

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

9006 SENATE RESOURCES

HB

197

FISCAL NO'

No. 3
 Bill Version CSHB 197 (RES)
 , Publish Date: 3/22/95

STATE OF ALASKA 1995 LEGISLATIVE SESSION

Revision Date: Original Dept Affected: Natural Resources
 Title: An Act providing for exploration incentive credits BRU: Resource Development
 for activities involving locatable and leasable minerals and coal. Component: Mining Development
 Sponsor: Representative(s) Foster, Vose
 Requestor: _____ Component Serial No. 442

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY95 | FY97 | FY98 | FY99 | FY00 | FY01 |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| PERSONAL SERVICES | 54.0 | 54.0 | 54.0 | 54.0 | 54.0 | 54.0 |
| TRAVEL | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 |
| CONTRACTUAL | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 |
| SUPPLIES | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 62.0 | 62.0 | 62.0 | 62.0 | 62.0 | 62.0 |

| | | | | | | |
|----------------------|-----|-----|-----|-----|-----|-----|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|----------------------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|----------------------------|-----|-----|-----|-----|-----|-----|
| CHANGE IN REVENUES (TOTAL) | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|----------------------------|-----|-----|-----|-----|-----|-----|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts | | | | | | |
| 1003 OF Match | | | | | | |
| 1004 OF | 42.0 | 42.0 | 42.0 | 42.0 | 42.0 | 42.0 |
| 1005 OF Program Receipts | | | | 100.0 | 100.0 | 100.0 |
| 1006 OF AMTA | | | | | | |
| Other | | | | | | |
| TOTAL | 42.0 | 42.0 | 42.0 | 42.0 | 42.0 | 42.0 |

Estimate of any current year (FY95) cost: \$ 10.0

POSITIONS

| | FY95 | FY97 | FY98 | FY99 | FY00 | FY01 |
|-----------|------|------|------|------|------|------|
| FULL-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| PART-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| TEMPORARY | 0 | 0 | 0 | 0 | 0 | 0 |

ANALYSIS (Attach a separate page if necessary)

See Attached

Prepared by: Julia Thomson, Director Phone: 762-2100
 Division: Mining and Water Date: 3-MAR-95
 Approved by Commissioner: [Signature] Date: 3-7-95
 Agency: Natural Resources

ATTACHMENT TO FISCAL NOTE - HB197

March 7, 1995

If exploration incentive credit for coal exploration is allowed to remain in this bill, it could result in a minimum \$1.5 million dollar loss in direct coal royalty and tax revenues in the out-years. A significant amount of exploration cost precedes mining of coal. The state already has a regulation for granting royalty relief if a coal operator applies. The state's coal royalty is 5% of adjusted gross value. Transportation costs from the mine mouth to point of sale, and beneficiation costs are deductible from the coal sales price. Rent is deductible from royalty as well. Locatable mineral royalty is 3% of net profits, and rental is \$1/acre. These costs are pretty low. A three and a half year mining tax exemption is allowed for new mining operations.

Notwithstanding the coal royalty decrease, a several hundred thousand dollar decrease in "6(i)" rental revenue (rents and royalties return on state mineral production) could also occur in the out-years if credits are not restricted to claims for which activities take place. A decrease in rental revenue will impact the division's operating budget and affect current services provided by the division to the industry. Currently approximately \$367.4 in program receipts from 6(i) goes into the division's budget to support the program. In addition, approximately \$418.0 from this program goes into the Permanent Fund. This legislation would provide for no change to the Permanent Fund amount, but the amount going to the division operating budget would be eliminated.

Revenues

We assume that the exploration credits will result in the long-term loss of the following revenues:

| | |
|-----------------------------|---------------|
| Coal Royalties | \$1.5 million |
| Mining Leases & Claims 6(i) | \$.4 million |
| | \$1.9 million |

Sections 27, 30, 020 and 30 do not specify how this credit is taken, it could be either against the Department of Revenue or the Department of Natural Resources. We assume these credits will use all of DNR's revenue stream.

Fund Sources Changes in Long-term

| | |
|-------------------------|-----------|
| Delete program receipts | \$(367.4) |
| General Fund | \$ 367.4 |

In order to maintain the existing level of service the division provides to the industry, the \$367.4 of program receipt authorization would need to be replaced with general fund over the long-term.

Position

One new position, a Geologist II, will be needed to provide technical work associated with this legislation. This involves prequalifying work elements and review of work completed. As this bill is effective immediately, it is estimated that \$10.0 will be necessary to pay for the additional position in FY95.

| | |
|----------------------|---------|
| One new position | \$ 10.0 |
| and associated costs | \$ 10.0 |

Revision Date: _____ Dept. Affected: Revenue
 Title: Mineral Exploration Incentive Credit SRI: Alut Operations
 Sponsor: Rep. Foster Vasey Component: Income and Excise Audit
 Request #: (H) RES COMPONENT SERIAL NO. 113

Expenditures/Revenues (Thousands of Dollars)

| OPERATING | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|--------------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS CLAIMS | | | | | | |
| miscellaneous | | | | | | |
| TOTAL OPERATING | 001 | 001 | 001 | 001 | 001 | 001 |
| CAPITAL | | | | | | |
| REVENUE FUND SOURCE: 04 | | | | | | |

LIABILITIES (Thousands of Dollars)

| | | | | | | |
|--------------------------|-----------|-----------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Motor | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF Program Receipts | | | | | | |
| 1006 GF/MITA | | | | | | |
| Other | | | | | | |
| TOTAL | 00 | 00 | 001 | 001 | 001 | 001 |

POSITIONS

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

Estimate of current (FY98) impact \$ 00

ANALYSIS (Attach a separate page if necessary)

As explained in the attached cover sheet the Department is unable to determine a reasonable estimate for the bill's impact on future state revenues. Several concerns have been raised regarding the difficulties in implementing the bill as currently written.

Prepared by: Robert N. Thompson, Deputy Director Date: 3/1/95
 Division: Income and Excise Audit Date: 3/1/95
 Approved by: Commissioner Date: 3/1/95
 Agency: Department of Revenue

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Bill Analysis

This bill grants exploration incentive credits to qualified applicants for costs of activities related to determining the existence, location, extent and quality of locatable or leasable mineral or coal deposits. This bill does not apply to oil and gas exploration. It appears that this legislation applies to both existing and new operations.

Credits may be claimed against corporation income and mining license taxes administered by Department of Revenue (DCR), under AS 43.20 and AS 43.65, royalties and rents, administered by Department of Natural Resources, under AS 38.05.135 - 38.05.175 and AS 38.05.211. Credits are limited to 50% of the combined amount of taxes, royalties and rents that are payable for activities, i.e. sites on which exploration activities occur. This bill requires that credits be used within 15 years after they are granted and allows for credits to be assigned to the applicant's successor in interest for the exploration site if the successor is a qualified applicant.

To prevent future controversy it may be necessary to provide definitions as to what constitutes a mining "site". This bill has a retroactive effective date of January 1, 1995.

Operating Costs

DCR does not anticipate any additional operating costs to administer the exploration incentive credit program authorized under this bill. The Department would modify corporation and mining license tax return forms to provide for exploration incentive credits.

While the Department does not anticipate the need for additional audit staff, the scope of corporation income and mining license tax audits will likely have to be expanded to include review of exploration incentive credits which may result in a decrease in overall audit coverage to other tax types.

State Revenue Impacts

Overview - it is not feasible for Department of Revenue to determine the impacts of this bill on revenue since corporation income and mining license taxes are both based on net income from business or mining operations. The Department is unable to predict whether individual mining sites will incur net income after production begins and since credits are limited to the level of future taxable income no reasonable estimate can be made.

For fiscal year 1994, the state collected \$162,000 in mining license taxes and no estimate can be made for the portion of corporation net income tax collected which would be impacted by the proposed tax credits.

Overall, exploration incentive credits are limited to qualified exploration costs. According to DNR exploration expenditures during calendar year 1994 were approximately \$30 million. For 1994 credits would have been limited to \$30 million under this bill and unused portions would be available for a 15-year credit carryforward, assuming corporations had sufficient net income to qualify for the credit.

State Revenue Impacts, continued

Concerns - A major concern for the Department is the increased complexity in corporation tax calculations the proposed legislation would create. Currently corporation taxes are based on income from combined operations inside and outside of Alaska. Taxpayers are currently not required to account for or report income on a site-by-site basis, which would be required by this bill. The Department does not believe that there is a simple and reasonable way to calculate and apply the proposed credits within the corporation income tax structure currently in place.

In discussions with Department of Natural Resources (DNR) and Department of Commerce and Economic Development it was agreed that for increased accountability credits should be applied for annually in advance of the actual expenditure. DNR would be responsible for preapproval and tracking of the eligible credits. Without this clause, a company would potentially submit documentation for expenditures many years after the costs were incurred.

For purposes of AS 43.20 and AS 43.65, for every million dollars in net income, a business would be allowed a maximum credit of \$80,500 (\$47,000 and \$33,500 credit against corporation and mining tax, respectively). Businesses gain an additional tax benefit because they would be allowed to deduct exploration costs from revenues in determining net income upon which taxes are based.

For example, a corporation's exploration activities prove to be very profitable and in a subsequent year, the combined corporation and mining taxes payable from the individual site is calculated to be \$100,000. In this case, the corporation is allowed to claim a \$50,000 credit. The same corporation has other mineral production activities outside of Alaska that are not profitable and when the corporation files its combined corporation tax return, its overall tax liability is \$50,000. Assuming the corporation claims the \$50,000 credit, the corporation would pay no taxes.

Since this bill does not specify that the credit is nonrefundable it is unclear if a corporation can actually receive a refund if credits exceed the corporation's combined tax liability. If in the example above, the corporation had a combined tax liability of \$40,000, the corporation may try to claim a \$10,000 refund after subtracting the \$50,000 credit from the tax liability. The Department recommends that the bill be amended to add "nonrefundable" before references to the credit.

Other information - New mining operations are exempt from mining license taxes for a period of three and one-half years from the date when production begins under AS 43.65.010. This may be an incentive that is already in place for purposes intended under this bill.

Given the uncertainty of estimating the impact on revenues it may be advisable to add a sunset provision which allows for the impacts to be reevaluated or establishing a cap on the annual amount of credit allowed.

QUICK SUMMARY OF CSHB 197

* Authorizes exploration incentive credits which can be used by qualified applicants (natural persons and entities qualified to do business in Alaska) to offset mining license tax, corporate income tax, claim rental and royalty obligations.

* Applies to coal, locatable and leaseable mineral exploration activities that are undertaken for the purpose of determining the existence, location, extent, [feasibility of development - DELETED] and quality of a deposit.

* Credits may not be granted for activities that occur after all permit and other relevant approvals have been obtained that will allow mine construction to begin. (NEW)

* Exploration activities that qualify for credits include "eligible costs" associated with geophysical and geochemical surveys, drilling exploration holes, surface trenching, bulk sampling, conducting underground exploration, aerial photography, metallurgical testing and other exploratory work.

* "Eligible costs" includes labor and consultants [DELETED - "NOT AFFILIATED WITH"]; equipment purchase, leasing, maintenance and operation; project related overhead; exploration related insurance and bond premiums (NEW); materials and supplies; exploration permitting (NEW) and similar direct costs but does not include "non-cash" expenses like depreciation.

* Earned credits only can be applied against tax, rental and royalty obligations relating to production from the site on which the qualified activity occurred.

* Qualified exploration expenditures must be certified annually by DNR. The certification will also specify the data requirements for receipt of a credit. (NEW)

* Following the exploration period, a credit applicant may submit at any time all relevant data to the Department. The credit will be approved if the data submittal complies with the data requirements specified in the certification of expenditures. (NEW)

* The data must be kept confidential for 3 years.

* The state is liable for damages in the event of a breach of the confidentiality requirement. (NEW)

* Credits cannot exceed 50% of combined royalty/tax/rental obligations per year or payment period. Unused credits can

be carried forward from year to year and assigned to a qualified successor in interest for the site at which the exploration activities occur.

* Credits can be used for up to 15 years of production.
(REVISED - USED TO SAY 15 YEAR AFTER CREDIT IS GRANTED)

* The bill is retroactive to January 1, 1995 to allow for a full year's credit during 1995.



March 1995

AIRBORNE GEOPHYSICAL MAPPING

In 1993 and 1994 the Alaska State Legislature funded Airborne Geophysical Mapping at selected locations around the state. The DNR Division of Geological & Geophysical Surveys (DGGS) managed the work and now has the completed maps and data (including on CD) available for sale to the public.

These investments by the State have already been a catalyst for significant new private industry investments. In some areas DGGS worked with mining companies and private landowners and obtained their assistance and confidential data which was used by DGGS to increase the coverage and accuracy of the mapping. Some of the highlights of this program and its impact follow.

The State's 1993 Airborne Geophysical Mapping program surveyed portions of the Nome, Nycac, Valdez Creek and Circle Mining Districts. The 1994 program surveyed areas in the Fairbanks and Richardson Mining Districts.

The maps and data for the Nome area were released in February of 1994 and during that summer one major mining company staked 120 new mining claims and another major company nearly doubled its intended exploration budget for the area. Other individual prospectors and miners, as well as other major mining companies, obtained the DGGS data and did varying amounts of exploration and claim staking in the area.

The maps and data for the Circle Mining District were released in April of 1994 and one major company dedicated an exploration crew for the entire summer for exploring targets identified from the maps. Also, several local prospectors and miners concluded agreements with junior mining companies that will result in more intense work during 1995.

FAIRBANKS AREA ACTIVITY

The impact that the 1994 Airborne Geophysical Mapping program has had in the Fairbanks District has been phenomenal!

The maps and data for the Fairbanks and Richardson Mining Districts were released February 7, 1995. On that very day the DGGS collected more than \$5,000 as the result of its sales of that material. This is three times the amount that any previous publication had elicited. About 200 order forms were handed out at a Vancouver mining trade fair that same week and the DGGS is now sending notification of the maps to the 4,000 companies and individuals on its mailing list.

Regarding work in the field, between November 1, 1994 and March 8, 1995 a total of 80.81 square miles of mining claims and upland prospecting sites were staked in the Fairbanks Mining District. Although some of the claims predated the release of the geophysical data, company geologists say that the staking was done to establish a land position in anticipation of the data. Given that the average cost to stake a square mile is about \$2,400, (ie for 16 mining claims) it can be estimated that about \$192,000 has already been spent. This would be almost totally for local people and support services.

Even during this winter, one major mining company has been busy staking claims and drilling in the Fairbanks area, partly in response to the information provided by the maps. By the end of February this company had already spent as much as the cost of the entire geophysical survey for the Fairbanks District. The cost of the geophysical survey for the District was \$365,000.

