

COPY COMMITTEE

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, Governor

POUCH S—JUNEAU 99801

April 4, 1975

The Honorable Kathryn Poland
Chairman
Senate Resources Committee
Alaska State Legislature
State Capitol
Juneau, Alaska

Re: Senate Bill No. 294

Dear Senator Poland:

Senate Bill No. 294, an Act relating to the Alaska Mineral Severance Tax was introduced on March 21, 1975 and referred to the Senate Resources and Finance Committees.

For the consideration of the Senate Resources Committee, I am enclosing a copy of a memorandum from Frederick P. Boetsch, Deputy Commissioner of the Department of Revenue, which will disclose the projected increases in revenues for the fiscal years 1977 through 1980 and will indicate no additional cost of administration.

If you or any members of the Senate Resources Committee have any questions on the material submitted, please telephone the writer at 465-2397 and I will contact Mr. Boetsch for further material or testimony.

Very truly yours,

R. D. Stevenson
Special Assistant

cc: The Honorable Bill Ray
Chairman
Senate Finance Committee
Alaska State Legislature

Frederick P. Boetsch
Deputy Commissioner
Department of Revenue

MEMORANDUM

TO: Sterling Gallagher
Commissioner
Department of Revenue

DATE: March 11, 1975

FROM: Frederick P. Boetsch *FPB*
Deputy Commissioner for Taxation
Department of Revenue

SUBJECT: Mineral Severance Tax
Senate Bill 294

A Bill has been introduced which would impose a severance tax on all solid minerals severed in the State. This tax would be a graduated tax based on the value of the mineral at the time of severance. This tax would fall on all producers of hard minerals in the State except those who sever less than one hundred thousand dollars worth of minerals in a year. Due to the graduated nature of this tax, it hits the larger producers more heavily than the smaller producers. This is consistent with good tax policy which is progressive in nature.

The tax would replace the mining license tax which is generally ineffective since it is a tax on net income, does not allow for the tax to go into effect until three and a half years after production, and provides generous percentage depletion allowances. In fact, we find that of some 125 to 200 licensed mining operations in the State, only two or three pay this tax each year. The proposed tax would be easier to administer since it would be based on the value at severance and would undoubtedly bring more of these miners into the taxpaying fold. For years, of course, many minerals have been extracted from the State without the payment of the mining license tax at all.

This bill would tax other non-renewable resources similar to the manner in which we tax the extraction of oil and gas. As with oil and gas, once these other minerals are gone, they can not be replaced. It is, therefore, necessary that a tax be placed directly on the extraction of the minerals themselves. This is particularly true when the mineral is shipped to foreign countries and other taxes may be difficult to impose on the production of these minerals.

The projected revenues from this tax for the FY 77 - 80 are as follows:

Projected Increases in Revenues (\$000 omitted)				
FY 76	FY 77	FY 78	FY 79	FY 80
<u>-0-</u>	<u>3500.0</u>	<u>3500.0</u>	<u>3500.0</u>	<u>3500.0</u>

We see no additional cost involved in administering this tax.

FPB: gd

Introduced: 3/21/75
Referred: Resources and
Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 294

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Mineral Severance Tax;
7 and providing for an effective date."

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

9 * Section 1. AS 43 is amended by adding a new chapter to read:

10 CHAPTER 66. ALASKA MINERAL SEVERANCE TAX.

11 Sec. 43.66.010. MINERAL SEVERANCE TAX. There is levied and
12 there shall be collected and paid a tax each calendar year upon every
13 person engaging in the business of severing minerals from the state
14 for commercial use. The tax shall be calculated as a per cent of the
15 value of severable minerals at the point of severance and shall be
16 levied according to the following schedule:

17 over \$100,000, but not over \$200,000	1% of the excess over 18 \$100,000
19 over \$200,000, but not over \$300,000	\$1,000 plus 2% of the 20 excess over \$200,000
21 over \$300,000, but not over \$400,000	\$3,000 plus 3% of the 22 excess over \$300,000
23 over \$400,000, but not over \$500,000	\$6,000 plus 4% of the 24 excess over \$400,000
25 over \$500,000	\$10,000 plus 5% of the 26 excess over \$500,000

27 Sec. 43.66.020. VALUE. (a) "Value of severed minerals" means
28 the sales price or true market price of the mineral at the point of
29 severance. If the mineral is exchanged for something other than cash

1 or is not sold but further refined, processed or otherwise retained or
2 if the relation between the buyer and seller is such that the considera-
3 tion paid, if any, is not indicative of the true market price, the
4 true market price shall be determined by the average market price per
5 ton or other measurable unit of the mineral at the point of severance
6 for the year for which the tax is being paid.

