

HB451

SENATE FINANCE COMMITTEE REPORT

DATE: 5/5/92

FURTHER:

DATE TURNED INTO OFFICE:

5/4/92

The Finance Committee considered CS FOR HOUSE BILL NO. 451 (RESOURCES)

"An Act relating to state and local taxation and other state regulation as affected by the Alaska Native Claims Settlement Act, as amended, and related federal statutes; and providing for an effective date."

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____ ()
- attaches amendment(s)

same title
 new title
 technical title change
(HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

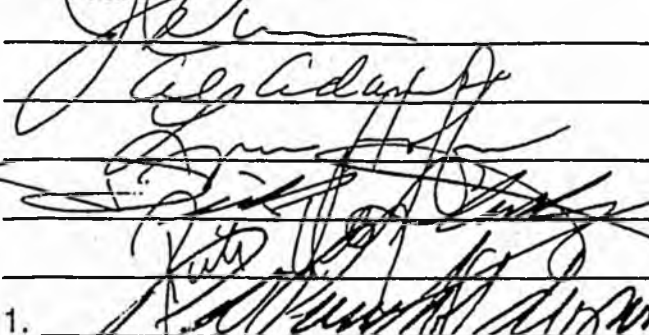
appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes DOR 2-28-92

fiscal notes _____

DO PASS:



OTHER RECOMMENDATIONS:

1. _____
Co-Chair: Signature/Recommendation

2. _____
Co-Chair: Signature/Recommendation

FISCAL NOTE

No. 1

Bill Version CSHB 451(CRA)

(H) Publish Date: 2-28-92

STATE OF ALASKA
1992 LEGISLATIVE SESSION

REPORTED OUT OF
SFC 5-11-92

Revision Date: February 12, 1992
Title: An Act relating to state and local taxation...Alaska Native Claims Settlement
Sponsor: Reps. MacLean, Lincoln
Requestor: _____

Department Affected: Department of Revenue
BRU: Revenue Operations
Component: Income and Excise Audit

COMPONENT SERIAL NO. | 1 | 1 | 3 |

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
FUND SOURCE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
FUND SOURCE						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0.0

ANALYSIS: Attach a separate page if necessary.

This bill brings Alaska statutes in conformity with ANCSA laws as amended by Congress in 1991, which extended the tax exemption of ANCSA property from 20 years to perpetuity.

Prepared By: Paul E. Dick *pid* Phone: (907) 465-2320
Division: Income and Excise Audit Date: February 12, 1992
Approved by Commissioner: Darrel J. Rexwinkel *Darrel Rexwinkel* Date: 2/18/92
Agency: Department of Revenue

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

CS FOR HOUSE BILL NO. 451 (RESOURCES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 3/27/92

Referred: Rules

Sponsor(s): REPRESENTATIVES MACLEAN, Lincoln

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state and local taxation and other state regulation as affected by the
2 Alaska Native Claims Settlement Act, as amended, and related federal statutes; and
3 providing for an effective date."

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

5 * Section 1. AS 29.45.030(a) is amended to read:

6 (a) The following property is exempt from general taxation:

7 (1) municipal or state property, except that

8 (A) a private leasehold, contract, or other interest in the property is taxable
9 to the extent of the interest;

10 (B) notwithstanding any other provision of law, property acquired by an
11 agency, corporation, or other entity of the state through foreclosure or deed in lieu of
12 foreclosure and retained as an investment of a state entity is taxable; this subparagraph
13 does not apply to federal land granted to the University of Alaska under AS 14.40.380
14 or 14.40.390, or to other land granted to the university by the state to replace land that

1 had been granted under AS 14.40.380 or 14.40.390;

2 (C) an ownership interest of a municipality in real property located outside
3 the municipality acquired after December 31, 1990, is taxable by another municipality;
4 however, a borough may not tax an interest in real property located in the borough and
5 owned by a city in that borough;

6 (2) household furniture and personal effects of members of a household;

7 (3) property used exclusively for nonprofit religious, charitable, cemetery,
8 hospital, or educational purposes;

9 (4) property of a nonbusiness organization composed entirely of persons with 90
10 days or more of active service in the armed forces of the United States whose conditions of
11 service and separation were other than dishonorable, or the property of an auxiliary of that
12 organization;

13 (5) money on deposit;

14 (6) the real property of certain residents of the state to the extent and subject to
15 the conditions provided in (e) of this section;

16 (7) real property or an interest in real property that is exempt from taxation under
17 43 U.S.C. 1620(d), as amended, and 43 U.S.C. 1636(d), as amended;

18 (8) property of a political subdivision, agency, corporation, or other entity of the
19 United States to the extent required by federal law; except that a private leasehold, contract, or
20 other interest in the property is taxable to the extent of that interest.

