

**SB330**

# HOUSE COMMITTEE REPORT

(11)

Date Referred: February 7, 1992

FURTHER REFERRALS:

Date of Committee Action: 2/18/92

The FINANCE Committee considered:

CSSB 330(FIN)

CS FOR SENATE BILL NO. 330 (FINANCE) MUNICIPAL TAX EXEMPTION FOR NAT. RESOURCE

"An Act relating to an exemption from municipal property taxation for natural resources in place; and providing for an effective date."

**RECOMMENDATIONS:**

be replaced with \_\_\_\_\_ [ ] the same title  
 [ ] a new title

[ ] have attached amendments(s)

[] do pass

[ ] do not pass

[ ] no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

[ ] fiscal impact \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note \_\_\_\_\_

[ ] zero fiscal note(s) CRA 1-22-92  
Revenue 1-29-92

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Eileen S. Wachen</i>	✓				
<i>Mike Savone</i>	✓				
<i>Mark Babin</i>	X				
<i>John P. ...</i>	✓				
<i>John ...</i>	✓				
<i>ROD E. ...</i>	✓				
<i>John ...</i>	✓				
<i>John ...</i>	✓				
<i>John ...</i>	-				
<i>Ronald J. ...</i>	X				

*Mike Savone Eileen S. Wachen*  
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

Bill Version: SB 330

(S) Publish Date: 1/22/92

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: "...exemption from property taxation for natural resources in place."  
Sponsor: Senator Adams  
Requestor: \_\_\_\_\_

Department Affected: Community and Regional Affairs  
BRU: Local Government Assistance  
Component: State Assessor

COMPONENT SERIAL NO. 

0	6	7	3
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE 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	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Changes in CS5330 (Fin) have no fiscal impact. This fiscal note is appropriate.  
1-22-92 date JA Comte Aide (initial)

Prepared By: Remond Henderson  
Division: Administrative Services Division

Phone: 465-4750  
Date: 1/13/92

Approved by Commissioner: Ken Kelly  
Agency: Department of Community and Regional Affairs

Date: 1-14-92

Revision Date: \_\_\_\_\_ Department Affected: \_\_\_\_\_  
 Title: Exemption from Municipal Property Taxation for Natural Resources BRU: Revenue Operat  
 Component: Oil and Gas Audit Division  
 Sponsor: Senator Adams  
 Requestor: Senate Resources Committee COMPONENT SERIAL NO. 

0	1	1	5
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	\$0	0	0	0	0	0
CAPITAL						

REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Changes in CSA 3.3C (Fin) have no fiscal impact. This fiscal note is appropriate.

1-28-92 date Chi Comte Aide (initial)

Prepared By: Robert L. Doss; Director Phone: 277-5627  
 Division: Oil and Gas Audit Division Date: January 21, 1992  
 Approved by Commissioner: *David...*  
 Agency: Department of Revenue Date: January 21, 1992

57 270

CS FOR SENATE BILL NO. 330 (FINANCE)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 1/29/92  
Referred: Rules

Sponsor(s): SENATORS ADAMS, Frank, Zharoff, Pearce, Duncan

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to an exemption from municipal property taxation for natural resources  
2 in place; and providing for an effective date."

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

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

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

6 (1) municipal or state property, except that

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

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

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

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

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

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

12 (5) money on deposit;

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

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

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

20 (9) natural resources in place including coal, ore bodies, mineral deposits, and  
21 other proven and unproven deposits of valuable materials laid down by natural processes,  
22 unharvested aquatic plants and animals, and timber.

23 \* Sec. 2. This Act takes effect January 1, 1993.

