zinc, lead and silver mine has open pit reserves of 85 million tones.

   c. Production to start in 1986. The mine will have an 80-mile road/rail system.

4. Bering River Coal Field

   Chugach Natives, Inc. in partnerships with four major Korean firms, has been investigating a $150 million development of the low sulfur, high BTU Bering River coal field near Copper River. Production is expected to begin in 1985 or 1986 with anticipation that about two million tons of coal would be exported annually to Korea.

5. <u>Gold Mining</u>

Several major companies are active in exploration and production, including Placid Oil at Cherry Summit.

In Nome, Alaska Gold Company has reserves for about 25 years of operation. Alaska Gold Company's production is estimated to have increased 30% recently from improved operational efficiency.

At Independence Mine in the Matanuska Valley, production was estimated to be 20,000 tons per year.

## Section 11

### Brief Sketch of Industrial Incentive Legislation

To encourage new Alaska business and industry the legislature enacted the Alaska Industrial Incentive Act (AS 43.25) which accepted applications from 1957 to 1968 and the Alaska Industrial Tax Credit Act (AS 43.26) which accepted applications from 1968 to 1971.

Under AS 43.25, a business could be exempted an unlimited amount of State or local taxes within a five or ten year period depending upon the amount of the investment. There were seventeen companies granted exemptions under this statute - six lumber and timber related, four petroleum related and the balance miscellaneous manufacturing businesses.

Under AS 43.26 the exemption was limited both in time and amount. The credit could not be for more than ten years and could not exceed 75% of the firms investment. In 1970, the amount was reduced to 50% of the investment. Eight firms were granted exemptions under AS 43.26.

Records are somewhat spotty in this area and specific amounts of credit granted or taken are hard to determine. It is our understanding that the Alaska Industrial Incentive Act and the Alaska Industrial Tax Credit Act were not generally effective in attracting new business. We recommend that the Departments of Commerce and Revenue conduct a review of the history of AS 43.25 and AS 43.26 to determine the actual effectiveness in attracting new business.

# HISTORICAL REVIEW OF ALASKA'S REVENUES

By
Robert Elliott, Research Analyst

The following report provides a brief historical review of how Alaska's revenues have changed in terms of collections and composition during the past twenty-four years of statehood.

The single most prominent event in Alaska's economic history has been the 1968 discovery of oil and gas at Prudhoe Bay. All areas within the state have subsequently been impacted by this event, none more profoundly than state revenues. Since the North Slope lease sale in FY 1970, revenue collections have experienced unprecedented growth. A total of $16.9 billion has been received since statehood in General Fund unrestricted revenues, with over 95 percent being collected since 1970 and over two-thirds being collected during the past four years. This dramatic growth is illustrated in Figure 1 where General Fund unrestricted revenues are plotted over the past twenty-four years since statehood.

FIGURE 1
HISTORICAL COMPARISON OF GENERAL FUND
UNRESTRICTED REVENUES
(STATEHOOD-PRESENT)