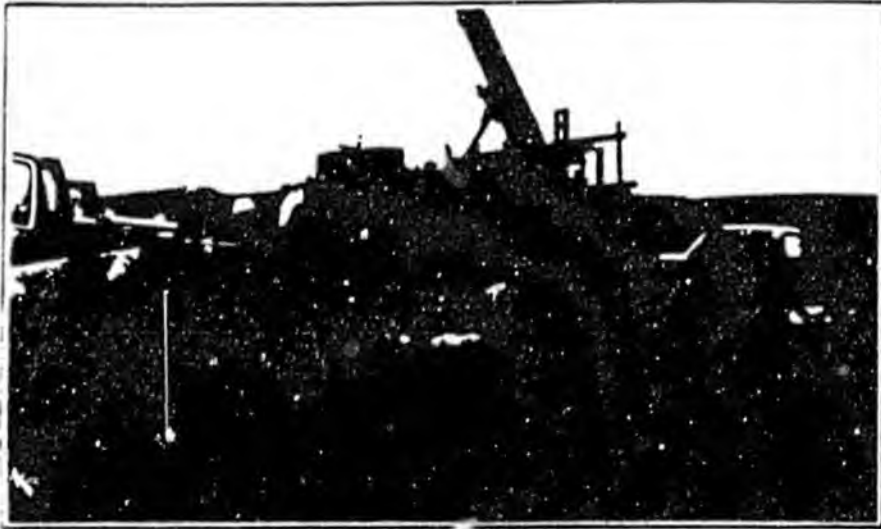
If these surveys result in finding another mine the size of Fort Knox, the result would likely be: capital investment of \$250 to 300 million; construction jobs for upwards of 300 workers for two to three years; 250 new skilled, year-around, close-to-home mining jobs; an annual payroll of about \$20 million; several million dollars per year in local taxes for 15-20 years; economic activity from all manner of associated supplies and services. And all this due in part to the catalyst created by a State investment of \$365,000.

In 1994 over \$14 million was invested in mineral exploration and development in interior Alaska, mostly in the Fairbanks area. Local geologists, consultants, surveyors, samplers, bushcutters, drillers and helpers, expeditors, engineers, truckers, equipment operators and pilots were employed in these projects. Food, fuel and supplies for these operations were also bought locally.

Airborne Geophysical Mapping is truly an investment in the future of the State. And even though only a few selected areas have as yet been covered, the impact is already significant. The data that has been generated will be available for decades to come and as new computing techniques are developed will be re-processed providing new insights and new exploration targets. Major mineralised areas are known all around the State and application of Airborne Geophysical Mapping can provide a stimulus for investments in these areas just as it has in Nome and Fairbanks.

Report of the

ALASKA MINERALS COMMISSION



JANUARY 1995



FINDINGS AND RECOMMENDATIONS

PART A: ISSUES REQUIRING STATE ACTION

INCENTIVES

FINDING: The Alaskan minerals industry competes in a global market for mineral exploration and development dollars. Although Alaska is blessed with an abundance of geologically favorable terrane, it has suffered because of its remoteness, the lack of transportation, infrastructure, and seasonal constraints. Equally important is the industry's perception that State and Federal agencies are not supportive of mineral development in Alaska.

Throughout the world there are countries actively seeking exploration and development investment by providing economic incentives for resource industries. Incentive programs have been successful in Chile and Mexico where privatization and tax incentives have revitalized their mining industries. Appropriate incentives could be especially effective in drawing industry attention to Alaska. This is because many companies currently view the lower 48 to be unattractive from the regulatory perspective and are looking elsewhere for new exploration opportunities.

THE COMMISSION RECOMMENDS THAT:

- 1. The Governor and Legislature should create economic incentives that will provide financial encouragement and help offset some of the real and perceived problems facing exploration and development in Alaska. Incentives that should be considered include credits for expenditures on exploration drilling and geophysics that can be deducted from claim rents, the mining license tax, production royalties, and income taxes. An increased budget for educational and promotional efforts is also recommended.*

GEOPHYSICAL AND GEOLOGICAL MAPPING

FINDING: Many other countries provide airborne geophysical surveys to guide and complement traditional geologic mapping and geochemical surveys. Commonly several millions of dollars per year are invested in order to survey several thousands of square miles. This has been found to be a cost effective marketing tool to attract mineral exploration investment.

In 1993 Alaska contracted for airborne surveys of 1,100 square miles and in 1994 for an additional 750 square miles. At least half of Alaska's 160,000 square miles of State land (104 million acres) has high mineral value. However, at the present level of funding it will take well over 80 years to survey these mineral lands.

Although the maps of the 1993 airborne geophysical survey were not available until April of 1994, already increased claim staking and exploration activity can be documented in the Nome and Circle areas. The maps from the 1994 surveys of the Fairbanks and Richardson districts should be available in early 1995, but already (October, 1994) there is significantly more exploration interest in both areas.

These mapping programs should be viewed as an investment similar to the marketing efforts in other basic sector industries in Alaska and accelerated to cover the known mineral belts in a reasonable time frame.

THE COMMISSION RECOMMENDS THAT:

- 2. The Governor and Legislature should invest \$5 million per year for the next decade, preferably through foundation funding, in airborne geophysical surveys and complementary geological and geochemical surveys.*

SENATE COMMITTEE REPORT

DATE: 3/30/95

FURTHER: Finance

DATE TURNED INTO OFFICE: 4-26-95

Resources Committee considered CS FOR HOUSE BILL NO. 197(RES)

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

and recommends:

- be replaced with SEN CS HB 197 (RES)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by House Resources Committee
- further referral to the Committee

Senate Bill: same title
 new title
 House Bill: same title
 technical change
 new: SCR

| SIGNING; DO PASS | DP | OTHER RECOMMENDATIONS | NR | DNP | AM |
|-------------------------------------|----|-----------------------|----|-----|----|
| <i>Wright, Taylor</i> | ✓ | | | | |
| <i>Don Hoff</i> | ✓ | | | | |
| <i>Steve Elmore</i> | ✓ | | | | |
| <i>Deek Hatfield</i> | ✓ | | | | |
| CHAIR: <i>Steve J. Leman</i> | ✓ | | | | |

NEW FISCAL NOTE(S):

| Department | Date | Zero | Fiscal |
|------------|------|------|--------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

PREVIOUS FISCAL NOTE(S):*

| Department | Date | Zero | Fiscal |
|-----------------|-------------|------|-------------|
| <i>DNR</i> | <i>3/22</i> | - | <i>62.0</i> |
| <i>DOE: Air</i> | <i>3/22</i> | ✓ | |
| | | | |
| | | | |
| | | | |
| | | | |

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill



ALASKA STATE LEGISLATURE
REPRESENTATIVE RICHARD FOSTER

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OFFICE 203 BOWEN DRIVE JUNEAU ALASKA 99801 • 907 443 9038 • FAX 907 443 2162

CO-CHAIR HOUSE FINANCE COMMITTEE

Sponsor Statement - HB 197

An Act Providing for Exploration Incentive Credits for Activities Involving Locatable and Leasable Minerals and Coal Deposits on Certain Land in the State.

Alaska's economic future is dependent upon resource development, always has been and always will be, that's a fact. Alaska is rich in mineral resources. Many of our communities, including our capital of Juneau, owe their very existence to the rich mineral deposits beneath or near municipal boundaries. Future deposits have yet to be discovered and will only be developed following extensive exploration efforts.

But Alaska alone does not have a lock on opportunities. Our world is now a globally competitive arena. Competition for available exploration capital is intense. International corporations comb the globe for prospects to locate and develop low cost mining operations. In order to attract exploration in Alaska, we as a state must remain competitive.

HB 197 offers such an incentive to industry. Under this legislation exploration dollars invested in development of a producing mine would be eligible for credit against taxes due as a result of production revenues. If the prospect never advances to the production phase, no credits are released.

Without tax incentives, current trends will most certainly continue. In the past decade, available exploration investments have poured

Sponsor Statement - HB 197
Page 2 of 3.

out of the country and into lucrative third world countries where governments welcome investments with limited regulation, minimal taxes, if any at all, and very low cost production expenses, including labor and environmental. Chile, Columbia, Mexico, Indonesia and Canada have all benefited from this outflow of American capital. This is detrimental to our long range economic future and threatens to doom our future generations to continued government dependence for cost of living subsidies.

Often the perception of the taxing environment within a given locale is just as significant as the tax itself. HB 197 proposes a tax credit which sends a strong message to the industry that, indeed, "Alaska is open for business."

Exploration dollars stay in state. Partnerships with land rich native corporations are certain to require local hire. Logistical operations depend wholly upon local businesses for local knowledge and equipment.

Given the fact that Alaskan mining operations have to contend with high labor costs, logistical complexities and limited infrastructure in vast areas of the state, it is reasonable that we encourage interested parties through tax credits. Without extensive exploration, producing mines will unlikely occur.

HB 197 is priority one for the Alaska Minerals Commission. This astute body has reviewed all aspects of the mining industry in Alaska and concluded that this is essential legislation.

This legislation was considered during the Eighteenth Legislature and passed both bodies. Unfortunately, the changes made in the Senate failed to receive concurrence due to adjournment.

The administration is pursuing similar legislation for oil and gas exploration and development tax credits in an effort to stimulate

Sponsor Statement - HB 197
Page 3 of 3.

additional development of our petroleum resources. HB 197 parallels this outreach effort into the minerals industry.

I support the Alaska Minerals Commission and have introduced this legislation on their behalf. I encourage your consideration and endorsement on HB 197. Thank you.




Alaska State Legislature
HOUSE OF REPRESENTATIVES
Committee on Resources

State Capitol
Juneau, Alaska
99801

Letter of Intent to accompany CSHB197(Res)

It is the intent of the House Resources Committee that in implementing HB197, the Division of Mining and Water make every effort to minimize and limit regulations. The committee views this legislation as a positive signal to investors who may be considering investment in Alaska. Promulgation of a complex set of regulations would send a negative message to investors who view complexity and uncertainty as undesirable.


Joe Green, Co-Chair
House Resources Committee


Bill Williams, Co-Chair
House Resources Committee

- Adopted by the House: 3/29/95

9-LS0642Z.
Chenoweth
4/26/95

SENATE CS FOR CS FOR HOUSE BILL NO. 197(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE.

Offered:
Referred:

Sponsors: REPRESENTATIVES FOSTER, Vesey, Kelly, Mulder, Tonney, Brice, Phillips, Mackie,
James, Williams

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for exploration incentive credits for activities involving locatable
2 and leaseable mineral and coal deposits on certain land in the state; and
3 providing for an effective date."

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

5 • Section 1. AS 27 is amended by adding a new chapter to read:

6 CHAPTER 30. EXPLORATION INCENTIVE CREDITS.

7 Sec. 27.30.010. EXPLORATION INCENTIVE CREDITS AUTHORIZED.

8 (a) The commissioner shall grant to a person described in (d) of this section an
9 exploration incentive credit for the eligible costs of each of the following exploration
10 activities that are performed on or for the benefit of land in the state for the purpose of
11 determining the existence, location, extent, or quality of a locatable or leaseable mineral
12 or coal deposit, regardless of whether the land is state-owned land:

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

1 (4) surface trenching and bulk sampling, or

2 (5) performing other exploratory work, including aerial photographs,
3 geological and geophysical logging, sample analysis, and metallurgical testing.

4 (b) Except as provided in (c) of this section, an exploration incentive credit may
5 not be granted under (a) of this section for exploration activity described in that
6 subsection that occurs after the mine construction commencement date of a new mine.
7 In this subsection, "mine construction commencement date of a new mine" means the
8 date no later than which all of the following have occurred:

9 (1) there has been issued to the owner or an agent of the owner permits,
10 leases, and title and other rights in land, and other approvals, permits, licenses, and
11 certificates, by federal, state, and local agencies that a reasonable and prudent person
12 would consider adequate to commence construction of a mine in the expectation that all
13 other approvals, permits, licenses, and certificates necessary for the completion of the
14 facilities will be obtained.

15 (2) all approvals, permits, licenses, and certificates are in full force and
16 effect, unrevoked and without any modification that might jeopardize the completion or
17 continued construction of the mine; and

18 (3) an order, judgment, decree, determination, or award of a court or
19 administrative or regulatory agency enjoining, either temporarily or permanently, the
20 construction or the continuation of construction of the mine is not in effect.

21 (c) In addition to the grant of an exploration incentive credit for a new mine
22 under (b) of this section, an exploration incentive credit may be granted under (a) of this
23 section for exploration activity described in that subsection for a mine that had
24 previously operated, has ceased to operate, and for which all previous mining approvals,
25 permits, licenses, and certificates that allowed the previous operation are no longer in
26 effect. However, under this subsection, an exploration incentive credit may not be
27 granted under (a) of this section for exploration activity that occurs after the mine
28 reopening date. In this subsection, "mine reopening date" means the date not later than
29 which all of the following have occurred:

30 (1) there has been issued to the owner or an agent of the owner permits,
31 leases, and title and other rights in land, and other approvals, permits, licenses, and
32 certificates, by federal, state, and local agencies that a reasonable and prudent person

1 would consider adequate to commence operation of the former mine in the expectation
2 that all other approvals, permits, licenses, and certificates necessary for the completion
3 of the facilities will be obtained;

4 (2) all approvals, permits, licenses, and certificates for the reopened mine
5 are in full force and effect, unrevoked, and without any modification that might
6 jeopardize the reopening of the former mine; and

7 (3) an order, judgment, decree, determination, or award of a court or
8 administrative or regulatory agency enjoining, either temporarily or permanently, the
9 reopening of the former mine is not in effect.

10 (d) An exploration incentive credit may be granted under this chapter only to

11 (1) a natural person who is at least 18 years of age;

12 (2) a partnership qualified to do business in the state;

13 (3) a corporation qualified to do business in the state;

14 (4) a limited liability company qualified to do business in the state;

15 (5) a legal guardian or trustee of a qualified natural person described in
16 (1) of this subsection; or

17 (6) any association of persons listed in (1) - (5) of this subsection.

18 Sec. 27.30.020 PROCEDURE FOR REQUESTING AND TAKING THE
19 CREDIT. To obtain the credit authorized by this chapter.

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

21 (A) the person shall submit a request and a statement of
22 expenditures for the previous calendar year not later than 60 days after the close
23 of that calendar year.

24 (B) the request must

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

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

32 (C) the person submitting the request is not required to transmit

1 copies of receipts with the request, but the statement of expenditures is subject
2 to audit in the discretion of the commissioner.

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

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

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

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

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

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

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

24 (B) the commissioner shall approve or disapprove the taking of
25 the credit within six months after receipt of the request for taking of the credit;
26 if the:

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

30 (ii) request is disapproved, the commissioner shall state
31 the reasons for disapproval and offer the person seeking to take the credit
32 an opportunity to correct any problems or to provide additional

1 exploration activity data or other information;

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

5 Sec. 27.30.030. APPLICATION OF THE CREDIT. (a) In a tax year or royalty
6 payment period, subject to (c) of this section and the respective limitations of this
7 subsection, the person may apply the credit, the taking of which was approved under
8 AS 27.30.020(2), against

9 (1) taxes payable by the person

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

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

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

18 (B) under AS 43.20; application of the credit under this
19 subparagraph may not exceed the lesser of

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

22 (ii) 50 percent of the person's total tax liability under
23 AS 43.20 for the tax year; and

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

29 (b) If the person applies the credit against the person's tax liability under
30 (a)(1)(A)(i) or (a)(1)(B)(i) of this section, the commissioner of revenue shall disallow
31 application of the credit under that provision unless the person files with the person's tax
32 return an accounting of the person's mining operation activities for each mining operation

1 that is included in the tax return and as to which the credit is being applied. The
2 accounting of mining operation activities required by this subsection shall be made

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

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

6 and

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

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

12 (c) The person may not apply the credit under this section if the application,
13 when added to credits previously applied under this section, would exceed the total
14 amount of the credits approved under AS 27.30.020(2).