21 * Sec. 2. AS 29.45.030(m) is amended to read:

22 (m) For the purpose of determining property exempt under (a)(7) of this section, the
23 following definitions apply to terms used in 43 U.S.C. 1636(d), as amended, [43 U.S.C. 1620(d)]
24 unless superseded by applicable federal law:

25 (1) "developed" means that a purposeful modification of land, or an interest in
26 land, [THE PROPERTY] from its original state that effectuates a condition of gainful and
27 productive present use without further substantial modification has been made; surveying,
28 construction of roads, providing utilities or other similar actions normally considered to be
29 component parts of the development process, but that do not create the condition described in
30 this paragraph, do not constitute a developed state within the meaning of this paragraph;
31 developed land, or an interest in developed land [PROPERTY], in order to remove the

1 exemption, must be developed for purposes other than exploration, and be limited to the smallest
2 practicable tract of the tract [PROPERTY] actually used in the developed state;

3 (2) "exploration" means the examination and investigation of undeveloped land
4 to determine the existence of subsurface nonrenewable resources;

5 (3) "leased" ["LEASE"] means that a grant of primary possession entered into
6 for gainful purposes with a determinable fee remaining in the hands of the grantor has been
7 made; with respect to a lease that conveys rights of exploration and development, this exemption
8 shall continue with respect to that portion of the leased tract that is used solely for the purpose
9 of exploration.

10 * Sec. 3. AS 43.80.015 is amended to read:

11 Sec. 43.80.015. TAXATION UNDER ALASKA NATIVE CLAIMS SETTLEMENT
12 ACT, AS AMENDED [P.L. 92-203]. (a) The receipt of [THE ORIGINAL ISSUE OF] shares
13 of stock in a corporation organized under state [ALASKA] law pursuant to 43 U.S.C. 1601 -
14 1642, as amended, [THE FEDERAL ALASKA NATIVE CLAIMS SETTLEMENT ACT (P.L.
15 92-203; 85 STAT. 688; 43 U.S.C. 1601 ET SEQ.)) by or on behalf of a Native, as defined in
16 43 U.S.C. 1602(b), or by or on behalf of a descendant of a Native, as defined in AS 43
17 U.S.C. 1602(r), [(AS DEFINED IN THE FEDERAL ACT)] is not subject to any form of state
18 or local taxation.

19 (b) The receipt of land or an interest in it under 43 U.S.C. 1601 - 1642, as amended,
20 [THE FEDERAL ACT] or of cash in order to equalize the values of property exchanged under
21 43 U.S.C. 1621(f), as amended, [SEC. 22(f) OF THAT ACT] or AS 38.50 is not subject to any
22 form of state or local taxation. The basis for computing gain or loss on subsequent sale or other
23 disposition of this land or interest in land for purposes of a state or local tax imposed on or
24 measured by income shall be determined under 43 U.S.C. 1620(c), as amended [IS THE FAIR
25 VALUE OF THE LAND OR INTEREST IN LAND AT THE TIME OF RECEIPT].

26 (c) A real property interest conveyed under 43 U.S.C. 1601 - 1642, as amended, [THE
27 FEDERAL ACT], AS 38.50, or AS 38.95.050, including land received in an exchange under
28 43 U.S.C. 1621(f), as amended, [SEC. 22(f) OF THE FEDERAL ACT] or AS 38.50, to a
29 Native, as defined in 43 U.S.C. 1602(b), [INDIVIDUAL] or to a Native corporation
30 incorporated under state [ALASKA] law pursuant to 43 U.S.C. 1601 - 1642, as amended [THE
31 FEDERAL ACT], which interest is not developed or leased to third parties, is exempt from state