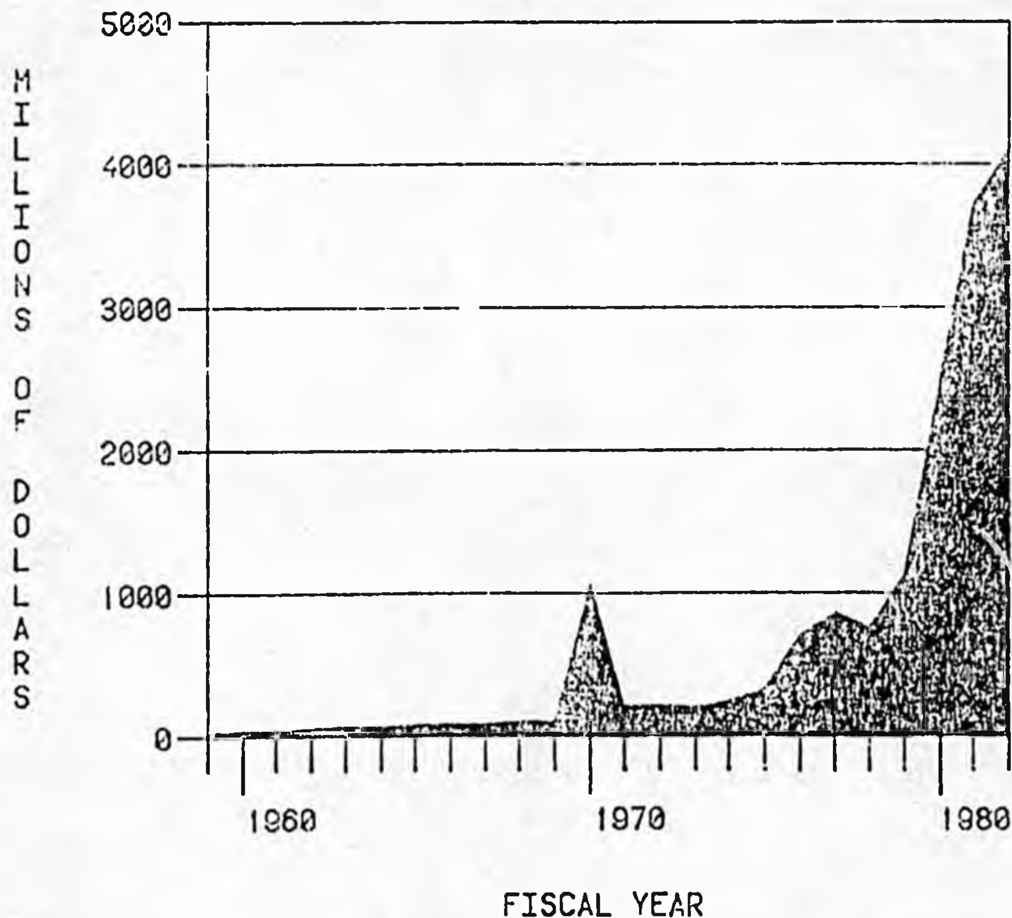


Figure 1 indicates the state has undergone two distinct periods of revenue growth since statehood, with the 1970 North Slope lease sale sharply separating the two periods. Beginning with statehood, the first period (1959-1969) appears to be one of virtually unchanged revenue sources and composition, as well as, one of relatively constant growth with an increase from $25.4 million in FY 1959 to $112.4 million in FY 1969, a 442 percent increase. Although the peak in FY 1970 marked the abrupt end to this first period, it is interesting to note that state revenues in FY 1970 amounted to over one billion dollars, which was one-third again as much as had been collected during the previous eleven years of the first period.