15 Sec. 27.30.040. CREDIT MAY BE CARRIED FORWARD. Except as its
16 application is limited by AS 27.30.030 and 27.30.050, a portion of a credit that is not
17 applied under AS 27.30.030 during a tax year or royalty payment period may be carried
18 forward to and applied during a subsequent tax year or royalty payment period.

19 Sec. 27.30.050. LIMIT ON APPLICATION OF CREDIT. An exploration
20 incentive credit must be applied within 15 tax years or royalty payment periods after the
21 taking of the credit is approved under AS 27.30.020(2), but the tax years or royalty
22 payment periods in which the credit is applied need not be

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

26 (2) consecutive periods.

27 Sec. 27.30.060. ASSIGNMENT OF CREDIT. A person may assign an
28 exploration incentive credit to the person's successor in interest for the mining operation
29 at which the exploration activities occur, but only if the successor in interest is a person
30 qualified to obtain the credit under AS 27.30.010(d). An exploration incentive credit
31 may not be assigned except as permitted in this section.

32 Sec. 27.30.070. RESPONSIBILITY FOR RECORD OF USE OF CREDIT. For

1 each mining operation, the commissioner may require each person who proposes to take
2 the credit under AS 27.30.020(2) to provide with the request to take the credit a record
3 of

4 (1) the person's past use of credits taken under AS 27.30.020(2) and
5 27.30.030; and

6 (2) other information that the commissioner requires to determine if
7 approval of the taking of the credit by the person would exceed the limits on use of the
8 credit under this chapter.

9 Sec. 27.30.080. RELATIONSHIP TO OTHER FUNDS. Amounts due the
10 permanent fund under AS 37.13.010 shall be calculated before the application of a credit
11 extended under this chapter.

12 Sec. 27.30.090. CONFIDENTIALITY OF DATA. (a) The commissioner shall
13 keep the exploration activity data provided under AS 27.30.020 confidential for 36
14 months after receipt by the department.

15 (b) The department is liable in damages to a person who provided the
16 exploration activity data under AS 27.30.020 if the data is disclosed in violation of (a)
17 of this section.

18 Sec. 27.30.099. DEFINITIONS. In this chapter,

19 (1) "credit" means the exploration incentive credit for activities involving
20 locatable and leasable mineral and coal deposits authorized by this chapter;

21 (2) "eligible costs" mean the costs incurred for activities in direct support
22 of exploration activity conducted at the mining operation of the exploration activity for
23 the purpose of determining the existence, location, extent, or quality of a mineral or coal
24 deposit; the term

25 (A) includes

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

29 (ii) direct labor costs and the cost of benefits for
30 employees directly associated with work described in AS 27.30.010(a)(1)
31 - (5);

32 (iii) the cost of renting or leasing equipment from parties

1 not affiliated with the person requesting and taking the credit;

2 (iv) the reasonable costs of owning, maintaining, and
3 operating equipment;

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

6 (vi) payments to consultants and independent contractors;
7 and

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

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

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

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

19 (B) chemical analytical data and noninterpretive geophysical data;

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

23 (4) "geochemical methods" means soil, rock, water, air, vegetation, and
24 similar samples collected and their chemical analyses;

25 (5) "geophysical methods" means all geophysical data gathering methods
26 used in mineral or coal exploration, including seismic, gravity, magnetic, radiometric,
27 radar, and electromagnetic and other remote sensing measurements;

28 (6) "mining operation" includes all operating and nonoperating activities
29 related to a mineral deposit interest, and may be comprised of one or more mining
30 properties; in determining whether mining properties are part of the same mining
31 operation, the commissioner may consider whether the operation, in conducting mining
32 activities on several mining properties, uses common personnel, supply, and maintenance

1 facilities, mining-related treatment processes, storage facilities, roads, pipelines and
2 transportation equipment, and mining techniques and technology, and may also consider
3 the extent to which the mineral deposit interest comprises a common mining property;

4 (7) "person" means only those persons listed in AS 27.30.010(d).

5 * Sec. 2. AS 38.05.212(b) is amended to read:

6 (b) The production royalty

7 (1) is three percent of net income as determined under AS 43.65; and

8 (2) is subject to the exploration incentive credit authorized by

9 AS 27.30.

10 * Sec. 3. AS 43.20 is amended by adding a new section to read:

11 Sec. 43.20.044. EXPLORATION INCENTIVE CREDIT. (a) A taxpayer may
12 apply as a credit against the tax levied under this chapter the exploration incentive credit
13 authorized by AS 27.30.

14 (b) In a tax year in which a taxpayer applies against the tax levied under this
15 chapter the exploration incentive credit authorized by AS 27.30, the commissioner shall
16 require the taxpayer to submit the accounting of mining operation activities form required
17 by AS 27.30.030(b).

18 * Sec. 4. AS 43.65.020(a) is amended to read:

19 (a) A person subject to tax under this chapter shall make a return stating
20 specifically the items of gross income from the property, including royalty received and
21 the deductions and credits allowed by this chapter and the exploration incentive credit
22 authorized by AS 27.30, and other information for carrying out this chapter that the
23 department prescribes. The return must show the mining license number and must be
24 signed by the taxpayer or an authorized agent of the taxpayer, under penalty of unsworn
25 falsification. If receivers, trustees, or assigns are operating the property or business, they
26 shall make returns for the person engaged in mining, or the recipient of royalty in
27 connection with mining property. The tax due on the basis of the returns shall be
28 collected in the same manner as if collected from the person of whose business they have
29 custody and control. In a tax year in which a taxpayer applies against the tax levied
30 under this chapter the exploration incentive credit authorized by AS 27.30, the
31 commissioner shall require the taxpayer to submit the accounting of mining
32 operation activities form required by AS 27.30.030(b).

1 * Sec. 5. This Act is retroactive to January 1, 1995, and applies to activities that qualify for
2 the exploration incentive credit authorized by AS 27.30 that are undertaken after December 31,
3 1994.

May 15, 1995

4 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).



Alaska State Legislature

Session:
State Capitol
Juneau AK 99801-1184

MEMO

Interim:
716 W 4th Avenue
Anchorage AK 99501-2133

Jack Chenoweth, Attorney
Legal Services
via fax: 2029 2 pages

FROM: Annette E. Kreitzer, Aide to
Senate Resources Committee

DATE: April 26, 1995

RE: Senate Resources CS for HB 197 (LS0642\W) 4/25/95

Please incorporate the following changes into a Resources Committee substitute for HB 197, Mineral Exploration Incentive Credits.

1) Page 2, Line 24: for which all previous mining approvals, permits, ✓

2) Page 2, Line 25: DELETE: [have expired and]

Page 2, Line 26: DELETE: [renewable]; insert: in effect. ✓

3) Section 27.30.020 beginning at Page 3, line 12: It took awhile to work through this process, but after walking through how this is expected to work, I believe what really happens is that the applicant submits a REQUEST for the credit. There was no discussion by DNR, by the sponsor, by anyone about an APPLICATION and what that would be. After talking with the sponsor's staff, I think it's better to replace [APPLICATION] with REQUEST throughout this section. I still think it's fair to say applicant, instead of requester.

The second item in this section is departmental approval of the REQUEST (see page 3, line 13). What the applicant wants from the department is certification of the applicant's expenditures, not approval of the expenditures. REPLACE [approval] (line 13) with certification. INSERT applicant's annual before "expenditures as follows" (line 14).

Thirdly, Page 4, Lines 12-14:

(2) the credit applicant whose [application] request has been approved and expenditures certified under (1) of this subsection may thereafter request the taking of the credit for the approved [application] request and certified expenditures as follows:

Finally, do you think the title, then, for this section should be "Procedure for Requesting and Taking the Credit? I was trying to find the clearest wording to reflect what this section does, so that it's not confused with "Application of the Credit (Sec. 27.30.030).

4) Page 5, Line 9:
DELETE: [calculated] Insert: shown ✓

5) Page 6, Lines 26-27: DELETE: a qualified applicant[; once the applicant has assigned the credit to a successor in interest, the applicant may not use the assigned credit].

6) Page 7, Line 29: insert after "costs of" owning ✓

7) Page 8, Lines 7-10:

(B) does not include [noncash expenses such as depreciation and reserves, interest or other costs of borrowed funds,] return on investment, insurance or bond premiums not covered under (A)(v) of this paragraph, or any other expense [that is unreasonable or] that the applicant has not incurred to ✓

9-LS0642\W
Chenoweth
4/25/95

SENATE CS FOR CS FOR HOUSE BILL NO. 197(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES FOSTER, Vezey, Kelly, Mulder, Toohy, Brice, Phillips, Mackie,
James, Williams

A BILL

FOR AN ACT ENTITLED

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

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

5 * Section 1. AS 27 is amended by adding a new chapter to read:

6 CHAPTER 30. EXPLORATION INCENTIVE CREDITS.

7 Sec. 27.30.010. EXPLORATION INCENTIVE CREDITS AUTHORIZED.

8 (a) The commissioner shall grant to a qualified applicant an exploration incentive credit
9 for the eligible costs of each of the following exploration activities that are performed
10 on or for the benefit of land in the state for the purpose of determining the existence,
11 location, extent, or quality of a locatable or leasable mineral or coal deposit, regardless
12 of whether the land is state-owned land:

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

1 (4) surface trenching and bulk sampling; or

2 (5) performing other exploratory work, including aerial photographs,
3 geological and geophysical logging, sample analysis, and metallurgical testing.

4 (b) Except as provided in (c) of this section, an exploration incentive credit may
5 not be granted under (a) of this section for exploration activity described in that
6 subsection that occurs after the mine construction commencement date of a new mine.
7 In this subsection, "mine construction commencement date of a new mine" means the
8 date no later than which all of the following have occurred:

9 (1) there has been issued to the owner or an agent of the owner permits,
10 leases, and title and other rights in land, and other approvals, permits, licenses, and
11 certificates, by federal, state, and local agencies that a reasonable and prudent person
12 would consider adequate to commence construction of a mine in the expectation that all
13 other approvals, permits, licenses, and certificates necessary for the completion of the
14 facilities will be obtained;

15 (2) all approvals, permits, licenses, and certificates are in full force and
16 effect, unrevoked and without any modification that might jeopardize the completion or
17 continued construction of the mine; and

18 (3) an order, judgment, decree, determination, or award of a court or
19 administrative or regulatory agency enjoining, either temporarily or permanently, the
20 construction or the continuation of construction of the mine is not in effect.

21 (c) In addition to the grant of an exploration incentive credit for a new mine
22 under (b) of this section, an exploration incentive credit may be granted under (a) of this
23 section for exploration activity described in that subsection for a mine that had
24 previously operated, has ceased to operate, and for which ~~all previous~~ approvals, permits,
25 licenses, and certificates that allowed the previous operation ~~have expired~~ and are no
26 longer ~~renewable~~. However, under this subsection, an exploration incentive credit may
27 not be granted under (a) of this section for exploration activity that occurs after the mine
28 reopening date. In this subsection, "mine reopening date" means the date not later than
29 which all of the following have occurred:

30 (1) there has been issued to the owner or an agent of the owner permits,
31 leases, and title and other rights in land, and other approvals, permits, licenses, and
32 certificates, by federal, state, and local agencies that a reasonable and prudent person

1 would consider adequate to commence operation of the former mine in the expectation
2 that all other approvals, permits, licenses, and certificates necessary for the completion
3 of the facilities will be obtained;

4 (2) all approvals, permits, licenses, and certificates for the reopened mine
5 are in full force and effect, unrevoked, and without any modification that might
6 jeopardize the reopening of the former mine; and

7 (3) an order, judgment, decree, determination, or award of a court or
8 administrative or regulatory agency enjoining, either temporarily or permanently, the
9 reopening of the former mine is not in effect.

10 Sec. 27.30.020. PROCEDURE FOR OBTAINING AND TAKING THE
11 CREDIT. To obtain the credit authorized by this chapter,

12 (1) the prospective credit applicant must submit an application for the
13 credit setting out the applicant's annual expenditures and obtain the department's approval
14 of the expenditures as follows:

15 (A) the applicant must submit a statement of expenditures for the
16 previous calendar year not later than 60 days after the close of that calendar year;

17 (B) the application must

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

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

25 (C) the applicant is not required to transmit copies of receipts
26 with the application, but the statement of expenditures is subject to audit in the
27 discretion of the commissioner;

28 (D) if the commissioner determines to audit the applicant's
29 statement of expenditures, the commissioner may require the prospective credit
30 applicant to justify claims of expenditures with receipts and other reliable
31 information;

32 (E) the commissioner shall respond to the prospective credit

1 applicant's application by September 30 by approving or disapproving it; if the
2 commissioner

3 (i) disapproves the application, the commissioner shall
4 state the reasons for disapproval and give the applicant an opportunity to
5 correct any problems or to provide additional information;

6 (ii) approves the application, the commissioner shall
7 certify the applicant's expenditures and specify the exploration activity
8 data requirements for that year that must be presented to the department
9 at the time of the taking of the credit;

10 (F) if the commissioner neither approves nor disapproves the
11 application by September 30, the application is automatically approved;

12 (2) the credit applicant whose application has been approved under (1)
13 of this subsection may thereafter request the taking of the credit for the approved
14 application as follows:

15 (A) the credit applicant shall deliver to the commissioner the
16 exploration activity data identified by the commissioner under (1)(E)(ii) of this
17 section, and shall request the commissioner's approval of the taking of the
18 exploration incentive credit.

19 (B) the commissioner shall approve or disapprove the taking of
20 the credit within six months after receipt of the request for taking of the credit;
21 if the

22 (i) exploration activity data complies with the
23 requirements identified by the commissioner under (1)(E)(ii) of this
24 section, the commissioner shall approve the taking of the credit.

25 (ii) request is disapproved, the commissioner shall state
26 the reasons for disapproval and offer the applicant an opportunity to
27 correct any problems or to provide additional exploration activity data or
28 other information;

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

32 Sec. 27.30.030. APPLICATION OF THE CREDIT. (a) In a tax year or royalty

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1 payment period, the qualified applicant may apply an approved credit, subject to (c) of
2 this section and the respective limitations of this subsection, against

3 (1) taxes payable by the qualified applicant

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

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

10 (ii) 50 percent of the qualified applicant's total tax liability
11 under AS 43.65 for the tax year;

12 (B) under AS 43.20; application of the credit under this
13 subparagraph may not exceed the lesser of

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

16 (ii) 50 percent of the qualified applicant's total tax liability
17 under AS 43.20 for the tax year, and

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

24 (b) If the qualified applicant applies the credit against the credit applicant's tax
25 liability under (A)(i)(A)(i) or (A)(i)(B)(i) of this section, the commissioner of revenue
26 shall disallow application of the credit under that provision unless the qualified applicant
27 files with the qualified applicant's tax return an accounting of the qualified applicant's
28 mining operation activities for each mining operation that is included in the tax return
29 and as to which the credit is being applied. The accounting of mining operation
30 activities required by this subsection shall be made

31 (1) on a form prescribed by the Department of Revenue, on the form, the
32 qualified applicant shall

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

and

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

(2) without regard to an exemption to which the qualified applicant may be entitled under AS 43.65.010(a).

(c) The qualified applicant may not apply the credit under this section if the application, when added to credits previously applied under this section, would exceed the total amount of the credits approved under AS 27.30.020.