# Alaska State Legislature

Senate District L  
Al Adams

WHILE IN SESSION  
P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3707

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OUT OF SESSION  
P.O. Box 333  
Kotzebue, Alaska 99752  
(907) 442-3245

Official Business

## SPONSOR STATEMENT SB 330- IN-PLACE RESOURCE BILL FEBRUARY 1992

SENATE BILL 330 ENDS AN ISSUE THAT SHOULD NOT HAVE BEEN A PROBLEM IN THE FIRST PLACE- WHETHER ORE BODIES AND NATURAL RESOURCES SHOULD BE INCLUDED IN THE TAX BASE PRIOR TO EXTRACTION. IN OTHER WORDS, THIS BILL MAINTAINS THE STATUS QUO. ONCE THIS BILL PASSES, NOTHING CHANGES WITH HOW WE ARE NOW, OR HOW WE HAVE IN THE PAST TREATED PROPERTY TAXATION ON RESOURCES IN PLACE.

THE ISSUE THAT BRINGS US HERE TODAY RAISED ITS HEAD THREE TO FOUR YEARS AGO WHEN THE STATE ASSESSOR QUESTIONED WHETHER HE SHOULD INCLUDE NATURAL RESOURCES IN MUNICIPAL FULL AND TRUE VALUE. SINCE THERE WAS NOT SPECIFIC LANGUAGE IN THE STATUTES TO EXEMPT THESE RAW MATERIALS, A FEAR OF LIABILITY BLOSSOMED.

IN 1989, THE LEGISLATURE PASSED A BILL TO CREATE A TWO YEAR MORATORIUM TO STUDY THE ISSUE. THAT STUDY IS COMPLETED AND IN YOUR PACKETS. THE STUDY CONCLUDES THAT NATURAL RESOURCES SHOULD BE EXEMPTED, THAT IF THEY ARE NOT, A STATE OF CONFUSION WILL OCCUR FOR MUNICIPALITIES, THE STATE ASSESSORS OFFICE AND RESOURCE INDUSTRIES IN OUR STATE.

NOT PASSING THIS BILL WILL IMPACT MUNICIPALITIES WITH MINING ACTIVITY SUCH AS THE AJ MINE AND EVENTUALLY THE GREENS CREEK MINE IN JUNEAU, THE USIBELLI AND WISHBONE HILL COAL MINES, FORT KNOX IN FAIRBANKS, ANY MUNICIPALITIES WITH STANDING TIMBER. EVEN IF YOUR DISTRICT IS NOT SITTING ON RAW MATERIALS, THIS BILL WILL COST MILLIONS IN ASSESSMENT COSTS TO THE STATE AND WILL UNRAVEL REVENUE SHARING AND THE LOCAL CONTRIBUTION ASPECT OF OUR FOUNDATION FORMULA.

THE BILL HAS VAST SUPPORT. THERE ARE LETTERS SIGNED BY COMMISSIONERS OF FIVE DEPARTMENTS, RESOLUTIONS FROM THE ALASKA MUNICIPAL LEAGUE AND THE ALASKA MINERALS COMMISSION. THE ALASKA MINERS ASSOCIATION AND THE ALASKA ASSOCIATION OF ASSESSING OFFICERS HAVE STATED SUPPORT. THE BILL MOVED FROM THE SENATE WITH

CONTINUATION OF SPONSOR STATEMENT  
SENATE BILL 330  
FEBRUARY 1992

UNANIMOUS SUPPORT. THERE IS A ZERO FISCAL NOTE FROM THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS.

THE SENATE FINANCE CS DELETED THE WORD "STUMPAGE" ON PAGE 2, LINE 22. APPARENTLY THIS IS NOT THE APPROPRIATE TERM TO USE WHEN REFERRING TO TIMBER RESOURCES.

THE TWO YEAR STAY ENDS THIS JULY YET THE BILL KICKS IN ON JANUARY 1, 1993. THIS DATE WAS CHOSEN BECAUSE IT BEGINS A NEW TAX YEAR. OUR LEGISLATIVE LEGAL COUNSEL SUGGESTED THIS CLEAN BREAK AND THE STATE ASSESSOR AGREED THERE WOULD BE NO PROBLEMS DURING THE FEW MONTHS LEFT OPEN AS MUNICIPAL FULL AND TRUE VALUE IS CALCULATED FOR THE YEAR PRIOR TO THE JANUARY DATE.