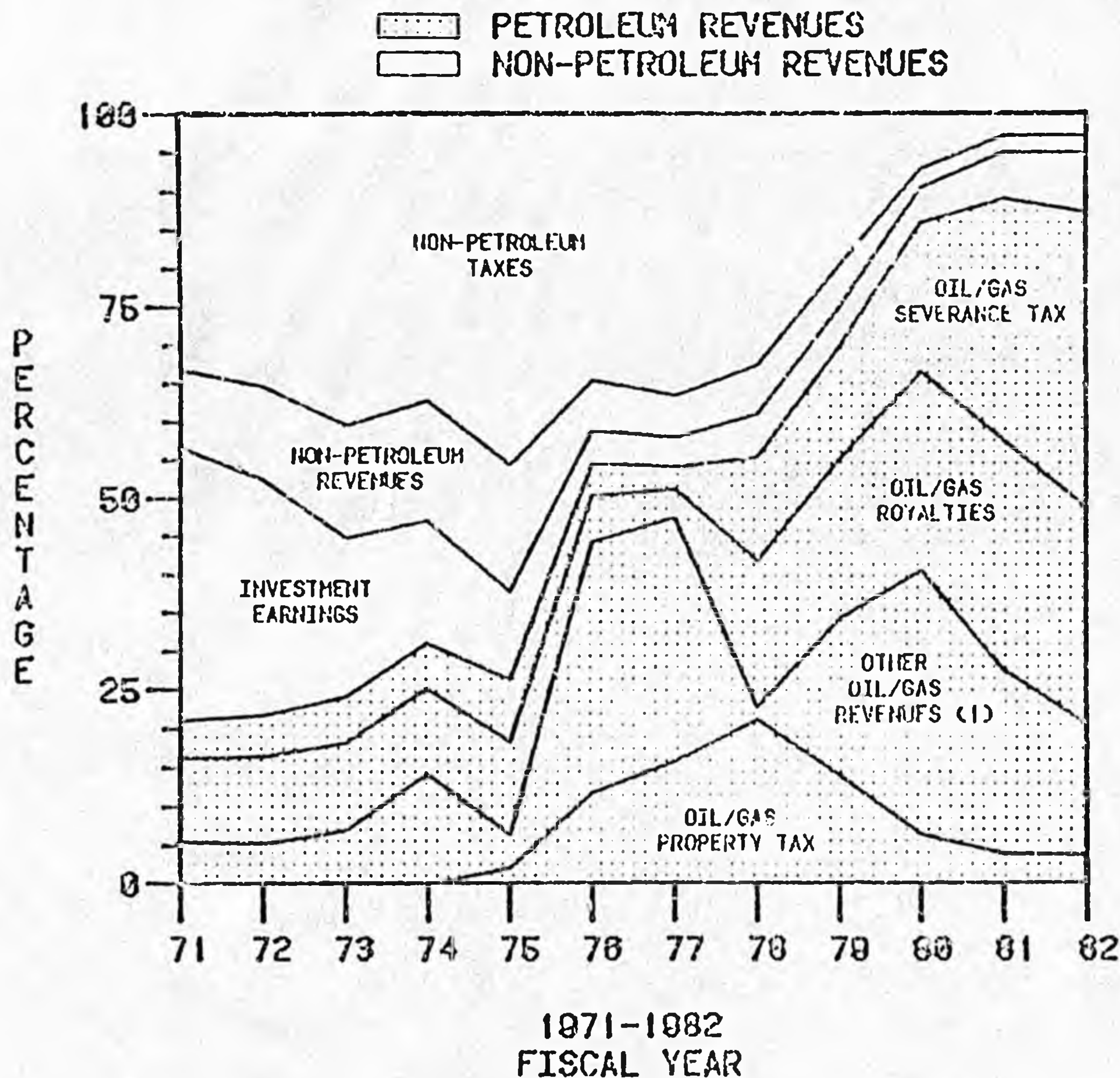
The second period (1971-1982) differs considerably from the first period highlighted by a dramatic increase in revenues from $220.4 million in FY 1971 to $4,108.4 million in FY 1982, a 1864.1 percent increase. The meteoric rise in revenue growth during this second period can be wholly attributed to petroleum development. Figure 1 illustrates this growth from the introduction of the lease sale in 1970 to the buildup of revenues during the pipeline construction in the mid-1970's to the upturn of revenues during the pipeline operation in the early 1980's.

State revenues are now largely dependent upon the development and production of petroleum resources. Of the $16.9 billion collected in revenues since statehood, over 80 percent has been comprised of petroleum revenues. This shift to dependency upon petroleum revenues occurred quite rapidly during the second period of revenue growth. Figure 2 illustrates how, over this period, different sources of revenue have changed their percentage composition of total General Fund unrestricted revenues for each year and how specific petroleum revenues have achieved such a dominant position over the past twelve years. It should be noted that although investment earnings are not defined as petroleum based, they are related indirectly since some earnings are based on Permanent Fund transfers during the past five years. Also, the bulge in investment earnings from FY 1971-74 is mostly due to investment activity of the North Slope lease sale investment account.

In examining Figure 2, it is clear that petroluem revenues have rapidly overtaken non-petroleum revenues as the primary revenue source. In a span of only twelve years, petroleum revenues have gone from 21 percent in FY 1971 to 87 percent in FY 1982 with the greatest percentage increase occurring with the introduction of the oil and gas reserves tax in FY 1976 (later repealed in FY 1978) and the introduction of the Corporation Petroleum Income Tax in FY 1979. Currently both the oil and gas production tax and royalties represent the two most dominant revenue sources, accounting for over $2.7 billion, or almost two-thirds of all unrestricted revenues in FY 1982. A more detailed breakdown of individual unrestricted revenues over the past twelve years (1971-1982) is provided in Table 2 at the end of this report.