Sec. 27.30.040. CREDIT MAY BE CARRIED FORWARD. Except as its application is limited by AS 27.30.030 and 27.30.050, a portion of a credit that is not applied under AS 27.30.030 during a tax year or royalty payment period may be carried forward to and applied during a subsequent tax year or royalty payment period.

Sec. 27.30.050. LIMIT ON APPLICATION OF CREDIT. An exploration incentive credit must be applied within 15 tax years or royalty payment periods after the taking of the credit is approved under AS 27.30.020(2), but the tax years or royalty payment periods in which the credit is applied need not be

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

(2) consecutive periods.

Sec. 27.30.060. ASSIGNMENT OF CREDIT. An exploration incentive credit may be assigned by the qualified applicant to the applicant's successor in interest for the mining operation at which the exploration activities occur if the successor in interest is a qualified applicant; once the applicant has assigned the credit to a successor in interest, the applicant may not use the assigned credit.

Sec. 27.30.070. RESPONSIBILITY FOR RECORD OF USE OF CREDIT. For each mining operation, the commissioner may require each applicant who proposes to take the credit under AS 27.30.020(2) to provide with the request to take the credit a record of

(1) the applicant's past use of credits taken under AS 27.30.020(2); and

1 (2) other information that the commissioner requires to determine if
2 approval of the taking of the credit by the applicant would exceed the limits on use of
3 the credit under this chapter.

4 Sec. 27.30.080. RELATIONSHIP TO OTHER FUNDS. Amounts due the
5 permanent fund under AS 37.13.010 shall be calculated before the application of a credit
6 extended under this chapter.

7 Sec. 27.30.090. CONFIDENTIALITY OF DATA. (a) The commissioner shall
8 keep the exploration activity data provided under AS 27.30.020 confidential for 36
9 months after receipt by the department.

10 (b) The department is liable in damages to a person who provided the
11 exploration activity data under AS 27.30.020 if the data is disclosed in violation of (a)
12 of this section.

13 Sec. 27.30.099. DEFINITIONS. In this chapter,

14 (1) "credit" means the exploration incentive credit for activities involving
15 locatable and leasable mineral and coal deposits authorized by this chapter.

16 (2) "eligible costs" mean the costs incurred for activities in direct support
17 of exploration activity conducted at the mining operation of the exploration activity for
18 the purpose of determining the existence, location, extent, or quality of a mineral or coal
19 deposit; the term

20 (A) includes

21 (i) the costs of obtaining the approvals, permits, licenses,
22 and certificates for an exploration activity set out in AS 27.30.010(a)(1) -
23 (5);

24 (ii) direct labor costs and the cost of benefits for
25 employees directly associated with work described in AS 27.30.010(a)(1)
26 - (5);

27 (iii) the cost of renting or leasing equipment from parties
28 not affiliated with the applicant;

29 (iv) the reasonable costs of maintaining and operating
30 equipment;

31 (v) insurance and bond premiums associated with the
32 activities set out in (i) - (iv) of this subparagraph.

1 (vi) payments to consultants and independent contractors;

2 and

3 (vii) the general expense of operating the taxpayer's
4 business, including the costs of materials and supplies, if those expenses
5 and costs are directly attributable to the work described in
6 AS 27.30.010(a)(1) - (5);

7 (B) does not include noncash expenses such as depreciation and
8 reserves, interest or other costs of borrowed funds, return on investment,
9 insurance or bond premiums not covered under (A)(v) of this paragraph, or any
10 other expense that is unreasonable or that the applicant has not incurred to
11 complete work described in AS 27.30.010(a)(1) - (5);

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

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

15 (B) chemical analytical data and noninterpretive geophysical data;

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

19 (4) "geochemical methods" means soil, rock, water, air, vegetation, and
20 similar samples collected and their chemical analyses;

21 (5) "geophysical methods" means all geophysical data gathering methods
22 used in mineral or coal exploration, including seismic, gravity, magnetic, radiometric,
23 radar, and electromagnetic and other remote sensing measurements;

24 (6) "mining operation" includes all operating and nonoperating activities
25 related to a mineral deposit interest, and may be comprised of one or more mining
26 properties. In determining whether mining properties are part of the same mining
27 operation, the commissioner may consider whether the operation, in conducting mining
28 activities on several mining properties, uses common personnel, supply, and maintenance
29 facilities, mining-related treatment processes, storage facilities, roads, pipelines and
30 transportation equipment, and mining techniques and technology, and may also consider
31 the extent to which the mineral deposit interest comprises a common mining property;

32 (7) "qualified applicant" means

- 1 (A) a natural person who is at least 18 years of age;
 2 (B) a partnership qualified to do business in the state;
 3 (C) a corporation qualified to do business in the state;
 4 (D) a limited liability company qualified to do business in the
 5 state;
 6 (E) a legal guardian or trustee of a qualified natural person
 7 described in (A) of this paragraph; or
 8 (F) any association of persons listed in (A) - (E) of this
 9 paragraph.

10 • Sec. 2. AS 38.05.212(b) is amended to read:

11 (b) The production royalty

- 12 (1) is three percent of net income as determined under AS 43.65; and
 13 (2) is subject to the exploration incentive credit authorized by
 14 AS 27.30.

15 • Sec. 3. AS 43.20 is amended by adding a new section to read:

16 Sec. 43.20.044. EXPLORATION INCENTIVE CREDIT. (a) A taxpayer may
 17 apply as a credit against the tax levied under this chapter the exploration incentive credit
 18 authorized by AS 27.30.

19 (b) In a tax year in which a taxpayer applies against the tax levied under this
 20 chapter the exploration incentive credit authorized by AS 27.30, the commissioner shall
 21 require the taxpayer to submit the accounting of mining operation activities form required
 22 by AS 27.30.030(b).

23 • Sec. 4. AS 43.65.020(a) is amended to read:

24 (a) A person subject to tax under this chapter shall make a return stating
 25 specifically the items of gross income from the property, including royalty received and
 26 the deductions and credits allowed by this chapter and the exploration incentive credit
 27 authorized by AS 27.30, and other information for carrying out this chapter that the
 28 department prescribes. The return must show the mining license number and must be
 29 signed by the taxpayer or an authorized agent of the taxpayer, under penalty of unsworn
 30 falsification. If receivers, trustees, or assigns are operating the property or business, they
 31 shall make returns for the person engaged in mining, or the recipient of royalty in
 32 connection with mining property. The tax due on the basis of the returns shall be

1 collected in the same manner as if collected from the person of whose business they have
2 custody and control. In a tax year in which a taxpayer applies against the tax levied
3 under this chapter the exploration incentive credit authorized by AS 27.30, the
4 commissioner shall require the taxpayer to submit the accounting of mining
5 operation activities form required by AS 27.30.030(b).

6 • Sec. 5. This Act is retroactive to January 1, 1995, and applies to activities that qualify for
7 the exploration incentive credit authorized by AS 27.30 that are undertaken after December 31,
8 1994.

9 • Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

A M E N D M E N T

OFFERED IN THE

TO: CSHB 197(RES)

1 Page 6, line 3, after "maintaining":

2 Insert ", owning."

3 Page 6, lines 13 - 14:

4 Delete "depreciation and reserves, interest or other costs of borrowed funds."

5 Page 6, line 16:

6 Delete "that is unreasonable or"

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

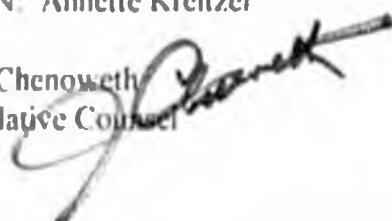
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 24, 1995

SUBJECT: Draft SCS CSHB 197, exploration incentive credits for mining activities (Work Order No. 9-LS0642U)

TO: Senator Loren Leman, Chair
Senate Resources Committee
ATTN: Annette Kreitzer

FROM: Jack Chenoweth 
Legislative Counsel

I wish I better understood the concept being introduced in this version.

Using the material you faxed, I have prepared the enclosed draft committee substitute

The material relating to the credit has been partially reordered. Proposed AS 27 30 010 gives the parameters under which mining activity may be eligible for the credit. Proposed AS 27 30 020 sets out the procedures under which the credit may be applied for and approved for later use by the Department of Natural Resources. According to David Rogers, at this point the applicant will know with some precision the total credit that he or she may later claim against taxes and royalty.

Proposed AS 27 30 030 then spells out how the approved credit may be later taken. Note that, as drafted, a set amount of credit can be used three times over - once against AS 43 20 taxes, once against AS 43 65 taxes, and once against the royalty. Was this intended? Proposed AS 27 30 040 authorizes the carrying forward of unused elements of the credit. Proposed AS 27 30 050 sets out the time limitation on use of the credit. Proposed AS 27 30 060 permits its assignment. The sections continue in the same order.

I deleted what had been, until this point, bill section 2. The material misstated the law and, with the misstatement omitted, it seemed to me that the proposed additional language was not necessary. The same objective could be reached by the amendment to AS 38 05 212(b).

JBC:klb
95-292:klb

Enclosure

9-I.S0642\U
Chenoweth
4/24/95

SENATE CS FOR CS FOR HOUSE BILL NO. 197(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES FOSTER, Vezey, Kelly, Mulder, Toohey, Brice, Phillips, Mackie,
James, Williams

A BILL

FOR AN ACT ENTITLED

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

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

5 * Section 1. AS 27 is amended by adding a new chapter to read:

6 CHAPTER 30. EXPLORATION INCENTIVE CREDITS.

7 Sec. 27.30.010. EXPLORATION INCENTIVE CREDITS AUTHORIZED.

8 (a) The commissioner shall grant to a qualified applicant an exploration incentive credit
9 for the eligible costs of each of the following exploration activities that are performed
10 on or for the benefit of land in the state for the purpose of determining the existence,
11 location, extent, or quality of a locatable or leasable mineral or coal deposit, regardless
12 of whether the land is state-owned land:

13 (1) surveying by geophysical or geochemical methods;

14 (2) drilling exploration holes;

15 (3) conducting underground exploration;

1 (4) surface trenching and bulk sampling; or

2 (5) performing other exploratory work, including aerial photographs,
3 geological and geophysical logging, sample analysis, and metallurgical testing.

4 (b) Except as provided in (c) of this section, an exploration incentive credit may
5 not be granted under (a) of this section for exploration activity described in that
6 subsection that occurs after the mine construction commencement date of a new mine.
7 In this subsection, "mine construction commencement date of a new mine" means the
8 date no later than which all of the following have occurred:

9 (1) there has been issued to the owner or an agent of the owner permits,
10 leases, and title and other rights in land, and other approvals, permits, licenses, and
11 certificates, by federal, state, and local agencies that a reasonable and prudent person
12 would consider adequate to commence construction of a mine in the expectation that all
13 other approvals, permits, licenses, and certificates necessary for the completion of the
14 facilities will be obtained;

15 (2) all approvals, permits, licenses, and certificates are in full force and
16 effect, unrevoked and without any modification that might jeopardize the completion or
17 continued construction of the mine; and

18 (3) an order, judgment, decree, determination, or award of a court or
19 administrative or regulatory agency enjoining, either temporarily or permanently, the
20 construction or the continuation of construction of the mine is not in effect.

21 (c) In addition to the grant of an exploration incentive credit for a new mine
22 under (b) of this section, an exploration incentive credit may be granted under (a) of this
23 section for exploration activity described in that subsection for a mine that had
24 previously operated, has ceased to operate, and for which all previous approvals, permits,
25 licenses, and certificates that allowed the previous operation have expired and are no
26 longer renewable. However, under this subsection, an exploration incentive credit may
27 not be granted under (a) of this section for exploration activity that occurs after the mine
28 reopening date. In this subsection, "mine reopening date" means the date not later than
29 which all of the following have occurred:

30 (1) there has been issued to the owner or an agent of the owner permits,
31 leases, and title and other rights in land, and other approvals, permits, licenses, and
32 certificates, by federal, state, and local agencies that a reasonable and prudent person

1 would consider adequate to commence operation of the former mine in the expectation
2 that all other approvals, permits, licenses, and certificates necessary for the completion
3 of the facilities will be obtained;

4 (2) all approvals, permits, licenses, and certificates for the reopened mine
5 are in full force and effect, unrevoked, and without any modification that might
6 jeopardize the reopening of the former mine; and

7 (3) an order, judgment, decree, determination, or award of a court or
8 administrative or regulatory agency enjoining, either temporarily or permanently, the
9 reopening of the former mine is not in effect.

10 Sec. 27.30.020. PROCEDURE FOR OBTAINING AND TAKING THE
11 CREDIT. To obtain the credit authorized by this chapter,

12 (1) the prospective credit applicant must submit an application for the
13 credit setting out the applicant's annual expenditures and obtain the department's approval
14 of the expenditures as follows:

15 (A) the applicant must submit a statement of expenditures for the
16 previous calendar year not later than 60 days after the close of that calendar year;

17 (B) the application must

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

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

25 (C) the applicant is not required to transmit copies of receipts
26 with the application, but the statement of expenditures is subject to audit in the
27 discretion of the commissioner;

28 (D) if the commissioner determines to audit the applicant's
29 statement of expenditures, the commissioner may require the prospective credit
30 applicant to justify claims of expenditures with receipts and other reliable
31 information;

32 (E) the commissioner shall respond to the prospective credit

1 applicant's application by September 30 by approving or disapproving it; if the
2 commissioner

3 (i) disapproves the application, the commissioner shall
4 state the reasons for disapproval and give the applicant an opportunity to
5 correct any problems or to provide additional information;

6 (ii) approves the application, the commissioner shall
7 certify the applicant's expenditures and specify the exploration activity
8 data requirements for that year that must be presented to the department
9 at the time of the taking of the credit;

10 (F) if the commissioner neither approves nor disapproves the
11 application by September 30, the application is automatically approved;

12 (2) the credit applicant whose application has been approved under (1)
13 of this subsection may thereafter request the taking of the credit for the approved
14 application as follows:

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

19 (B) the commissioner shall approve or disapprove the taking of
20 the credit within six months after receipt of the request for taking of the credit;
21 if the

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

25 (ii) request is disapproved, the commissioner shall state
26 the reasons for disapproval and offer the applicant an opportunity to
27 correct any problems or to provide additional exploration activity data or
28 other information;

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

32 Sec. 27.30.030. APPLICATION OF THE CREDIT. (a) In a tax year or royalty

1 payment period, the qualified applicant may apply an approved credit, subject to the
2 respective limitations of this subsection, against

3 (1) taxes payable by the qualified applicant

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

6 (i) 50 percent of the qualified applicant's tax liability
7 under AS 43.65 for the tax year that is related to production from the
8 mining operation at which the exploration activities occurred; or

9 (ii) 50 percent of the qualified applicant's total tax liability
10 under AS 43.65 for the tax year;

11 (B) under AS 43.20; application of the credit under this
12 subparagraph may not exceed the lesser of

13 (i) 50 percent of the qualified applicant's tax liability
14 under AS 43.20 for the tax year that is related to production from the
15 mining operation at which the exploration activities occurred, as
16 calculated under (b) of this section; or

17 (ii) 50 percent of the qualified applicant's total tax liability
18 under AS 43.20 for the tax year; and

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

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

32 (1) on a form prescribed by the Department of Revenue; on the form, the

1 qualified applicant shall

2 (A) identify the mining operations for which the credit is claimed;

3 and

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

7 (2) without regard to an exemption to which the qualified applicant may
8 be entitled under AS 43.65.010(a).