I APPRECIATE YOUR FAVORABLE CONSIDERATION OF THIS BILL.

## MEMORANDUM

## State of Alaska

To: Mike Worley, DCRA

Date: 4.23.91

From: A.H. Clough, DCED

Subject: Effects of  
Mineral Resource  
Taxation Options.

This memorandum deals with various options and consequences of taxation of in place natural resources. These comparisons and options serve to overstate the obvious. In situ taxation of natural resources is a bad idea. Alaska currently ranks in the upper fiftieth percentile of western states in taxes levied on the minerals industry (Whitney and Whitney study). This ranking indicates that the current tax structure is about right. Not only would adding an in situ tax be a strong disincentive for industry activity, it would serve to foul up the system of mining license tax, corporate income tax, and rents and royalties which are currently levied on the minerals industry. This is because the addition of an in situ tax would definitely prompt the industry to lobby for a change in the existing tax structure which has been demonstrated to be at an appropriate level to sustain both industry and government.

A tax on unmined, in-place reserves would seriously penalize a company for pursuing the sensible, longer term, in-depth approach to evaluation of an orebody. Instead, it would encourage a company to make a quicker, less-informed decision that could result in costly mistakes or, just as bad, the abandonment of a good project that simply needed more work to demonstrate its economic viability.

Further, placing the municipalities and state with the untenable burden of trying to value in place resources would be counterproductive. This type of charge would require both municipalities and the state to develop natural resource expertise on their various staffs to conduct such valuations. Valuations, which must be indicated are tenuous at best. The increased overhead burden could likely negate any short term revenue generated by the in situ taxation.

Finally, of critical importance is that fundamental differences exist in the services available and offered to the industry in the predominantly developed states as opposed to undeveloped Alaska. Where states and municipalities provide basic services such as power, access, water, sewer, and waste disposal various tax levies on resource developments may be reasonable and justified. However, in remote Alaska where commonly none of these even basic services are provide by either state or municipal entities it is unreasonable and unjustified to levy a slate of taxes on resource developments just because they are there.

Following are specific comments concerning various taxation options on natural resources by municipalities. This is in response to SLA 127 which directs various taxation options concerning municipal taxation of in place (in situ) natural resources to be explored. The short and long term effects of these options are provided for each in relation to the minerals industry, the municipalities, and the state.

**OPTION 1-** Total exemption from municipal taxation for resources in place.

Industry:

1. Increase in exploration, development, and mining efforts and expenditures.
2. Attract new companies.
3. Increase profitability of existing and future mines.
4. More orderly, complete, and environmentally sound development of resources.
5. Increase long term stability of the industry.
6. Allows development of lower grade and more remote deposits.
7. Encourages industry commitment in the long term, which will promote investment in infrastructure and value added capabilities of the industry.

Municipalities:

1. Removes conflicts over full valuation determinations.
2. Increased sales tax receipts due to increase in resource activity.
3. Increase in surface estate property tax receipts due to increased mining activity.
4. Increase in business opportunities in community.
5. Long term, orderly development of local resources.
6. Removes a potentially unsolvable burden on community assessors in valuation of in situ resources.
7. Attracts value added investment into the municipalities.

State:

1. Stable natural resources industry.
2. Removes staff and department burden of having to value in situ resources.
3. Orderly and complete development of state's resources.
4. More revenue to state due to increased mining activity. Revenue is from rents, royalties, mining license tax, and corporate income tax.
5. Encourages value added processing due to more favorable economics.
6. Attracts additional resource development companies and investment dollars.

**OPTION 2-** Partial exemption from municipal taxation of natural resources in place.

Industry:

1. Decrease in exploration, development, and mineral production due to disincentives.
2. No development of marginal deposits.
3. High grading of resources, less than optimum use of resources.
4. Less value added commitment due to disincentives.
5. Move to change existing tax structure to reflect new change (mining license tax, rents/royalties, corporate income tax).
6. Relocate efforts in other states and countries.