## FIGURE 2

## HISTORICAL COMPARISON OF REVENUE SOURCES AS A PERCENTAGE OF GENERAL FUND UNRESTRICTED REVENUES




**FY 82 DETAIL**

| PERCENT | $(MILLIONS) |
|---|---|
| 2.9% | $120.9M |
| 2.1% | $88.2M |
| 7.9% | $324.7M |
| 38.5% | $1581.1M |
| 28.2% | $1157.9M |
| 16.0% | $602.5M |
| 3.5% | $142.7M |
| 100.0% | $4108.4M |

(1) INCLUDES FEDERAL MINERAL REVENUES, MINERAL RENTS, RESERVES TAX, BONUS SALES, AND CORPORATE-PETROLEUM INCOME TAX.

Coupled with this dependency on petroleum based revenues, there has been a further shift to reliance upon fewer major sources of revenue. Table 1 examines the ranking of the top five revenue sources for FY 1960, FY 1971, and FY 1982. Shown below each revenue source is the amount collected by that source (in millions of dollars), as well as the revenue source's percentage of total unrestricted revenues for that year.

Table 1

| Rank | 1960 | 1971 | 1982 |
|---|---|---|---|
| 1 | Ind. Income Tax<br>$8.9m/22.0% | Invest. Earnings<br>$78.4m/35.8% | Oil/Gas Prod. Tax<br>$1570.9m/38.2% |
| 2 | Fed. Oil/Gas Leases<br>$5.6m/13.8% | Ind. Income Tax<br>$35.5m/16.1% | Royalties<br>$1157.3m/28.2% |
| 3 | Min. Lease Bonuses<br>$4.0m/9.9% | Royalties<br>$23.9m/10.8% | Oil/Gas Corp. Income<br>$668.9m/16.5% |
| 4 | Hwy. Fuel Tax<br>$2.5m/6.2% | Oil/Gas Prod. Tax<br>$11.4m/5.2% | Invest. Earnings<br>$324.7m/7.9% |
| 5 | Alcoholic Bev. Tax<br>$2.2m/5.4% | Oil/Gas Prop. Tax<br>$10.5m/4.8% | Oil/Gas Prop. Tax<br>$142.7m/3.5% |
| Total | $23.2m/57.3% | $159.7m/72.7% | $3864.5m/94.1% |

Table 1 indicates the composition of revenue sources changed significantly over the course of the three years shown; note that no single revenue source appears in the top five for all three examples. Furthermore, petroleum revenues have become more prevalent in later years, with FY 1982 having four out of the top five revenue sources directly based on petroleum revenues and the fifth (investment earnings) being indirectly based. Finally, and most importantly, there is a greater reliance upon fewer sources with the top five sources comprising 57.3% in FY 1960, 72.7% in FY 1971, and 94.1% in FY 1982.

Consequently, the present day revenue picture has developed into one which is pervasively dictated and primarily dependent upon petroleum development and production. Although this situation was not present during the first-half of Alaska's state history, it has rapidly expanded during the second-half and is expected to continue into the future with petroleum revenue projections being influenced by production, world market prices, and transportation costs. However, the state must eventually face the prospect of the subsequent future decline in petroleum production. It is at this time the state will have to face the dilemma of decreasing petroleum revenues, which may have just as significant an impact upon the state as did the present-day uptrend in petroleum revenues.