9 Sec. 27.30.040. CREDIT MAY BE CARRIED FORWARD. Except as its
10 application is limited by AS 27.30.030 and 27.30.050, a portion of a credit that is not
11 applied under AS 27.30.030 during a tax year or royalty payment period may be carried
12 forward to and applied during a subsequent tax year or royalty payment period.

13 Sec. 27.30.050. LIMIT ON APPLICATION OF CREDIT. An exploration
14 incentive credit must be applied within 15 tax years or royalty payment periods after the
15 taking of the credit is approved under AS 27.30.020(2), but the tax years or royalty
16 payment periods in which the credit is applied need not be

17 (1) the tax year or royalty payment period in which the qualified
18 applicant first incurs liability for payment of tax or royalty based on the applicant's
19 activity that is the basis of the claim of the exploration incentive credit; or

20 (2) consecutive periods.

21 Sec. 27.30.060. ASSIGNMENT OF CREDIT. An exploration incentive credit
22 may be assigned by the qualified applicant to the applicant's successor in interest for the
23 mining operation at which the exploration activities occur if the successor in interest is
24 a qualified applicant; once the applicant has assigned the credit to a successor in interest,
25 the applicant may not use the assigned credit.

26 Sec. 27.30.070. RESPONSIBILITY FOR RECORD OF USE OF CREDIT. For
27 each mining operation, the commissioner may require each applicant who proposes to
28 take the credit under AS 27.30.020(2) to provide with the request to take the credit a
29 record of

30 (1) the applicant's past use of credits taken under AS 27.30.020(2); and

31 (2) other information that the commissioner requires to determine if
32 approval of the taking of the credit by the applicant would exceed the limits on use of

1 the credit under this chapter.

2 Sec. 27.30.080. RELATIONSHIP TO OTHER FUNDS. Amounts due the
3 permanent fund under AS 37.13.010 shall be calculated before the application of a credit
4 extended under this chapter.

5 Sec. 27.30.090. CONFIDENTIALITY OF DATA. (a) The commissioner shall
6 keep the exploration activity data provided under AS 27.30.020 confidential for 36
7 months after receipt by the department.

8 (b) The department is liable in damages to a person who provided the
9 exploration activity data under AS 27.30.020 if the data is disclosed in violation of (a)
10 of this section.

11 Sec. 27.30.099. DEFINITIONS. In this chapter,

12 (1) "credit" means the exploration incentive credit for activities involving
13 locatable and leasable mineral and coal deposits authorized by this chapter;

14 (2) "eligible costs" mean the costs incurred for activities in direct support
15 of exploration activity conducted at the mining operation of the exploration activity for
16 the purpose of determining the existence, location, extent, or quality of a mineral or coal
17 deposit; the term

18 (A) includes

19 (i) the costs of obtaining the approvals, permits, licenses,
20 and certificates for an exploration activity set out in AS 27.30.010(a)(1) -
21 (5);

22 (ii) direct labor costs and the cost of benefits for
23 employees directly associated with work described in AS 27.30.010(a)(1)
24 - (5);

25 (iii) the cost of renting or leasing equipment from parties
26 not affiliated with the applicant;

27 (iv) the reasonable costs of maintaining and operating
28 equipment;

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

31 (vi) payments to consultants and independent contractors;

32 and

1 (vii) the general expense of operating the taxpayer's
2 business, including the costs of materials and supplies, if those expenses
3 and costs are directly attributable to the work described in
4 AS 27.30.010(a)(1) - (5);

5 (B) does not include noncash expenses such as depreciation and
6 reserves, interest or other costs of borrowed funds, return on investment,
7 insurance or bond premiums not covered under (A)(v) of this paragraph, or any
8 other expense that is unreasonable or that the applicant has not incurred to
9 complete work described in AS 27.30.010(a)(1) - (5);

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

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

13 (B) chemical analytical data and noninterpretive geophysical data;

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

17 (4) "geochemical methods" means soil, rock, water, air, vegetation, and
18 similar samples collected and their chemical analyses;

19 (5) "geophysical methods" means all geophysical data gathering methods
20 used in mineral or coal exploration, including seismic, gravity, magnetic, radiometric,
21 radar, and electromagnetic and other remote sensing measurements;

22 (6) "mining operation" includes all operating and nonoperating activities
23 related to a mineral deposit interest, and may be comprised of one or more mining
24 properties; in determining whether mining properties are part of the same mining
25 operation, the commissioner may consider whether the operation, in conducting mining
26 activities on several mining properties, uses common personnel, supply, and maintenance
27 facilities, mining-related treatment processes, storage facilities, roads, pipelines and
28 transportation equipment, and mining techniques and technology, and may also consider
29 the extent to which the mineral deposit interest comprises a common mining property;

30 (7) "qualified applicant" means

31 (A) a natural person who is at least 18 years of age;

32 (B) a partnership qualified to do business in the state;

1 (C) a corporation qualified to do business in the state;

2 (D) a limited liability company qualified to do business in the
3 state;

4 (E) a legal guardian or trustee of a qualified natural person
5 described in (A) of this paragraph; or

6 (F) any association of persons listed in (A) - (E) of this
7 paragraph.

8 • Sec. 2. AS 38.05.212(b) is amended to read:

9 (b) The production royalty

10 (1) is three percent of net income as determined under AS 43.65; and

11 (2) is subject to the exploration incentive credit authorized by

12 AS 27.30.

13 • Sec. 3. AS 43.20 is amended by adding a new section to read:

14 Sec. 43.20.044. EXPLORATION INCENTIVE CREDIT. (a) A taxpayer may
15 apply as a credit against the tax levied under this chapter the exploration incentive credit
16 authorized by AS 27.30.

17 (b) In a tax year in which a taxpayer applies against the tax levied under this
18 chapter the exploration incentive credit authorized by AS 27.30, the commissioner shall
19 require the taxpayer to submit the accounting of mining operation activities form required
20 by AS 27.30.030(b).

21 • Sec. 4. AS 43.65.020(a) is amended to read:

22 (a) A person subject to tax under this chapter shall make a return stating
23 specifically the items of gross income from the property, including royalty received and
24 the deductions and credits allowed by this chapter and the exploration incentive credit
25 authorized by AS 27.30, and other information for carrying out this chapter that the
26 department prescribes. The return must show the mining license number and must be
27 signed by the taxpayer or an authorized agent of the taxpayer, under penalty of unsworn
28 falsification. If receivers, trustees, or assigns are operating the property or business, they
29 shall make returns for the person engaged in mining, or the recipient of royalty in
30 connection with mining property. The tax due on the basis of the returns shall be
31 collected in the same manner as if collected from the person of whose business they have
32 custody and control.

- 1 • Sec. 5. This Act is retroactive to January 1, 1995, and applies to activities that qualify for
2 the exploration incentive credit authorized by AS 27.30 that are undertaken after December 31,
3 1994.
- 4 • Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

9-LS0642R ✓
Chenoweth
4/21/95

DRAFT

SENATE CS FOR CS FOR HOUSE BILL NO. 197(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES FOSTER, Veary, Kelly, Mulder, Toobey, Brice, Phillips, Mackie,
James, Williams

A BILL

FOR AN ACT ENTITLED

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

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

5 • Section 1. AS 27 is amended by adding a new chapter to read:

6 CHAPTER 30. EXPLORATION INCENTIVE CREDITS.

7 Sec. 27.30.010. EXPLORATION INCENTIVE CREDITS AUTHORIZED.

8 (a) The commissioner shall grant to a qualified applicant an exploration incentive credit
9 for the eligible costs of each of the following exploration activities that are performed
10 on or for the benefit of land in the state for the purpose of determining the existence,
11 location, extent, or quality of a locatable or leasable mineral or coal deposit, regardless
12 of whether the land is state-owned land:

13 (1) surveying by geophysical or geochemical methods;

14 (2) drilling exploration holes;

15 (3) conducting underground exploration.

1 (4) surface trenching and bulk sampling; or

2 (5) performing other exploratory work, including aerial photographs,
3 geological and geophysical logging, sample analysis, and metallurgical testing.

4 (b) Except as provided in (c) of this section, an exploration incentive credit may
5 not be granted under (a) of this section for exploration activity described in that
6 subsection that occurs after the mine construction commencement date of a new mine.
7 In this subsection, "mine construction commencement date of a new mine" means the
8 date no later than which all of the following have occurred:

9 (1) there has been issued to the owner or an agent of the owner permits,
10 leases, and title and other rights in land, and other approvals, permits, licenses, and
11 certificates, by federal, state, and local agencies that a reasonable and prudent person
12 would consider adequate to commence construction of a mine in the expectation that all
13 other approvals, permits, licenses, and certificates necessary for the completion of the
14 facilities will be obtained;

15 (2) all approvals, permits, licenses, and certificates are in full force and
16 effect, unrevoked and without any modification that might jeopardize the completion or
17 continued construction of the mine; and

18 (3) an order, judgment, decree, determination, or award of a court or
19 administrative or regulatory agency enjoining, either temporarily or permanently, the
20 construction or the continuation of construction of the mine is not in effect.

21 (c) In addition to the grant of an exploration incentive credit for a new mine
22 under (b) of this section, an exploration incentive credit may be granted under (a) of this
23 section for exploration activity described in that subsection for a mine that had
24 previously operated, has ceased to operate, and for which all previous approvals, permits,
25 licenses, and certificates that allowed the previous operation have expired and are no
26 longer renewable. However, under this subsection, an exploration incentive credit may
27 not be granted under (a) of this section for exploration activity that occurs after the mine
28 reopening date. In this subsection, "mine reopening date" means the date not later than
29 which all of the following have occurred:

30 (1) there has been issued to the owner or an agent of the owner permits,
31 leases, and title and other rights in land, and other approvals, permits, licenses, and
32 certificates, by federal, state, and local agencies that a reasonable and prudent person

1 would consider adequate to commence operation of the former mine in the expectation
2 that all other approvals, permits, licenses, and certificates necessary for the completion
3 of the facilities will be obtained;

4 (2) all approvals, permits, licenses, and certificates for the reopened mine
5 are in full force and effect, unrevoked, and without any modification that might
6 jeopardize the reopening of the former mine; and

7 (3) an order, judgment, decree, determination, or award of a court or
8 administrative or regulatory agency enjoining, either temporarily or permanently, the
9 reopening of the former mine is not in effect.

10 Sec. 27.30.020. APPLICATION OF CREDIT. (a) In a tax year or royalty
11 payment period, an exploration incentive credit calculated under AS 27.30.040 may be

12 (1) applied, at the discretion of the qualified applicant, against one or
13 more of the following:

14 (A) one-half of the taxes payable under AS 43.20 for that year
15 that are related to production from the mining operation on which the exploration
16 activities occur;

17 (B) one-half of the taxes payable under AS 43.65 for that year
18 that are related to production from the mining operation on which the exploration
19 activities occur;

20 (C) one-half of the mineral production royalty payments for that
21 payment period due the state under AS 38.05.135 - 38.05.175 and 38.05.212 for
22 production from the mining operation on which the exploration activities occur;

23 (2) carried forward to a subsequent tax year or royalty payment period,
24 except as limited by AS 27.30.040(b) and 27.30.050.

25 (b) The total credits applied under (a)(1) of this section against a tax or royalty
26 payment in a tax year or royalty payment period may not exceed the applicant's unused
27 credits that have been approved under AS 27.30.030(2).

28 Sec. 27.30.030. PROCEDURE FOR OBTAINING AND TAKING THE
29 CREDIT. To obtain the credit authorized by this chapter,

30 (1) the prospective credit applicant must submit an application for the
31 credit setting out the applicant's annual expenditures and obtain the department's approval
32 of the expenditures as follows:

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(A) the applicant must submit a statement of expenditures for the previous calendar year not later than 60 days after the close of that calendar year;

(B) the application must

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

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

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

(D) if the commissioner determines to audit the applicant's statement of expenditures, the commissioner may require the prospective credit applicant to justify claims of expenditures with receipts and other reliable information;

(E) the commissioner shall respond to the prospective credit applicant's application by September 30 by approving or disapproving it; if the commissioner

(i) disapproves the application, the commissioner shall state the reasons for disapproval and give the applicant an opportunity to correct any problems or to provide additional information;

(ii) approves the application, the commissioner shall certify the applicant's expenditures and specify the exploration activity data requirements for that year that must be presented to the department at the time of the taking of the credit;

(F) if the commissioner neither approves nor disapproves the application by September 30, the application is automatically approved;

(2) the credit applicant whose application has been approved under (1) of this subsection may thereafter request the taking of the credit for the approved application as follows:

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

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

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

(ii) request is disapproved, the commissioner shall state the reasons for disapproval and offer the applicant an opportunity to correct any problems or to provide additional exploration activity data or other information;

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

Sec. 27.30.040. CALCULATION OF CREDIT. (a) For each mining operation, the amount of the exploration incentive credit that may be taken during a tax year or royalty payment period is the amount determined under this subsection calculated as a percentage of the applicant's expenditures approved by the commissioner under AS 27.30.030:

(1) not over \$50,000 of approved expenditures 3 percent of approved expenditures;

(2) more than \$50,000 and not over \$100,000 of approved expenditures \$1,500 plus 5 percent of the excess over \$50,000 of approved expenditures;

(3) more than \$100,000 of approved expenditures \$4,000 plus 7 percent of the excess over \$100,000 of approved expenditures.

(b) Except as its application or use is limited by AS 27.30.020 and 27.30.050, a portion of a credit that is not applied or used under this section may be carried forward to and applied during a subsequent tax year or royalty payment period.

Sec. 27.30.050. USE OF CREDIT. An exploration incentive credit

1 (1) must be used within 15 tax years or royalty payment periods after the
2 taking of the credit is approved under AS 27.30.030(2), but the tax years or royalty
3 payment periods in which the credit is used need not be

4 (A) the tax year or royalty payment period in which the qualified
5 applicant first incurs liability for payment of tax or royalty based on the
6 applicant's activity that is the basis of the claim of the exploration incentive
7 credit; or

8 (B) consecutive periods; and

9 (2) may, for the purposes described in AS 27.30.020, be assigned by the
10 qualified applicant to the applicant's successor in interest for the mining operation at
11 which the exploration activities occur if the successor in interest is a qualified applicant;
12 once the applicant has assigned the credit to a successor in interest, the applicant may
13 not use the assigned credit.

14 Sec. 27.30.060. RESPONSIBILITY FOR RECORD OF USE OF CREDIT. For
15 each mining operation, the commissioner may require each applicant who proposes to
16 take the credit under AS 27.30.030(2) to provide with the request to take the credit a
17 record of

18 (1) the applicant's past use of credits approved under AS 27.30.030(1);

19 (2) the applicant's past use of credits taken under AS 27.30.030(2); and

20 (3) other information that the commissioner requires to determine if
21 approval of the taking of the credit by the applicant would exceed the limits on use of
22 the credit under this chapter.

23 Sec. 27.30.070. RELATIONSHIP TO OTHER FUNDS. Amounts due the
24 permanent fund under AS 37.13.010 shall be calculated before the application of a credit
25 extended under this chapter.

26 Sec. 27.30.080. CONFIDENTIALITY OF DATA. (a) The commissioner shall
27 keep the exploration activity data provided under AS 27.30.030 confidential for 36
28 months after receipt by the department.

29 (b) The department is liable in damages to a person who provided the
30 exploration activity data under AS 27.30.030 if the data is disclosed in violation of (a)
31 of this section.