Municipalities:

1. Requires mining expertise on staff.
2. Creates a difficult accounting and valuation system.
3. Loss of jobs, potential jobs, and tax base.
4. Loss of resource industry.
5. Increase in cyclicity of industry due to tighter economics on project by tax burden.

State:

1. Increased burden to assessors, requiring increase in staff. Requires mining experts on staff.
2. Reduces mining and related taxes to state.
3. Municipalities will require more assistance from state due to lack of local income sources.
4. Incomplete use and high grading of state resources.
5. Industry will relocate.
6. State will lose potential for value added facilities in minerals sector due to lost incentive to develop fully.

**OPTION 3-** No exemption from municipal taxation of natural resources in place.

Industry:

1. Forced to high grade resources.
2. No long term incentive for value added facilities.
3. Only high grade deposits will be developed.
4. Increased cyclicity of industry due to increased burdens.
5. Move to change current tax structure.
6. Relocate from state.
7. Cease or drastically curtail exploration activities, especially in remote rural areas.

Municipalities:

1. Staff burdens and increase in size to conduct valuations.
2. Disorderly development encouraged.
3. High grading of local resources.
4. Loss of tax base as industry relocates.
5. Minimal infrastructure due to lack of incentive for long term commitment.

State:

1. Loss of resource industry.
2. Loss of value added opportunities.
3. Staff burden and increase required for valuation.
4. Loss of revenues from loss of industry.
5. Move to change current tax structure.
6. Poor development of states resources.

**OPTION 4-** Total or partial exemption from municipal taxation at the discretion of the municipality.

This fractional approach is objectionable from all sides. It has the potential of creating a cumbersome system which would be extremely difficult for industry, municipalities, and the State to track and administer. Full value determinations and comparisons between communities would be difficult, if not impossible, to make should this type of system be allowed. Likewise, the lack of a unified system would in the long term be a disincentive to the industry since a level or long term stable playing field would not exist. It should be avoided.

**OPTION 5-**Taxation, other than property taxation of mineral resources.

Industry:

1. Will foul up current tax structure, which is based on rents/royalties, mining license tax, and corporate income tax.
2. Open ended system is a disincentive to mineral development.
3. Additional taxes should be developed as site specific mitigation measures on projects, not blanket taxation.

Municipalities:

1. Would require additional staffing and expertise.
2. Non specific taxes will serve to drive industry away.
3. Should support mitigation measures, not blanket taxation.

State:

1. Blanket, excessive taxes will cause the state to lose revenue due to loss of industry.
2. Adding new taxes will reopen the entire resource tax issue and likely require changes in rents/royalties, mining license tax, and corporate income tax structure.
3. As with the municipalities and the industry, the best measure is site specific mitigation, not non specific blanket taxation.

A.H. Clough

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

400 WILLOUGHBY AVENUE  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400  
FACSIMILE: (907) 586-2754

January 22, 1992

The Honorable Lloyd Jones, Chair  
Senate Resources Committee  
P.O. Box V  
Juneau, AK 99811

Dear Senator Jones:

Subject: SB 330, which relates to an exemption from municipal property taxation for natural resources in place.


Position: Although this bill does not directly affect the Department of Natural Resources, we offer our support for the taxation policy it establishes.

Background: The valuation of natural resources in place is an extremely difficult and costly task to accomplish, and the results are rarely acceptable to all involved parties. Resource development depends as much on markets, timing, and location as it does on the resource itself. Not exempting natural resources in place from municipal property taxation could further discourage natural resource development in Alaska and depress the price the state receives when offering its resources for sale.

In addition, not exempting natural resources in place from property taxation would raise the value of property within municipalities which, in turn, would negatively affect state education foundation aid and revenue sharing monies municipalities are eligible to receive.

Recommendation: Consider the report on taxation of natural resources in place prepared by the Department of Community and Regional Affairs, and adopt its recommendations.