TABLE 2
STATE OF ALASKA - UNRESTRICTED REVENUES
TAX PORTION

| ($ millions) | FY 71 | FY 72 | FY 73 | FY 74 | FY 75 | FY 76 | FY 77 | FY 78 | FY 79 | FY 80 | FY 81 | FY 82 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Corporate General | 6.1 | 6.5 | 6.8 | 8.2 | 17.3 | 31.1 | 35.8 | 33.5 | 24.8 | 17.9 | 34.8 | 34.8 |
| Corporate - Petroleum | -- | -- | -- | -- | -- | -- | -- | -- | 232.6 | 547.5 | 860.1 | 668.9 |
| Fiduciary | -- | -- | -- | -- | .1 | .1 | .1 | .1 | .1 | .1 | -- | -- |
| Individual | 35.5 | 39.1 | 43.4 | 49.2 | 86.9 | 146.2 | 210.4 | 145.7 | 117.2 | 100.5 | -- | -- |
| TOTAL INCOME | 41.6 | 45.6 | 50.2 | 57.4 | 104.3 | 177.4 | 246.3 | 179.3 | 374.7 | 666.0 | 894.9 | 703.7 |
| Alaska Business License | 5.6 | 6.1 | 6.7 | 7.5 | 11.2 | 19.1 | 23.2 | 21.7 | 28.2 | 4.2 | 5.4 | 5.5 |
| Fish - Canned Salmon | 3.5 | 2.7 | 1.7 | 1.4 | 1.6 | 1.8 | 3.8 | 5.5 | 6.7 | 4.3 | 5.9 | 8.6 |
| Fish - Shore Based | .3 | .3 | .5 | .9 | .8 | .8 | 1.9 | 2.3 | 3.3 | 7.6 | 11.0 | 8.7 |
| Fish - Floating | .2 | .2 | .3 | .5 | .3 | .5 | .5 | .5 | 1.9 | 2.7 | 3.8 | 5.5 |
| Salmon Enhancement | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | 2.4 |
| Insurance Companies | 3.0 | 3.5 | 3.7 | 3.8 | 4.4 | 6.1 | 8.1 | 10.0 | 10.8 | 10.4 | 10.6 | 12.5 |
| Other | .4 | .5 | .6 | .6 | .7 | 1.0 | 1.3 | 1.6 | 1.9 | 2.1 | 1.2 | 1.4 |
| TOTAL GROSS RECEIPTS | 13.0 | 13.3 | 13.5 | 14.7 | 19.0 | 29.3 | 38.8 | 41.6 | 52.8 | 31.3 | 37.9 | 44.6 |
| Gravel, Timber, Etc. | -- | -- | -- | .3 | .8 | 1.8 | 1.0 | .8 | 1.7 | 1.6 | 2.7 | -- |
| Oil & Gas Production | 10.5 | 11.4 | 12.0 | 14.8 | 26.6 | 27.9 | 23.7 | 107.6 | 173.6 | 506.2 | 1,169.9 | 1,581.1 |
| Oil & Gas Conservation | -- | -- | -- | -- | -- | .1 | .1 | .1 | .2 | .3 | .3 | .6 |
| TOTAL SEVERANCE | 10.5 | 11.4 | 12.0 | 15.1 | 27.4 | 29.8 | 24.8 | 108.5 | 175.5 | 508.1 | 1,172.9 | 1,581.7 |
| Oil & Gas | -- | -- | -- | -- | 6.6 | 83.4 | 139.1 | 173.0 | 163.4 | 168.9 | 143.0 | 142.7 |
| Oil & Gas Reserves | -- | -- | -- | -- | -- | 223.1 | 270.6 | -- | -- | -- | -- | -- |
| Vehicle Registration | -- | -- | -- | -- | -- | -- | -- | .2 | .2 | .1 | .2 | -- |
| TOTAL PROPERTY | -- | -- | -- | -- | 6.6 | 306.5 | 409.7 | 173.2 | 163.6 | 169.0 | 143.2 | 142.7 |
| Alcoholic Beverages | 4.9 | 4.8 | 5.2 | 5.7 | 6.6 | 7.3 | 8.0 | 7.6 | 7.4 | 7.4 | 8.3 | 9.0 |
| Fuel Taxes - Aviation | 1.6 | 1.5 | 1.3 | 1.6 | 2.8 | 3.0 | 2.5 | 3.3 | 3.4 | 4.0 | 4.1 | 6.3 |
| Fuel Taxes - Highway | 8.6 | 8.9 | 10.1 | 11.0 | 14.0 | 20.2 | 16.7 | 17.9 | 16.3 | 18.9 | 15.6 | 20.3 |
| Fuel Taxes - Marine | .8 | 1.0 | 1.1 | 1.2 | 1.1 | 1.2 | 1.3 | 2.1 | 2.6 | 3.2 | 3.5 | 3.7 |
| Tobacco Products | 1.1 | 1.2 | 1.2 | 1.3 | 1.5 | 1.7 | 1.8 | 1.7 | 1.7 | 1.6 | 1.7 | 1.9 |
| TOTAL SALE/USE | 17.0 | 17.4 | 18.9 | 20.8 | 26.0 | 33.9 | 30.3 | 32.6 | 31.4 | 35.1 | 33.2 | 41.2 |
| Estate | -- | -- | -- | .1 | .1 | .2 | .2 | .2 | .1 | .2 | .5 | .3 |
| School | 1.4 | 1.5 | 1.6 | 1.6 | 2.2 | 2.6 | 2.6 | 2.4 | 2.5 | 2.6 | -- | -- |
| TOTAL OTHER | 1.5* | 1.6* | 1.6 | 1.7 | 2.3 | 2.8 | 2.8 | 2.6 | 2.6 | 2.8 | .5 | .3 |
| TOTAL TAXES | 83.6 | 89.3 | 96.2 | 109.7 | 185.6 | 579.7 | 752.7 | 537.8 | 800.6 | 1,412.3 | 2,282.6 | 2,514.2 |