32 Sec. 27.30.090. DEFINITIONS. In this chapter.

1 (1) "credit" means the exploration incentive credit for activities involving
2 locatable and leasable mineral and coal deposits authorized by this chapter;

3 (2) "eligible costs" mean the costs incurred for activities in direct support
4 of exploration activity conducted at the mining operation of the exploration activity for
5 the purpose of determining the existence, location, extent, or quality of a mineral or coal
6 deposit; the term

7 (A) includes

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

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

14 (iii) the cost of renting or leasing equipment from parties
15 not affiliated with the applicant;

16 (iv) the reasonable costs of maintaining and operating
17 equipment;

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

20 (vi) payments to consultants and independent contractors;
21 and

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

26 (B) does not include noncash expenses such as depreciation and
27 reserves, interest or other costs of borrowed funds, return on investment,
28 insurance or bond premiums not covered under (A)(v) of this paragraph, or any
29 other expense that is unreasonable or that the applicant has not incurred to
30 complete work described in AS 27.30.010(a)(1) - (5);

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

32 (A) a representative skeleton core for each hole cored or a

1 representative set of cuttings for each hole rotary drilled;

2 (B) chemical analytical data and noninterpretive geophysical data;

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

6 (4) "geochemical methods" means soil, rock, water, air, vegetation, and
7 similar samples collected and their chemical analyses;

8 (5) "geophysical methods" means all geophysical data gathering methods
9 used in mineral or coal exploration, including seismic, gravity, magnetic, radiometric,
10 radar, and electromagnetic and other remote sensing measurements;

11 (6) "mining operation" includes all operating and nonoperating activities
12 related to a mineral deposit interest, and may be comprised of one or more mining
13 properties; in determining whether mining properties are part of the same mining
14 operation, the commissioner may consider whether the operation, in conducting mining
15 activities on several mining properties, uses common personnel, supply, and maintenance
16 facilities, mining-related treatment processes, storage facilities, roads, pipelines and
17 transportation equipment, and mining techniques and technology, and may also consider
18 the extent to which the mineral deposit interest comprises a common mining property;

19 (7) "qualified applicant" means

20 (A) a natural person who is at least 18 years of age;

21 (B) a partnership qualified to do business in the state;

22 (C) a corporation qualified to do business in the state;

23 (D) a limited liability company qualified to do business in the
24 state;

25 (E) a legal guardian or trustee of a qualified natural person
26 described in (A) of this paragraph; or

27 (F) any association of persons listed in (A) - (E) of this
28 paragraph.

29 • Sec. 2. AS 38.05.135(a) is amended to read:

30 (a) Except as otherwise provided, valuable mineral deposits in land belonging
31 to the state shall be open to exploration, development, and the extraction of minerals.
32 All land, together with tide, submerged, or shoreland, to which the state holds title to or

1 to which the state may become entitled, may be obtained by permit or lease for the
2 purpose of exploration, development, and the extraction of minerals. Except as
3 specifically limited by AS 38.05.135 - 38.05.181, land may be withheld from lease
4 application on a first-come, first-served basis, and offered only on a competitive bid basis
5 when determined by the commissioner to be in the best interests of the state. When the
6 credit is authorized by AS 27.30.030, the commissioner shall allow an exploration
7 incentive credit for activities undertaken to determine the existence, location, extent,
8 or quality of a locatable or leasable mineral or coal deposit and in (IN) unproven
9 areas the commissioner may offer additional incentives, including a reduction of royalty
10 to a minimum of five percent in the case of oil and gas, and other terms in and granting
11 permit or lease for exploration and development whenever it appears to be in the best
12 interests of the state to do so.

13 • Sec. 3. AS 38.05.212(b) is amended to read:

14 (b) The production royalty

15 (1) is three percent of net income as determined under AS 43.65; and

16 (2) is subject to the exploration incentive credit authorized by

17 AS 27.30.

18 • Sec. 4. AS 43.20 is amended by adding a new section to read:

19 Sec. 43.20.044. EXPLORATION INCENTIVE CREDIT. A taxpayer may apply
20 as a credit against one-half of the tax levied under this chapter the exploration incentive
21 credit authorized by AS 27.30.

22 • Sec. 5. AS 43.65.020(a) is amended to read:

23 (a) A person subject to tax under this chapter shall make a return stating
24 specifically the items of gross income from the property, including royalty received and
25 the deductions and credits allowed by this chapter and the exploration incentive credit
26 authorized by AS 27.30, and other information for carrying out this chapter that the
27 department prescribes. The return must show the mining license number and must be
28 signed by the taxpayer or an authorized agent of the taxpayer, under penalty of unsworn
29 falsification. If receivers, trustees, or assigns are operating the property or business, they
30 shall make returns for the person engaged in mining, or the recipient of royalty in
31 connection with mining property. The tax due on the basis of the returns shall be
32 collected in the same manner as if collected from the person of whose business they have

1 custody and control.

2 • Sec. 6. This Act is retroactive to January 1, 1995, and applies to activities that qualify for
3 the exploration incentive credit authorized by AS 27.30 that are undertaken after December 31,
4 1994.

5 • Sec. 7. This Act takes effect immediately under AS 01.10.070(c).



Alaska State Legislature

Session:
State Capitol
Juneau, AK 99801-1182

MEMO

Interim:
716 W 4th Avenue
Anchorage AK 99501-2133

TO: Jack Chenoweth, Attorney
Legal Services
via fax: 2029 two pages

FROM: Annette E. Kreitzer, Aide to
Senate Resources Committee

DATE: April 20, 1995

RE: Senate Resources CS for HB 197

I met this morning with staff to the sponsor and co-sponsor of HB 197, industry representatives, DNR and DOR on changes to HB 197 which would make it work better. Please incorporate the following concepts into a Resources Committee substitute.

1) The EIC should be available to either a new mine or for the reopening of a mine where new operating permits are required. Exploration activities are conducted in both cases. My thought was on page one Sec. 27.30.010 (a) to add in that the credits are granted for both types of mines. I don't think you have to have a definition of these, but if you feel it's necessary - go for it.

2) Page 2, lines 28-29: the credit is not deductible against rents payable under AS 38.05.211. DELETE [(C) annual rent payable under AS 38.05.211 for the site on which the exploration activities occur;] and DELETE any other reference to the credit being applicable against rents.

3) Page 3, lines 2-12 and 13-32 speak about the applicant "certifying" annual expenditures, and submitting a "certification" of those expenditures. This language is confusing to me. What does it take for the applicant to "certify" expenditures? The department is actually (in my thinking) the "certifying" agency. The language should more clearly reflect the intent here for the applicant to apply to the department for certification of allowable expenses. The applicant submits a list of expenditures for the previous calendar year... describing the work accomplished during the previous year...the applicant is not required to transmit copies of receipts, but submitted annual expenditures are subject to audit in the discretion of the commissioner;...if the commissioner determines to audit the applicant's submitted annual expenditures...the commissioner shall approve or disapprove the submitted annual expenditures by September 30...

In subsection (1)(E)(ii) the commissioner certifies expenditures if the commissioner approves the expenditures. I believe this is the best use for "certifies" and this language should remain. But, the commissioner is not certifying the applicant's "certification" he's certifying the applicant's eligible costs.

- 4) Page 3, lines 7-9, the applicant describes the work accomplished during the previous year...and provides a detailed list or ledger of expenditures, and a list of exploration activity data that in the future will be made available under (2)(A) of this section.
- 5) Page 4 Section 27.30.040 Limit on Credits
Agreement was reached with Department of Revenue on how the credit is to be computed. You may be aware that there was concern from DOR about figuring the credit at the mine site. Commissioner Congdon agreed to the credit being computed using the mining license tax notwithstanding the three year exemption in AS 43.65.010. In plain language; the applicant is responsible for figuring their credit. The credit is computed using the MLT formula in AS 43.65. Even if the applicant isn't paying MLT because of the three year exemption, the applicant still figures the credit using the MLT formula.
- 6) Page 4 Line 19 - DELETE [COMBINED]. The intent is that the credit may be applied against taxes under 43.20; 43.65, or royalties, but only up to 50% of the EACH liability. The applicant can apply the credit to any of the three and to a max of 50% for each of the three, but cannot take the entire combined credit and put it against one of the liabilities.
- 7) Page 4, Probably in Section 27.30.050 there needs to be language that "with each request for credit, the applicant provide the department a status of credits for each incentive credit taken for that year and the balances of credits available." The intent is for the applicant to show a running total of what credits the applicant is racking up and what has been applied against royalties, AS 43.20 and/or AS 43.65.
- 8) Page 7: Delete [Sec. 3]
- 9) Page 2 - Does Sec. 27.30.020 APPLICATION OF CREDIT have to be subject to AS 27.30.040 and to .050, since we've created some additional limitations?
- 10) One final issue. Throughout the bill it speaks to credits for each "site". The intent is to correlate expenses to the project for which application for a credit is being made. I'm not sure of language to accomplish this and will rely on your fine, legal mind for an answer. I reserve the right to quibble.

Thanks much for your assistance on this committee substitute.

ALASKA DEPARTMENT OF REVENUE

HB 197(RES)
9-LS0642\O
April 21, 1995

Replace Page 4, Lines 17 through 26 as follows:

Sec. 27.30.040. ^(CALCULATION OF CREDIT) LIMIT ON CREDITS: (a) The amount of the exploration incentive credit that may be taken during a tax year or royalty payment period is limited as follows:

(1) for taxes payable under AS 43.20, the lesser of 50 percent of taxes payable under AS 43.20 or 50 percent of taxes calculated for the site against which the credit is being claimed as determined by AS 43.65.020(h);

(2) for taxes payable under AS 43.65, the lesser of 50/percent of taxes payable under AS 43.65 or 50 percent of taxes calculated for the site against which the credit is being claimed as determined by AS 43.65.020(h); and

(3) 50 percent of mineral production royalty payments due the state under AS 38.05.135 - 38.05.175 and 38.05.212 for production from the site on which exploration activities occur.

DISCUSSION POINTS

This limits the credit to 50% of mining taxes calculated on a site-specific basis under AS 43.65.020(h). Under AS 27.30.020 of this bill, the credit amount could be applied against mining taxes, corporation taxes and royalties due.

Add a new section as follows:

AS 43.20.044 is amended by adding a new subsection to read:

(b) A person claiming the exploration credit under this section shall provide to the department a calculation of the credit on a form prescribed by the department. The form shall be accompanied by the form required under AS 43.65.020(h).

This requires corporation taxpayers to provide an accounting of the exploration incentive credit and provide documentation of the calculation with their corporation tax return.

Add a new section as follows:

AS 43.65.020 is amended by adding a new subsection to read:

(h) A person claiming the exploration incentive credit under this section shall provide to the department an accounting of mining activities for each site included in the return filed under this chapter. The accounting shall be made on a form prescribed by the department and accompany the return. The form shall identify the site for which the credit is claimed and state specifically for each site, items of gross income, including royalty received and the deductions and credits allowed by this chapter and other information prescribed by the department. If the person is within the 3 and one-half years exemption allowed under AS 43.65.010(a) and claims a credit under AS 38.05 or AS 43.20, the credit shall be the amount that would have been due without regard to the exemption.

This section requires the taxpayer to provide a site-specific accounting of mining activities upon which the exploration credit will be based. If a taxpayer is within the 3 and one-half mining tax exemption, the amount of credit shall be calculated as if the tax would have been due.

Nico

9-LS06420

CS FOR HOUSE BILL NO. 197(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES FOSTER, Vezey

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for exploration incentive credits for activities involving locatable
2 and leasable mineral and ~~cost~~⁹ deposits on certain land in the state; and
3 providing for an effective date."

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

5 • Section 1. AS 27 is amended by adding a new chapter to read:

6 CHAPTER 30. EXPLORATION INCENTIVE CREDITS.

7 Sec. 27.30.010. EXPLORATION INCENTIVE CREDITS AUTHORIZED.

8 (a) The commissioner shall grant to a qualified applicant an exploration incentive credit
9 for the eligible costs of each of the following exploration activities that are performed
10 on or for the benefit of land in the state for the purpose of determining the existence,
11 location, extent, or quality of a locatable or leasable mineral ~~or cost~~^{of production mine} deposit, regardless
12 of whether the land is state-owned land: ^{provided that any exploration A}

See a number in for response

incentive credits approved under sec. 27.30.010 shall only apply to those credits having a positive relationship to producing mine.

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

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(4) surface trenching and bulk sampling; or

(5) performing other exploratory work, including aerial photographs, geological and geophysical logging, sample analysis, and metallurgical testing.

(b) An exploration incentive credit may not be granted under (a) of this section for exploration activity described in that subsection that occurs after the mine construction commencement date. In this subsection, "mine construction commencement date" means the date no later than which all of the following have occurred:

(1) there has been issued to the owner or an agent of the owner permits, leases, and title and other rights in land, and other approvals, permits, licenses, and certificates, by federal, state, and local agencies that a reasonable and prudent person would consider adequate to commence construction of a mine in the expectation that all other approvals, permits, licenses, and certificates necessary for the completion of the facilities will be obtained;

(2) all approvals, permits, licenses, and certificates are in full force and effect, unrevoked and without any modification that might jeopardize the completion or continued construction of the mine; and

(3) an order, judgment, decree, determination, or award of a court or administrative or regulatory agency enjoining, either temporarily or permanently, the construction or the continuation of construction of the mine is not in effect.

Sec. 27.30.020. APPLICATION OF CREDIT. An exploration incentive credit granted under AS 27.30.030 may be

(1) applied, at the discretion of the qualified applicant, against

(A) taxes payable under AS 43.20 and AS 43.65 that are related to production from the site on which the exploration activities occur;

(B) mineral production royalty payments due the state under AS 38.05.135 - 38.05.175 and 38.05.212 for production from the site on which the exploration activities occur; and

~~(C) annual rent payable under AS 38.05.211 for the site on which the exploration activities occur.~~ (C) *the state shall not be liable for the payment of such taxes.*

(2) carried forward to a subsequent tax year or royalty or rental payment period, except as limited by AS 27.30.040.

Sec. 27.30.030. PROCEDURE FOR OBTAINING THE CREDIT. To obtain

Handwritten notes and signatures on the right margin.

1 the credit authorized by this chapter,

2 (1) the prospective credit applicant must certify annual expenditures and
3 obtain approval of an annual certification of expenditures as follows:

4 (A) the applicant must submit a certification of expenditures for
5 the previous calendar year not later than 60 days after the close of that calendar
6 year.