Sincerely,

  
Harold C. Heinze  
Commissioner

cc: Senator Albert Adams  
Committee Members  
Paul Fuhs, Legislative Liaison, Office of the Governor  
Edgar Blatchford, Commissioner, Department of Community and Regional Affairs

Resolution of the Alaska Municipal League  
Resolution No. 92-6

A RESOLUTION RECOMMENDING TAX-EXEMPT STATUS OF  
"IN PLACE" RESOURCE RESERVES

WHEREAS, under Chapter 127, SLA 1990, there is a temporary exemption for natural resources in place until July 1, 1992, and

WHEREAS, under the same statute, the Department of Community and Regional Affairs (DCRA), in concert with the Alaska Municipal League and the Department of Revenue, is required to prepare a study and recommendations by January 15, 1992, on municipal property taxation of natural resources in place, and

WHEREAS, the AML President appointed a working group of municipal officials and other individuals which has worked with DCRA to represent the views of municipalities, and

WHEREAS, previously, Alaska law required municipalities that levy a property tax to assess, levy, and collect property taxes on natural resources in place, except oil and gas resources, which are mandatorily exempted, and

WHEREAS, without the exemption, the Office of the State Assessor may be required to include values for those natural resources in place in the full value determination for municipalities across the state, and

WHEREAS, prior to the temporary exemption, neither municipalities nor the Office of the State Assessor included values for those resources on local assessment rolls or in the full value determination, and neither has the staff or fiscal resources to value natural resources in place, and

WHEREAS, the inclusion of values for those resources on local property tax rolls or in the full value determination would be likely to have substantial negative tax impacts on farms, ranches, homesteads, and other residential property and substantial negative impacts on municipalities under the state revenue sharing and education funding formulas, and

WHEREAS, under the Alaska Constitution and existing statutes, municipalities have broad powers to impose a variety of taxes on such industries, including sales, use, severance, excise, property, and income taxes, in order to provide services and mitigate the impacts or development, and

WHEREAS, in the "Draft Report on the Study of Taxation of 'In Place' Natural Resources" dated November 1, 1991, and prepared by DCRA, natural resources in place are defined as *"any material in its native state before it has been severed or extracted"*;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League supports the passage of legislation that would require, under AS 29.45.030, the exemption from municipal property taxes of all natural resources in place, as defined in the DCRA Draft Report of November 1, 1991, together with language that would insure preservation of the power of municipalities to levy other types of taxes, including severance and sales taxes against the development and sale of those natural resources.

*Adopted at Annual Business Meeting o November 15, 1991 o Fairbanks, Alaska*

Exemption from municipal property taxation for natural resources in place.

My name is Steven C. Borell and I am the Executive Director of the Alaska Miners Association.

Thank you Mr. Chairman and committee members for the opportunity to comment on this important issue. Thank you also for scheduling this bill early in the session.

The AMA supports this legislation and the need for passing an exemption for the taxation of natural resources in place during this session of the Legislature. We are concerned that if taxation of natural resources in place is begun, the affect will be to discourage if not totally close down exploration in those areas where this form of taxation occurs.

We also wish to commend the Alaska Municipal League for taking the lead in support of an exemption from taxation for resources in place. We were very pleased to learn that the AML passed a resolution favoring exemption of taxation of natural resources in place and that the resolution passed on a unanimous vote. The AML recognized that in place taxation would have a very serious negative affect on local economies in several different ways.

Rather than addressing in detail all of the arguments why in place taxation is not a good policy, I shall list and summarize the major problems with this form of taxation.

The first and possibly most compelling reason for not taxing minerals in place is that it is extremely difficult to place a value on minerals before they are actually extracted from the ground. Major mining companies employing scores of exploration, financial, environmental, engineering, and management people have a very difficult time defining the value of a deposit.

The second major problem with the taxation of minerals in place is that it discourages exploration. Mining companies will not even look for minerals if they will be taxed for the many years that are required to determine if they have an economic deposit. For Greens Creek, the largest silver mine in North America, it took 17 years from the initial discovery until first production. For Red Dog, possibly the largest zinc deposit in the world, it took 21 years from initial discovery until first production. If an in place tax had been charged on these minerals before they were mined, there is a high likelihood that no mining would ever have taken place.