7 (b) When there is no market value or evidence of sales of a
8 mineral within the state, the department may, in determining value,
9 use the true market value of a comparable mineral in competition with
10 that mineral or any other method which the department determines
11 reflects the true value of the mineral.

12 (c) All minerals severed in the state shall be included in
13 determining value regardless of the place of sale or the fact that
14 delivery may be made to points outside the state. If any person
15 ships, transmits or transports minerals out of state without selling
16 them or ships, transmits or transports minerals out of state in an
17 unfinished condition, the value of the minerals at the point of sever-
18 ance without deduction of any kind, is the basis for determining
19 value.

20 Sec. 43.66.030. RETURNS AND THE PAYMENT OF TAX. (a) The tax
21 imposed by this chapter for a calendar year is due and payable on or
22 before the following February 28. If the tax is not paid on or before
23 the date it becomes due, it is delinquent.

24 (b) A return for a calendar year shall be filed on or before the
25 following February 28, and shall include the following

- 26 (1) the location of each severance operation;
27 (2) the kind, quality and quantity of the minerals severed;
28 (3) the value of the severed resources at the point of
29 severance;

1 (4) such other information as the department may require.

2 Sec. 43.66.040. LIEN FOR TAX. The tax levied under this chapter
3 and the penalty and interest on the tax are first and paramount liens
4 upon all the real and personal property of the person liable for them.

5 Sec. 43.66.050. REMEDY. The remedy of distraint of property set
6 out in AS 43.20.270 applies to the tax levied by this chapter.

7 Sec. 43.66.060. CIVIL PENALTY. Five per cent shall be added to
8 a tax for each 30 day period or fraction of the period during which
9 the taxpayer fails to file a return or report, or pay the full amount
10 of the tax, or a portion or a deficiency of the tax as finally deter-
11 mined by the department and required by this chapter, unless it is
12 shown that the failure is due to a reasonable cause and not to wilful
13 neglect. The penalty may not exceed 25 per cent in the aggregate.
14 The penalty shall be collected at the same time, in the same manner
15 and as a part of the original tax but if the original tax is paid
16 before the neglect is discovered, the penalty shall be collected in
17 the same manner as the original tax. The department shall prescribe
18 by regulation circumstances which constitute reasonable cause for
19 purposes of this section.

20 Sec. 43.66.070. INTEREST. When a tax levied in this chapter
21 becomes delinquent, it bears interest at the rate of eight per cent a
22 year.

23 Sec. 43.66.080. TAXPAYER REMEDIES. (a) A person aggrieved by
24 the action of the department in fixing the amount of a tax or in
25 imposing a penalty may apply to the department within 60 days from the
26 date of the notice required to be given to him by the department,
27 giving notice of the grievance, and requesting an informal conference.
28 At the conference the person aggrieved may present arguments and
29 evidence relevant to the amount of tax or penalty due the state. If

1 the department determines that a correction is warranted, it shall
2 make the correction.

3 (b) A person aggrieved by the action of the department in fixing
4 the amount of a tax or in imposing a penalty may apply to the department
5 and request a formal hearing

6 (1) within 60 days from the date of the notice required to
7 be given to him by the department; or

8 (2) within 30 days after a decision resulting from an informal
9 conference.

10 (c) At the formal hearing the department may subpoena witnesses
11 and may administer oaths and make inquiries necessary to determine the
12 amount of the tax or penalty due the state. The person aggrieved may
13 present arguments and evidence relevant to the amount of the tax or
14 penalty due the state. If the department determines that a correction
15 is warranted, it shall make the correction.

16 (d) Within 30 days after the formal hearing and decision by the
17 department, a person aggrieved by the decision of the department may
18 appeal to the superior court in the judicial district in which he
19 resides. The taxpayer shall be afforded access to the file of the
20 department in the matter for preparation of his appeal. If after the
21 appeal is heard, it appears that the tax was correct, the court shall
22 confirm the tax. If the tax was incorrect, the court shall determine
23 the amount of the tax and if the person aggrieved is entitled to
24 recover the tax or part of it, the court shall order the repayment,
25 and the department shall immediately pay the amount due and attach a
26 certified copy of the judgment to the payment.

27 Sec. 43.66.090. DEFINITIONS. In this chapter

28 (1) "department" means the Department of Revenue;

29 (2) "mineral" means all solid minerals including but not

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limited to asbestos, gypsum, coal, sulphur, iron ore, lead, zinc, mercury, tin, chromite, borite, copper, gold, silver, platinum, potash, clay, stone, sand, gravel and other valuable metals, ores, minerals and marketable earth and stone but not including oil and gas;

(3) "point of severance" means the point at which the mineral being severed is identifiable as to kind and quality and is capable of being transported for use or further processing.

* Sec. 2. AS 43.65 is repealed.

* Sec. 3. This Act takes effect January 1, 1976.