7 (B) the certification must describe the work accomplished during
8 the previous year, the number of employees, and the names and number of
9 consultants, and provide a detailed list or ledger of expenditures;

10 (C) the applicant is not required to transmit copies of receipts
11 with the certification, but the certification is subject to audit in the discretion of
12 the commissioner;

13 (D) if the commissioner determines to audit the applicant's
14 certificate, the commissioner may require the prospective credit applicant to
15 justify claims of expenditures with receipts and other reliable information;

16 (E) the commissioner shall respond to the prospective credit
17 applicant's certification of expenditures by September 30 by approving or
18 disapproving the certification; if the commissioner

19 (i) disapproves the applicant's certification, the
20 commissioner shall state the reasons for disapproval and give the
21 applicant an opportunity to correct any problems or to provide additional
22 information;

23 (ii) approves the applicant's certification, the
24 commissioner shall certify the applicant's expenditures and specify the
25 exploration activity data requirements for that year that must be presented
26 to the department at the time of application for the credit;

27 (F) if the commissioner neither approves nor disapproves the
28 certification of expenditures by September 30, the certified expenditures are
29 automatically approved;

30 (2) the prospective credit applicant whose annual certification of
31 expenditures has been approved under (1) of this subsection may thereafter request
32 approval of the credit for the certified expenditures as follows:

*approval to the Dept
provide for consideration
of additional
information*

*and exploration
activity data that
in the future will be
made available under
(2)(A) of this
section*

OK

1 (A) the credit applicant shall deliver to the commissioner the
2 exploration activity data identified by the commissioner under (1)(X)(ii) of this
3 section, and shall request the commissioner's approval of the exploration
4 incentive credit;

5 (B) the commissioner shall approve or disapprove the credit
6 application within six months after receipt of the application for credit; if the

7 (i) exploration activity data complies with the
8 requirements identified by the commissioner under (1)(X)(ii) of this
9 section, the commissioner shall approve the credit;

10 (ii) credit application is disapproved, the commissioner
11 shall state the reasons for disapproval and offer the applicant an
12 opportunity to correct any problems or to provide additional exploration
13 activity data or other information;

14 (C) if the commissioner neither approves nor disapproves the
15 credit application within six months after submission of the credit application, the
16 credit is approved.

17 Sec. 27.30.040. LIMIT ON CREDITS. (a) The amount of the exploration
18 incentive credit for each site that may be taken during a tax year or royalty payment
19 period may not exceed 50 percent of the combined amount payable by the applicant as

20 (1) taxes payable under AS 43.20 and AS 43.65 that are related to
21 production from the site on which the exploration activities occur.

22 (2) mineral production royalty payments due the state under *ACAR*
23 AS 38.05.135 - 38.05.175 and 38.05.212 for production from the site on which the
24 exploration activities occur; and

25 (3) annual rent payable under AS 38.05.211 for the site on which the
26 exploration activities occur.

27 (b) Except as its application or use is limited by AS 27.30.020 and 27.30.050,
28 a portion of a credit that is not applied or used under (a) of this section may be carried
29 forward to and applied during a subsequent tax year or royalty or rental payment period.

30 Sec. 27.30.050. USE OF CREDIT. An exploration incentive credit

31 (1) must be used within 15 tax years or royalty or rental payment periods
32 after it is approved under AS 27.30.030(a)(2), but the tax years or royalty or rental

1 payment periods in which the credit is used need not be

2 (A) the tax year or royalty or rental payment period in which the
3 qualified applicant first incurs liability for payment of tax, royalty, or rent based
4 on the applicant's activity that is the basis of the claim of the exploration
5 incentive credit; or

6 (B) consecutive periods; and

7 (2) may, for the purposes described in AS 27.30.020, be assigned by the
8 qualified applicant to the applicant's successor in interest for the site at which the
9 exploration activities occur if the successor in interest is a qualified applicant; once the
10 applicant has assigned the credit to a successor in interest, the applicant may not use the
11 assigned credit.

12 Sec. 27.30.060. RELATIONSHIP TO OTHER FUNDS. Amounts due the
13 permanent fund under AS 37.13.010 shall be calculated before the application of a credit
14 extended under this chapter.

15 Sec. 27.30.070. CONFIDENTIALITY OF DATA. (a) The commissioner shall
16 keep the exploration activity data provided under AS 27.30.030 confidential for 36
17 months after receipt by the department.

18 (b) The department is liable in damages to a person who provided the
19 exploration activity data under AS 27.30.030 if the data is disclosed in violation of (a)
20 of this section.

21 Sec. 27.30.090. DEFINITIONS. In this chapter,

22 (1) "eligible costs" mean the costs incurred for activities in direct support
23 of exploration activity conducted at the site of the exploration activity for the purpose
24 of determining the existence, location, extent, or quality of a mineral or coal deposit; the
25 term

26 (A) includes

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

30 (ii) direct labor costs and the cost of benefits for
31 employees directly associated with work described in AS 27.30.010(a)(1)
32 - (5);

1 (iii) the cost of renting or leasing equipment from parties
2 not affiliated with the applicant;

3 (iv) the reasonable costs of maintaining and operating
4 equipment;

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

7 (vi) payments to consultants and independent contractors;
8 and

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

13 (B) does not include noncash expenses such as depreciation and
14 reserves, interest or other costs of borrowed funds, return on investment,
15 insurance or bond premiums not covered under (A)(v) of this paragraph, or any
16 other expense that is unreasonable or that the applicant has not incurred to
17 complete work described in AS 27.30.010(a)(1) - (5);

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

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

21 (B) chemical analytical data and noninterpretive geophysical data;

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

25 (3) "geochemical methods" means soil, rock, water, air, vegetation, and
26 similar samples collected and their chemical analyses;

27 (4) "geophysical methods" means all geophysical data gathering methods
28 used in mineral or coal exploration, including seismic, gravity, magnetic, radiometric,
29 radar, and electromagnetic and other remote sensing measurements;

30 (5) "qualified applicant" means

31 (A) a natural person who is at least 18 years of age;

32 (B) a partnership qualified to do business in the state;

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- (C) a corporation qualified to do business in the state;
- (D) a limited liability company qualified to do business in the state;
- (E) a legal guardian or trustee of a qualified natural person described in (A) of this paragraph; or
- (F) any association of persons listed in (A) - (E) of this paragraph.

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• Sec. 2. AS 38.05.135(a) is amended to read:

(a) Except as otherwise provided, valuable mineral deposits in land belonging to the state shall be open to exploration, development, and the extraction of minerals. All land, together with tide, submerged, or shoreland, to which the state holds title to or to which the state may become entitled, may be obtained by permit or lease for the purpose of exploration, development, and the extraction of minerals. Except as specifically limited by AS 38.05.135 - 38.05.181, land may be withheld from lease application on a first-come, first-served basis, and offered only on a competitive bid basis when determined by the commissioner to be in the best interests of the state. When authorized by AS 27.30.030, the commissioner shall allow an exploration incentive credit for activities undertaken to determine the existence, location, extent, or quality of a locatable or leasable mineral or coal deposit and in (D) unproven areas the commissioner may offer additional incentives, including a reduction of royalty to a minimum of five percent in the case of oil and gas, and other terms in and granting permit or lease for exploration and development whenever it appears to be in the best interests of the state to do so.

• Sec. 3. AS 38.05.211(c) is amended to read:

- (c) The rental for each year
 - (1) is subject to the claim of the exploration incentive credit authorized by AS 27.30; and
 - (2) after allowance of the credit claimed under (1) of this subsection,
 shall be credited against the production royalty under AS 38.05.212 as it accrues for that year.

• Sec. 4. AS 38.05.212(b) is amended to read:

- (b) The production royalty

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(1) is three percent of net income as determined under AS 43.65; and
(2) is subject to the exploration incentive credit authorized by

AS 27.30.

• Sec. 5. AS 43.20 is amended by adding a new section to read:

Sec. 43.20.044. EXPLORATION INCENTIVE CREDIT. A taxpayer may apply as a credit against the tax levied under this chapter the exploration incentive credit authorized by AS 27.30.

• Sec. 6. AS 43.65.020(a) is amended to read:

(a) A person subject to tax under this chapter shall make a return stating specifically the items of gross income from the property, including royalty received and the deductions and credits allowed by this chapter and the exploration incentive credit authorized by AS 27.30, and other information for carrying out this chapter that the department prescribes. The return must show the mining license number and must be signed by the taxpayer or an authorized agent of the taxpayer, under penalty of unsworn falsification. If receivers, trustees, or assigns are operating the property or business, they shall make returns for the person engaged in mining, or the recipient of royalty in connection with mining property. The tax due on the basis of the returns shall be collected in the same manner as if collected from the person of whose business they have custody and control.

• Sec. 7. This Act is retroactive to January 1, 1995, and applies to activities that qualify for the exploration incentive credit authorized by AS 27.30 that are undertaken after December 31, 1994.

• Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

27.30.090

~~27.30.030~~

*properties
claims
interest*

*combination
of larger areas than*

(6) "site" means those mining claims or leases or parts thereof contained within the boundaries of the approved mining operation associated with the producing mine and

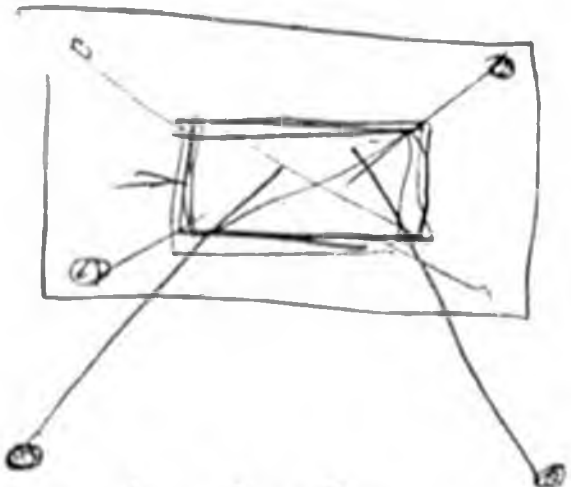
is that led to the development of a producing mine and ~~that~~ includes those appurtenant activities ~~having~~ ~~contributing~~ ~~to~~ ~~the~~ ~~site~~ the definition of the ~~site~~ ^{landowner} mineral deposit.

27.30.010

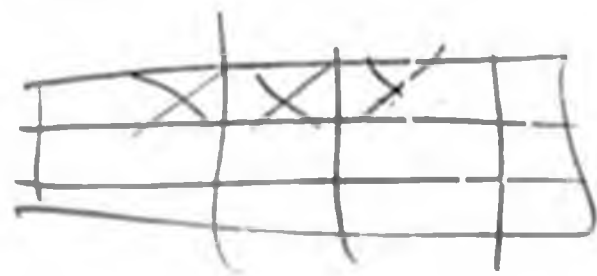
Providing the exploration incentives credits shall (apply only) to those ~~pross~~ credits approved under section 27.30.030 having a direct relationship to the producing ~~mine~~ ^{mine} ~~or~~ mine position

27.30.010
providing

Eq



"New Producing mine" means ~~a new mining operation producing minerals at a site that has~~ ^{original deposit of a mineral deposit or} ~~previously been in production~~ ^{of a deposit} or the reactivation of a ~~previously~~ ^{production} ~~production~~ ^{mine} ~~mine~~ ^{that has} ~~been in production for not less than 1 year~~ ^{requires new} ~~not had production for at least 1 year~~ ^{mine permits.}
commercial



ALTERNATIVE ACCOUNTING METHODS



Separate Accounting Method

Separate Accounting

$$\text{Alaska Income} - \text{Alaska Expenditures} = \text{Alaska Net Income}$$

Water's Edge Reporting Method (Apportionment)

$$\frac{\text{Alaska Sales} + \text{Alaska Property} + \text{Alaska Payroll}}{\text{U.S. Sales} + \text{U.S. Property} + \text{U.S. Payroll}} \times (\text{U.S. Income} - \text{U.S. Expenses}) = \text{Alaska Net Income}$$

Worldwide Combined Reporting Method (Apportionment)

$$\frac{\text{Alaska Sales} + \text{Alaska Property} + \text{Alaska Payroll}}{\text{Worldwide Sales} + \text{Worldwide Property} + \text{Worldwide Extraction}} \times (\text{W.W. Income} - \text{W.W. Expenses}) = \text{Alaska Net Income}$$

SEPARATE ACCOUNTING METHOD



- ▶ "Entity" method of accounting
- ▶ Accounting based on geographic source of income of one taxpayer
- ▶ Income at each site could be determined
- ▶ Separate computation of operation income or loss
- ▶ Transfer prices must be established when transactions cross state lines
- ▶ Used by taxpayers for internal profitability analyses

UNITARY TAX ACCOUNTING METHOD



- ▶ "Aggregate" method of accounting
- ▶ Accounting based on worldwide activities of unitary group of corporations
- ▶ No site-by-site income determination
- ▶ Income attribution based on formula apportionment of unitary income
- ▶ Method reflects average profitability of overall group of corporations
- ▶ Used only for calculation of taxes



April 12, 1995

ALASKA SUCCESS FROM AIRBORNE GEOPHYSICAL MAPPING

By Steve Borell

In 1993 and 1994 the Alaska State Legislature funded Airborne Geophysical Mapping at selected locations around the state. The State Division of Geological & Geophysical Surveys (DGGs) managed the work and now has the completed maps and data (including on CD) available for sale to the public.

These investments by the State have already been a catalyst for significant new private industry investments. In some areas DGGs worked with mining companies and private landowners and obtained their assistance and confidential data which was used by DGGs to increase the coverage and accuracy of the mapping. Some of the highlights of this program and its impact follow.

The State's 1993 Airborne Geophysical Mapping program surveyed portions of the Nome, Nyc, Valdez Creek and Circle Mining Districts. The 1994 program surveyed areas in the Fairbanks and Richardson Mining Districts.

The maps and data for the Nome Mining District were released in February of 1994 and during that summer one major mining company staked 120 new mining claims and another major company nearly doubled its intended exploration budget for the area. Other individual prospectors and miners, as well as other major mining companies, obtained the DGGs data and did varying amounts of exploration and claim staking in the area.

The maps and data for the Circle Mining District were released in April of 1994 and one major company dedicated an exploration crew for the entire summer for exploring targets identified from the maps. Also, several local prospectors and miners concluded agreements with junior mining companies that will result in more intense work during 1995.

FAIRBANKS DISTRICT BOOMING

The impact that the 1994 Airborne Geophysical Mapping program has had in the Fairbanks District has been phenomenal!

The maps and data for the Fairbanks and Richardson Mining Districts were released February 7, 1995. On that very day the DGGs collected more than \$5,000 as the result of its sales of that material. This is three times the amount that any previous publication had elicited. That same week about 200 order forms were handed out to interested prospectors and companies at the

annual Cordilleran Roundup held in Vancouver, B.C. Additionally, DGGS is now sending notification of the maps to the 4,000 companies and individuals on its mailing list.

Regarding work in the field, between November 1, 1994 and March 8, 1995 a total of 80.81 square miles of mining claims and upland prospecting sites were staked in the Fairbanks Mining District. Although some of the claims predated the release of the geophysical data, company geologists say that much of the staking was done to establish a land position in anticipation of the data.

One company has just announced that it staked 16,131 acres over a resistivity anomaly, identified from the new geophysical survey data, that was very similar in expression to that covering the company's existing property. On the first day of staking, one of their geologists collected a sample of float containing coarse gold that assayed 0.247 ounces per ton gold. Another major mining company has been busy staking claims and even drilling (in the winter) in the Fairbanks area, partly in response to the information on the new geophysical maps.

In 1994 approximately \$31 million was invested in mineral exploration in Alaska, up slightly from 1993. Of this 1994 amount a good share was focused on Interior Alaska, mostly in the Fairbanks area. An even greater increase is expected for 1995 and the years to come.

The Alaska Legislature is now in session so neither the amount of money for further airborne geophysical surveys nor the decision on exactly where the new surveys will be flown is yet determined. What we do know is that very little of the State has been surveyed with new modern techniques and that these surveys are creating a tremendous amount of interest in mineral exploration on State and adjacent Native-owned lands.