*Includes disaster relief

Source: Department of Revenue, Revenue Sources FY 1971 - FY 1982. Revised November 1982.

STATE OF ALASKA - UNRESTRICTED REVENUES
NON-TAX PORTION

| ($ millions) | FY 71 | FY 72 | FY 73 | FY 74 | FY 75 | FY 76 | FY 77 | FY 78 | FY 79 | FY 80 | FY 81 | FY 82 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| LICENSES & PERMITS | | | | | | | | | | | | |
| Business | 2.7 | 2.8 | 3.2 | 4.1 | 4.2 | 5.1 | 5.5 | 6.8 | 7.5 | 8.1 | 9.1 | 10.8 |
| Non-Business | 6.0 | 6.3 | 6.6 | 6.8 | 9.4 | 11.3 | 10.6 | 12.3 | 12.3 | 10.7 | 12.2 | 13.0 |
| TOTAL | 8.7 | 9.1 | 9.8 | 10.9 | 13.6 | 16.4 | 16.1 | 19.1 | 19.8 | 18.8 | 21.3 | 23.8 |
| INTERGOVERNMENTAL RECEIPTS | | | | | | | | | | | | |
| Federal Shared Revenues | 9.7 | 9.0 | 7.7 | 8.0 | 10.6 | 6.4 | 2.5 | 3.6 | 4.1 | 4.8 | 8.5 | 21.7 |
| STATE RESOURCE REVENUE SALE/USE | | | | | | | | | | | | |
| Bonus Sales | .2 | .3 | 3.8 | 24.8 | 1.0 | -- | -- | -- | -- | 342.4 | 7.6 | 5.0 |
| Investment Earnings | 78.4 | 67.3 | 43.2 | 41.1 | 38.5 | 31.7 | 34.8 | 44.2 | 59.2 | 119.9 | 227.8 | 324.7 |
| Rents | 3.2 | 3.3 | 3.7 | 4.0 | 4.3 | 4.1 | 3.4 | 2.3 | 2.1 | 3.0 | 5.4 | 3.5 |
| Royalties | 23.9 | 24.6 | 23.5 | 28.7 | 40.0 | 43.3 | 34.3 | 149.6 | 249.2 | 688.2 | 1,118.5 | 1,157.3 |
| Sale of State Property | 1.0 | 1.4 | 1.7 | 1.4 | 12.2 | 1.9 | 1.8 | 1.9 | 8.4 | 5.7 | 4.8 | 5.2 |
| Gravel, Timber, etc. | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | 1.2 |
| TOTAL | 106.7 | 96.9 | 75.9 | 100.0 | 96.0 | 81.0 | 74.3 | 198.0 | 318.9 | 1,159.2 | 1,364.1 | 1,496.9 |
| FACILITIES RELATED CHARGES | | | | | | | | | | | | |
| Airports | .6 | .5 | .7 | .6 | .5 | .6 | .7 | .8 | .9 | .8 | 1.1 | 1.6 |
| Ferry System--SE | 6.5 | 8.1 | 10.1 | 9.6 | 12.0 | 13.9 | 15.4 | 14.0 | 17.1 | 18.7 | 21.0 | 25.2 |
| Ferry System--SW | .6 | .9 | .9 | 1.0 | 1.2 | 1.3 | 1.5 | 1.6 | 1.8 | 2.4 | 3.4 | 4.0 |
| Other | 1.9 | 2.2 | 3.8 | 4.[illegible] | 2.1 | 2.2 | 2.7 | 4.0 | 3.1 | 4.1 | 3.7 | 3.6 |
| TOTAL | 9.6 | 11.7 | 15.5 | 15.5 | 15.8 | 18.0 | 20.3 | 20.4 | 22.9 | 25.0 | 29.2 | 34.4 |
| SERVICES RELATED CHARGES | | | | | | | | | | | | |
| Court System | 1.2 | 1.7 | 1.6 | 1.9 | 3.0 | 3.7 | 3.6 | 2.8 | 2.8 | 2.8 | 2.9 | 3.5 |
| Other | .2 | .3 | .3 | .4 | 1.4 | .7 | .9 | 1.7 | 2.3 | 2.0 | 4.1 | 6.1 |
| TOTAL | 1.4 | 2.0 | 1.9 | 2.3 | 4.4 | 4.4 | 4.5 | 4.5 | 5.1 | 4.8 | 7.0 | 9.6 |
| TOTAL RESOURCE | 117.7 | 110.6 | 93.3 | 117.8 | 116.2 | 103.4 | 99.1 | 222.9 | 346.9 | 1,190.0 | 1,400.3 | 1,540.9 |
| Miscellaneous Revenue | .7 | 1.2 | 1.2 | 8.5 | 7.4 | 3.9 | 3.9 | 3.9 | 7.2 | 6.7 | 5.5 | 7.8 |
| Total Unrestricted Non-Tax Revenue | 136.8 | 129.9 | 112.0 | 145.2 | 147.8 | 130.1 | 121.6 | 249.5 | 378.0 | 1,220.3 | 1,435.6 | 1,594.2 |
| Less: Native Claims Payments | -- | -- | -- | -- | -- | -- | -- | 22.4 | 45.6 | 131.4 | -- | -- |
| TOTAL NET UNRESTRICTED NON-TAX REVENUE | 136.8 | 129.9 | 112.0 | 145.2 | 147.8 | 130.1 | 121.6 | 227.1 | 332.4 | 1,088.9 | 1,435.6 | 1,594.2 |
| Total Unrestricted Tax Revenue | 83.6 | 89.3 | 96.2 | 109.7 | 185.6 | 579.7 | 752.7 | 537.8 | 800.6 | 1,412.3 | 2,282.6 | 2,514.2 |
| TOTAL UNRESTRICTED REVENUE | 220.4 | 219.2 | 208.2 | 254.9 | 333.4 | 709.8 | 874.3 | 764.9 | 1,133.0 | 2,501.2 | 3,718.2 | 4,108.4 |