A third fact to consider is that taxation of minerals in place is an additional burden on local communities that are already struggling to encourage creation of new jobs and expand their real property tax base. For much of Alaska the only opportunity

for economic development and creation of new jobs is through development of mineral resources. If in place minerals are taxed, local communities will be hurt without even knowing it because the mining companies that have the expertise to find and develop the minerals will not even go out and explore for them.

A fourth problem involves the taxation of non-tangible natural resources that exist due to location or setting. For the city lot this non-tangible value is determined and under the doctrine of equal treatment, the value of non-tangible natural resources such as wilderness character, wilderness proximity, scenic values, proximity to rivers for rafting or floating, etc. would have to be taxed. Hunting and fishing lodges would have to be taxed for the fish and wildlife resources that are in their area.

A fifth problem involves how will the fish resources available to fishing sites be taxed? The fish are clearly a natural resource and the fish site has a measurable market value but it also has an opportunity value by virtue of the fish that pass the site.

A sixth problem is whether or not it would be cost effective to attempt taxation of in place resources. The above examples show some of the difficulties that will be encountered.

A seventh problem will arise when a company that has been taxed for several years on the in place natural resources decides that the project is not economic and asks for reimbursement of the taxes that had been paid. This could be a lodge developer that sees his potential market change or it could be a mining company that concludes that the metallurgy of the ore is too complex and costly for a mine to be profitable.

For all of the above reasons, a permanent exemption for taxation of natural resources in place is necessary during this session of the Legislature.

Thank you again and please feel free to contact me if you have any questions.

# MEMORANDUM

State of Alaska

To: The Honorable Walter J. Hickel  
Governor

December 16, 1991

From: Rural Development Sub-cabinet

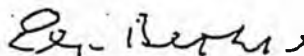
Phone: 465-4700

Re: Support for legislation exempting natural resources in place  
from local property taxation

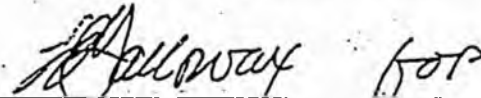
The rural development sub-cabinet has been following with concern the issue of whether or not natural resources in place should be subject to local property taxation. A study of the issue was conducted by the Department of Community and Regional Affairs, and a report will be submitted to the Legislature before January 13.

There is now consensus around the state that natural resources in place should be totally exempt from local property taxation. Legislation to effect a total exemption (with the exception of oil and gas which are treated separately under existing statutes) will be proposed in the forthcoming legislative session. Natural resource industries and associations, Native corporations, local governments, and the Alaska Municipal League have all endorsed a total exemption.

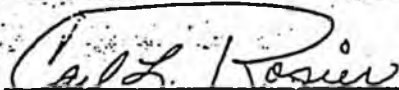
The rural development sub-cabinet supports a total exemption of natural resources in place from local property taxation, and urges the Governor to actively support legislation that will so amend Title 29 of The Alaska Statutes.



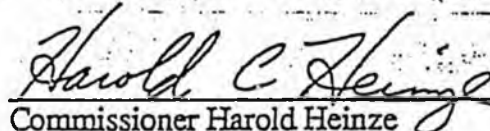
\_\_\_\_\_  
Commissioner Edgar Blatchford, Chair  
Community & Regional Affairs



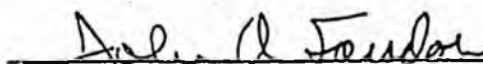
\_\_\_\_\_  
Commissioner Glenn A. Olds  
Commerce & Economic Development



\_\_\_\_\_  
Commissioner Carl L. Rosier  
Fish and Game



\_\_\_\_\_  
Commissioner Harold Heinze  
Natural Resources

  
\_\_\_\_\_  
Commissioner John A. Sandor  
Environmental Conservation

# **Municipal "in place" resource tax issue will be back before lawmakers in 1992**

**A Special Analysis  
by  
Tim Bradner**

## **Valuation of resources could impact many things ?**

Municipal taxation of resources "in-place" will be before the Alaska legislature again in 1992 — a two-year exemption enacted by 1990 will expire next July. If the legislature does not extend the exemption, municipalities will face the question of whether they should impose these kinds of taxes. Because of the way local assessments affect formulas for state school revenue-sharing, the issue directly affects the amount of money local school districts get from the state.