1 and local real property taxes and local assessments to the extent provided in AS 43 U.S.C.
2 1620(d), as amended, and AS 43 U.S.C. 1636(d), as amended [UNTIL DECEMBER 18, 1991].
3 However, municipal taxes, local real property taxes, or local assessments may, under the laws
4 of the state, be imposed upon leased or developed real property within the jurisdiction of any
5 governmental unit organized under the laws of the state. Easements, rights-of-way, leaseholds,
6 and similar interests in real property may be taxed in accordance with state or local law. All
7 rents, royalties, profits, and other revenues or proceeds derived from property interests are taxable
8 to the same extent as these revenues or proceeds are taxable when received by a non-Native
9 individual or corporation. In 43 U.S.C. 1620(d), as amended, and 43 U.S.C. 1636(d), as
10 amended [SEC. 21(d) OF THE FEDERAL ACT], the exemption of real property interests from
11 local real property taxes includes exemption from local assessments and extends to land received
12 in an exchange under 43 U.S.C. 1621(f), as amended, [SEC. 22(f) OF THE FEDERAL ACT]
13 or AS 38.50.

14 (d) Use of the terms "corporate funds" and "dividends" [,] in 43 U.S.C. 1606(j) and (m).
15 as amended, [SEC. 7(j) AND (m) OF THE FEDERAL ACT,] does not determine whether the
16 money is a dividend, distribution to shareholders, or funds that [WHICH] are property, surplus,
17 or capital of a regional corporation for the purposes of this title, [OR] AS 10.06, or other
18 applicable state law, the provisions of sec. 8, ch. 70, SLA 1972 notwithstanding.

19 * Sec. 4. AS 43.80.015 is amended by adding a new subsection to read:

20 (e) In this section, reference to 43 U.S.C. 1601 - 1642, as amended, or to any of those
21 sections includes the amendments and additions to any of those sections that are made by

22 (1) P.L. 96-487 (Alaska National Interest Lands Conservation Act);

23 (2) P.L. 100-241 (Alaska Native Claims Settlement Act Amendments of 1987);

24 and

25 (3) amendments to 43 U.S.C. 1601 - 1642 (Alaska Native Claims Settlement Act,
26 as amended) after December 17, 1991.

27 * Sec. 5. The amendments made to AS 29.45.030(a)(7), amended by sec. 1 of this Act,
28 AS 29.45.030(m), amended by sec. 2 of this Act, AS 43.80.015, amended by sec. 3 of this Act, and
29 AS 43.80.015(e), added by sec. 4 of this Act, are retroactive to December 18, 1991.

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

DIVISION OF LEGAL SERVICES

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Juneau, Alaska 99801-2101

MEMORANDUM

February 27, 1992

SUBJECT: Amendment of "Native" to "person" in the exemption from taxation of certain stock transactions under proposed revision of AS 43.80.015 made by sec. 3, House Bill 451 (Work Order No. 7-LS1722\G)

TO: Representative Cheri Davis

FROM: Jack Chenoweth
Legislative Counsel

I don't think I responded to your question at Wednesday's House Community & Regional Affairs Committee meeting to consider House Bill 451 as fully as I should have. Let me try again.

Your question concerned the change proposed at page 3, line 15 of the measure under which the exemption from taxation for certain stock issues would be expanded from transactions in which the recipient is a "Native" to transactions involving any "person."

Leaving in place the current language in AS 43.80.015(a) would limit the state tax exemption to "the original issue of shares of stock . . . by or on behalf of a Native . . ." The sponsor asked that this provision be modified, relying in part on 43 U.S.C. 1620(b) (sec. 21(b) of the original Alaska Native Claims Settlement Act), which reads:

(b) The receipt of shares of stock in the regional or village corporations by or on behalf of any Native shall not be subject to any form of federal, state or local taxation.

The proponents of the amendment represent that the Alaska Native Claims Settlement Act "does not restrict the tax exempt status only to 'original issue.'" They note that the 1987 amendments of the original Act have prompted a number of corporations to re-issue or to consider the re-issue of corporation stock, and asked

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whom the non-Native's right to receive derives. Given the parameters of 43 U.S.C. 1606(g)(2) and 43 U.S.C. 1606(h)(3) and the circumstances under which settlement common stock and replacement common stock would issue, this change in state law would almost certainly affect only a relatively small group of people.

I trust this is responsive on the point.

JBC:mi:gc
92-030.mai

cc: Representative Eileen MacLean