For more information on obtaining the airborne geophysical maps and data on any of these six Mining Districts contact: Laurel Burns, Division of Geologic & Geophysical Surveys, 794 University Avenue, Suite 200, Fairbanks, AK 99709-3645, phone (907) 451-5021, FAX (907) 451-5050.

[Steven C. Borell is the Executive Director of the Alaska Miners Association which represents all aspects of the mining industry in Alaska. For more information contact the Alaska Miners Association, 501 W. Northern Lights #203, Anchorage, AK 99503, (907) 276-0347, FAX (907) 278-7997.]

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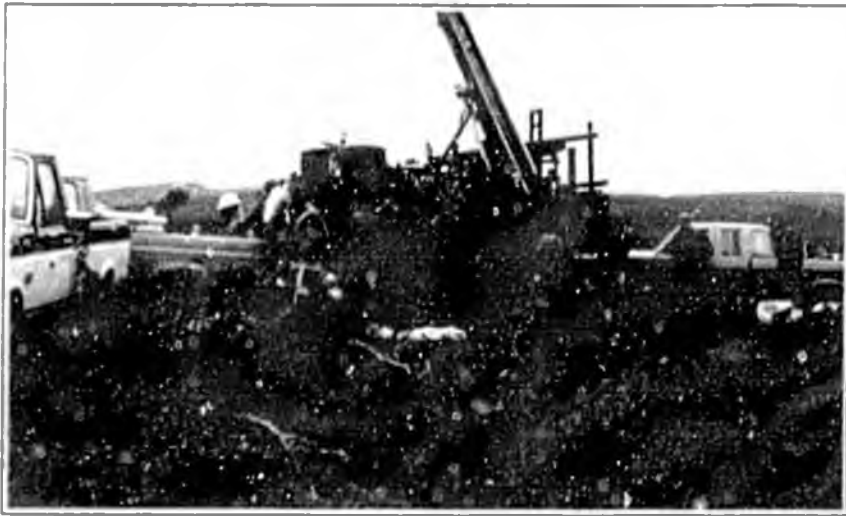
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Report of the

ALASKA MINERALS COMMISSION



JANUARY 1995



ALASKA MINERALS COMMISSION

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FOREWORD

The Alaska Minerals Commission wishes to thank the Governor and the Legislature for implementing several of our recommendations during 1994 and continuing the encouraging trend set in the prior two years. Highlights include settlement of the Mental Health Lands dispute; extending the terms of permits when legal impediments prevent their use; protection of mining claimants on State-Selected Lands; aggressive documentation and assertion of RS 2477 Rights-of-Way; rational State land selections; adoption of reasonable risk-factors for federally mandated Clean Air Act amendments; attempts to create multi-year permits for placer mines; and continued investment in the airborne geophysical survey project.

The Alaska Minerals Commission was created by the 14th Legislature and signed into law on June 6, 1986. The enabling legislation instructs the Commission to make recommendations to the Governor and Legislature on ways to mitigate constraints, including governmental constraints, on the development of minerals, including coal, in the state.

The Commission has presented reports to the Governor and Legislature annually since January, 1987, and is authorized to do so until January, 1999. Commission members are appointed by the Governor, the President of the Senate, and the Speaker of the House. The current members include representatives of the placer, hard rock, and coal mining industries and come from diverse areas of the state.

During 1994, the Commission held meetings in Juneau, Fairbanks, and Anchorage, including a meeting with the Lt. Governor and Commissioners of various departments. The recommendations in this report are the result of input at these meetings. All Commission meetings are open to the public, and members encourage comments from all interested parties at any time.

Following the list of recommendations in the executive summary, this report contains background information, or findings, on each issue, followed by the related recommendation. These have been grouped into a Part A which deals with issues that are mainly State issues, and a Part B which are federal issues which affect the State and can be influenced by State participation.

On behalf of the members of the Commission, I would like to express our appreciation to those members of the public, to the Alaska Miners Association, the Resource Development Council, and to the many government agencies and private organizations that contributed to the preparation of the report. The Commission wishes to thank Commissioner Paul Fuhs of the Department of Commerce and Economic Development and Gabrielle LaRoche, Dick Swainbank, and Al Clough of the Division of Economic Development who have provided excellent administrative and professional support to the Commission.

Earl H. Beistline
Chair

ALASKA MINERALS COMMISSION

1995 REPORT TO THE GOVERNOR AND ALASKA STATE LEGISLATURE

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EXECUTIVE SUMMARY

There were a number of encouraging developments in Alaska mining during 1994. Highlights include increased production at the Red Dog Mine near Kotzebue, announcement of a new ore body at the Greens Creek Mine near Juneau, permitting of the Healy Clean Coal project, permitting and site preparation at the Fort Knox Mine and expansion of reserves at the True North Mine near Fairbanks, and the April 1994 release of the Nome, Nyea, Valdez Creek and Circle area geophysical data and maps.

The availability of geophysical data has already resulted in increased exploration activity in the Nome and Circle areas, with significant work commitments promised for 1995. Industry representatives are eagerly awaiting the results of similar surveys of the Fairbanks and Richardson areas which were flown in 1994. This is especially so in light of recent announcements of high-grade gold values in drill core for the Richardson district.

Other areas of the State with significant new mining activity or development include Wiseman, McGrath, Nulato, Cantwell, Tok, and Ambler.

Unfortunately the Valdez Creek placer mine will probably close in late 1995. Further, continued lack of resolve by federal permitting agencies on the AJ and Kensington Mines slows progress of these vital mine developments.

RECOMMENDATIONS

PART A: ISSUES REQUIRING STATE ACTION

INCENTIVES

1. The Governor and Legislature should create economic incentives that will provide financial encouragement and help offset some of the real and perceived problems facing exploration and development in Alaska. Incentives that should be considered include credits for expenditures on exploration drilling and geophysics that can be deducted from claim rents, the mining license tax, production royalties, and income taxes. An increased budget for educational and promotional efforts is also recommended.

GEOPHYSICAL AND GEOLOGIC MAPPING

2. The Governor and Legislature should invest \$5 million per year for the next decade, preferably through foundation funding, in airborne geophysical surveys and complementary geological and geochemical surveys.

ACCESS

3. The state should aggressively assert all identified RS 2477 Rights-of-Way and provide funding until completion of the project. Further, the State should assert an access route pursuant to Title XI of ANILCA to test the process and develop precedent-setting guidelines.

STATE REGULATORY REFORM

4. The Legislature should amend the Administrative Procedures Act (AS 44.62.195) by adding a section as follows: "If the adoption, amendment, or repeal of a regulation would require increased costs for compliance by individuals and businesses, the department or agency proposing the regulation shall prepare an estimate of those costs for the year following adoption, amendment, or repeal of the regulation and for any additional period of time required for implementation and compliance with the regulation."
5. The Governor should designate and fund the Department of Natural Resources (DNR) as the lead agency in all regulatory matters concerning mining, and should direct other agencies with regulatory authority over mining, such as the Departments of Fish and Game and Environmental Conservation, to coordinate their regulatory programs through DNR.
6. The Governor should direct the Commissioner of the Department of Natural Resources to take the necessary steps to allow Miscellaneous Land Use Permits to be issued for periods of up to 5 years.

CITIZENS ADVISORY COMMISSION ON FEDERAL AREAS

7. The Governor and Legislature should provide expanded budgetary and programmatic support to the Citizens Advisory Commission on Federal Areas.

COASTAL ZONE MANAGEMENT

8. The Legislature should amend AS 46.40.040 and AS 46.40.060 to define "uses of state concern" to ensure that all uses or potential opportunities for future uses or rights are treated equally.

COAL ISSUES

9. The Governor should direct the Commissioner of Natural Resources to prepare necessary changes to AS 27.19.010(c) and AS 27.19.040(b) to allow for the inclusion of all mining companies and individuals in the State of Alaska's reclamation bonding pool.

EDUCATION AND RESEARCH

10. The Governor and the Legislature should continue to support the Department of Education for its partial funding of a Minerals Specialist at the present or an increased level. Such support should be commensurate with the increased contributions from the industry-supported Alaska Mineral and Energy Resource Education Fund.
11. The Governor and Legislature should provide budgetary support to the mining, geological, and mine training programs throughout the University of Alaska system.

USER FEES

12. The Governor and Legislature should establish policy guidelines for the implementation of user fees and should establish a procedure requiring legislative and public review of all proposed user fees.

STATE LABOR ISSUES

- 13a. Legislation should be enacted to allow work schedules to be set on the basis of project-specific considerations which will permit more efficient use of labor and provide more desirable time-off patterns for employees. AS 23.10.060 currently provides opportunities for flexible work plans at small seasonal mining operations and for surface mines. These same opportunities should be extended to all mining operations without regard to size, type, and/ or seasonal nature of the work.
- b. Legislation should be enacted to amend current statutes limiting underground shifts from the current maximum of eight hours to a maximum of twelve hours, similar to SB 295 in the 17th Legislature.

DIMINUTIVE DISCHARGES

14. The Alaska Legislature should amend AS 46.03.100 to exempt diminutive activities, including mineral drilling, certain construction activities, and marine bilge-pumping from requiring a Waste Disposal Permit. Specifically, mineral drilling in which the only discharges are ground-up rock, water, and biodegradable additives, (which are EPA approved for water-well drilling), should be exempted.

PART B: FEDERAL ISSUES OF STATE CONCERN

MINING LAW OF 1872

15. The Governor, in conjunction with the Congressional Delegation and the Western Governors Association, should continue opposition to changes in the Federal Mining Law that would adversely affect mineral development in Alaska.

ANILCA PROVISIONS

16. The Governor and Legislature, through the Attorney General's office, the State's Washington, D.C. office, and the Congressional Delegation should insist that the federal administration:
 - a. provide access across Conservation System Units (CSU) as required by Title XI of the Alaska National Interest Lands Conservation Act (ANILCA),
 - b. prohibit the creation of additional CSU lands in Alaska as required by Sections 101d and 1326b of ANILCA, and
 - c. exchange mineralized areas from existing CSU under the authority of Sections 103b and 1302b of ANILCA.

INTERNATIONAL PARKS IN ALASKA

17. The Governor and the Legislature, through the Congressional Delegation, the State's Washington, D.C. office, and by letter to the Secretary of Interior, should vigorously and resolutely oppose the creation of any International Park, World Heritage Site, or International Marine Biosphere Reserve in Alaska or in waters adjacent to Alaska.

US GEOLOGICAL SURVEY AND BUREAU OF MINES

18. The Governor and the Legislature, should work with the State's Congressional Delegation to assure funding for field offices of the U.S. Geological Survey and the U.S. Bureau of Mines in Alaska.

FINDINGS AND RECOMMENDATIONS

PART A: ISSUES REQUIRING STATE ACTION

INCENTIVES

FINDING: The Alaskan minerals industry competes in a global market for mineral exploration and development dollars. Although Alaska is blessed with an abundance of geologically favorable terrane, it has suffered because of its remoteness, the lack of transportation, infrastructure, and seasonal constraints. Equally important is the industry's perception that State and Federal agencies are not supportive of mineral development in Alaska.

Throughout the world there are countries actively seeking exploration and development investment by providing economic incentives for resource industries. Incentive programs have been successful in Chile and Mexico where privatization and tax incentives have revitalized their mining industries. Appropriate incentives could be especially effective in drawing industry attention to Alaska. This is because many companies currently view the lower 48 to be unattractive from the regulatory perspective and are looking elsewhere for new exploration opportunities.

THE COMMISSION RECOMMENDS THAT:

- 1. The Governor and Legislature should create economic incentives that will provide financial encouragement and help offset some of the real and perceived problems facing exploration and development in Alaska. Incentives that should be considered include credits for expenditures on exploration drilling and geophysics that can be deducted from claim rents, the mining license tax, production royalties, and income taxes. An increased budget for educational and promotional efforts is also recommended.*

GEOPHYSICAL AND GEOLOGICAL MAPPING

FINDING: Many other countries provide airborne geophysical surveys to guide and complement traditional geologic mapping and geochemical surveys. Commonly, several millions of dollars per year are invested in order to survey several thousands of square miles. This has been found to be a cost effective marketing tool to attract mineral exploration investment.

In 1993 Alaska contracted for airborne surveys of 1,100 square miles, and in 1994 for an additional 750 square miles. At least half of Alaska's 160,000 square miles of State land (104 million acres) has high mineral value. However, at the present level of funding it will take well over 80 years to survey these mineral lands.

Although the maps of the 1993 airborne geophysical survey were not available until April of 1994, already increased claim staking and exploration activity can be documented in the Nome and Circle areas. The maps from the 1994 surveys of the Fairbanks and Richardson districts should be available in early 1995, but already (October, 1994) there is significantly more exploration interest in both areas.

These mapping programs should be viewed as an investment similar to the marketing efforts in other basic sector industries in Alaska and accelerated to cover the known mineral belts in a reasonable time frame.

THE COMMISSION RECOMMENDS THAT:

- 2. The Governor and Legislature should invest \$5 million per year for the next decade, preferably through foundation funding, in airborne geophysical surveys and complementary geological and geochemical surveys.*

ACCESS

FINDING: The State has identified hundreds of potential Revised Statute 2477 Rights-of-Way (RS 2477) and is in the process of asserting title on a selected few. However only the Bureau of Land Management (BLM) currently has a policy for accepting State nominations and assertions.

RS 2477 access corridors may provide the only assured access across and within the vast interlocked system of Conservation Systems Units in Alaska other than the untested Title XI access provided for in the 1980 Alaska National Interest Lands Conservation Act (ANILCA).

THE COMMISSION RECOMMENDS THAT:

- 3. The State should aggressively assert all identified RS 2477 Rights-of-Way and provide funding until completion of the project. Further, the State should assert an access route pursuant to Title XI of ANILCA to test the process and develop precedent-setting guidelines.*

STATE REGULATORY REFORM

FINDING: Alaska mineral producers often face higher costs of doing business due to harsher climate, to higher labor costs, and to higher capital costs. Additional indirect costs due to regulations can have the effect of making Alaska mines uncompetitive with those in other states and countries. The Administrative Procedures Act (AS 44.62.195) requires State agencies to prepare fiscal notes which estimate the costs to State government of a proposed regulation. State agencies should also be required to estimate the compliance costs of proposed regulations to individuals and businesses as a formal part of the process of adopting regulations.

THE COMMISSION RECOMMENDS THAT:

- 4. The Legislature should amend the Administrative Procedures Act (AS 44.62.195) by adding a section as follows. "If the adoption, amendment, or repeal of a regulation would require increased costs for compliance by individuals and businesses, the department or agency proposing the regulation shall prepare an estimate of those costs for the year following adoption, amendment, or repeal of the regulation and for any additional period of time required for implementation and compliance with the regulation."*

FINDING: Presently several State agencies claim management authority over State lands. The administration has become a complex bureaucracy with multiple agencies vying for regulatory management of mineral development. The number of permits, the time required to secure those permits, the number of agencies, and the costs related to obtaining the permits has become excessive.

The recent experience with permitting a major mining operation on State lands near Fairbanks has demonstrated the benefit of having a coordinated State approach through the Department of Natural Resources (DNR) for the mine permitting process.

THE COMMISSION RECOMMENDS THAT:

- 5. The Governor should designate and fund the Department of Natural Resources (DNR) as the lead agency in all regulatory matters concerning mining, and should direct other agencies with regulatory authority over mining, such as the Departments of Fish and Game and Environmental Conservation, to coordinate their regulatory programs through DNR.*