State lawmakers may establish a framework for assessments, or impose limitations, on the ways local governments impose resource taxes. The State Dept. of Community and Regional Affairs has a study of the issue now underway, which will include the experiences other states have had with natural resources property taxes.

## **State law appears to require valuation of resources in place**

Resource "in place" taxes are property taxes placed on the value of raw, undeveloped natural resources. Alaska statutes exempt certain kinds of property — oil and gas — from in-places taxes, although surface facilities related to oil and gas are subject to tax. But the law is silent as to other types of resources, such as minerals or timber.

The issue mainly affects mining developers most directly because several major projects — the AJ Mine eventually Greens Creek Mine in Juneau, Red Dog Mine in northwest Alaska, the Usibelli and Wishbone Hill coal mines, Fort Knox in Fairbanks — are within municipal boundaries. The companies developing these projects are concerned over uncertainties that arise from different theories of municipal appraisals on undeveloped mineral properties. Some of these projects are economically marginal, and new local government taxes would affect the economic viability of the projects. Sand and gravel owners and operators should also be concerned. Timber properties would also be affected, but trees are easier to appraise simply because they can be seen, counted and graded. They are more "quantifiable."

## **How the issue complicates state school revenue-sharing**

The complication with state school funding arises because the state assessor is required to prepare a statement of the full and true real and personal property in the state (AS 14.17.140), and must yearly do a full value determination for each municipality. The full value determination is a basic element of the formulas for school funding and state revenue sharing. If statutes do not specifically exempt resources in place from local taxation, the implication is that they should be subject to local taxation, and thus a part of the "full value" determination. *(Cont'd page 4)*

*(Continued from page 3)* But if the value of resources, having been determined, is added to the basic assessment of municipalities, the result will be changes in the amount of education revenue sharing. For the Northwest Arctic Borough, which includes the Red Dog Mine, this could have dramatic financial consequences, for example.

## **Implied taxability of resources has always existed in state law**

The implied taxability of undeveloped resources has always existed in Alaska law, but in practice most municipalities did not attempt such taxes because they felt the values would be hard to determine and, if undeveloped, had little or no value. Where they were taxed, market-value appraisal techniques were applied. In Fairbanks North Star Borough, for example, the value of surface lands on some mining claims have been taxed.

But major mining projects within municipalities do have undeveloped ore reserves of some value. Determining that value is a major issue. If state law appears to require "full value" assessments, the value of those ore bodies should be included in local tax bases. The problem faced by municipalities is that even if they choose not to impose property taxes on resources, the state assessor may be required to include them in his or her own determination of municipal assessed value, in which case the municipality loses state education funds.

Local governments may also be subject to citizen lawsuits by failing to tax in-place resources. Alternatively, the state assessor may be under legal challenge by other municipalities without natural resources who would argue they are losing state education money because other local governments with resources are not being appraised fairly, under state law.

## **How to define "resources in place"**

One problem is how to clearly define the term. The phrase "in place resources" does not correspond to any commonly used assessment terminology, and appears to be very broad. Chapter 127, SLA 1990 (which imposed the temporary two-year moratorium on taxation) refers only to natural resources in place as, "including proven or unproven mineral and other deposits of valuable materials and timber stumpage...".

What is ambiguous in that definition is the phrase "other deposits of valuable materials." This very likely includes sand and gravel, but would it, for example, also include glacier ice, if it had some form of economic value? The Dept. of Community and Regional Affairs, for the purpose of its own study, uses the definition "Any material in its native state before it has been severed or extracted."