## EXECUTIVE SUMMARY

By
Carl Portman, Public Relations Coordinator
Resource Development Council, Inc.

As the world population doubles about every 35 years, it is mperative that production of fossil fuels and minerals be ncreased. With this population growth will surely come social, conomic and military chaos as food, fuels and mined products ecome scarce. America and others must prevent such scarcities rom occurring. New knowledge and technology must be found to ecover ores, minerals and petroleum more efficiently and to timulate discovery of new materials.

The more each nation can do to develop resources from its wn lands and assist with developing them in other countries, the sooner world shortages will disappear and the growing threat of esource wars reduced. The descendants of our world's nhabitants will rely on what we do today for their quality of ife.

In the past thirty years, U.S. policies and public opinion ave led to less production of domestic resources, creating a osition of huge trade deficits and reliance on sometimes nstable foreign supplies. In this light, the International onference on Coal, Minerals and Petroleum addressed world energy eeds, U.S. policies and the future of extractive industries. peakers and conference delegates debated issues dealing with evelopment on public and private lands and made ecommendations.

An optimistic pro-development attitude prevailed among the 325 persons in attendance at the conference, although there was bvious concern with the near-term outlook for sizeable exports of Alaska coal due to the world recession and falling oil prices. The two-day conference concluded with attendees offering four major consensus statements to policymakers nationwide:

### LINKING NATIONAL DEFENSE, DOMESTIC AND FOREIGN POLICIES

1. There is a need at the federal level to link the nation's domestic, foreign and defense policies in a better way; so as (1) to strengthen Alaska's vital geopolitical role in the international development of Arctic and sub-Arctic natural resources now underway, and (2) to promote private ownership and initiative as the most efficient and responsible means of achieving that resource development which best serves the national interests and all of the citizens of Alaska, including owners of the native lands.