*(Continued next page)*

**This article on "in place" resource taxation first appeared in our special Digest supplement publication for special small communities, municipalities, and schools published in late November (No. 21/91).**

## **The CRA study is 'evolving'**

*(Continued from page 4)* As the C&RA study is now evolving, two discreet positions are developing, not only over the question of whether such taxes should be imposed, but over the definition. Some state agencies, and appraisal experts retained by them, feel the definition of mining properties should be linked to the term "proven reserves" because that phrase has well-established meaning in the mining industry (it means ore reserves definitely established by drilling, as compared to more general estimates). Municipal appraisers, on the other hand, want a very broad interpretation. For them, "resources in place" should be defined as "any material in its native state without regard to quantity, quality or economic value." Appraisers want the term defined broadly so others will not misinterpret it in a limiting way.

### **Two positions that have formed up over the definition are these:**

(1) Natural resources should not be subject to municipal tax before they are severed because it is technically infeasible or impractical, and because taxation of an ore body before development takes place will hamper development of the resource. The State Departments of Commerce and Economic Development, Natural Resources, Revenue and the Office of the State Assessor (CRA) hold this position.

### **A contrary view is:**

(2) Taxation of resources in place before extraction takes place should be available to municipalities if the resource has a measurable value that can be demonstrated by accepted appraisal practices. Alaska Municipal League and Alaska Assoc. of Assessing Officers takes this position.

## **What some municipalities now do**

Several municipalities tax resources in various ways, but always at the point of extraction or in a manner where values are clearly demonstrated. In Ketchikan Gateway Borough, City and Borough of Sitka and Kodiak Island Borough, timber is a resource but most of it is owned by Alaska Native corporations exempt from taxation under federal law, and from local property taxation until development occurs. In other jurisdictions, such as Haines and Juneau, municipal assessors have not valued timber separately from surface estate.

Other marketable timber in Southeast Alaska is outside local government areas. Until 1986 mining claims were assessed at a flat \$200 for every 20 acres. After 1986, mining claims were to be valued at their full and true value, but in practice, values were based on the value of surface holdings, with no regard to subsurface resources.

Four boroughs that encompass large areas, including mineralized regions, do not have property taxes: Northwest Arctic, Aleutians East, Lake & Peninsula and Denali. However, Kodiak and the Denali Borough have resource excise taxes that tax as the resource as extracted. Kodiak's tax applies mainly to fish and timber, but it broad enough to apply to minerals as well. Denali Borough has a specific resource extraction tax levied on coal — \$.05 cents per ton of production, and gravel, \$.05 cents per cubic yard of production.

*(Continued page 8)*

## **Problems of assessing natural resources**

(Cont'd from page 5) One problem municipalities face in imposing taxes on resources in place is administrative cost. Appraisals require expertise in several professional fields, and the going rate for these kind of services is \$150/hour. If several natural resources in a municipality were to be appraised, it would be extremely expensive. An alternative would be for the state to perform a uniform appraisal, similar to the process now used for oil and gas properties subject to the state oil and gas property tax. Both municipalities and the state levy property taxes on petroleum facilities (the local tax is credited against the state tax by the taxpayer) but the valuation is done by the state.

If resource-in-place taxes were to be allowed, private industry might prefer this approach because it would avoid a patchwork of different appraisal methods used across the state. Uniformity in the state assessor's full value determination, for school revenue sharing, might also require it. More serious is the problem of actual establishing value.

Robert Paschall, a consultant retained by both the state and the Northwest Arctic Borough to do assessments of the Red Dog Mine, noted that metallurgical problems being experienced by Cominco Alaska, the operator, would result in the value of the ore body dropping from \$100 million to \$30 million. In two to three years, when those problems are solved, the value would increase again to \$100 million. Dramatic swings which are typical in world metals prices will also affect the in-place value of ore reserves. Obviously, such fluctuations in assessed value would make property tax collections very unpredictable, and add uncertainty to annual state school revenue-sharing.

### **Northwest Arctic example portrays the 'uncertainties'**

An illustration of how this would affect the Northwest Arctic Borough: If the approximate state Full Value Determination for Northwest Arctic Borough is \$446,850,000, the addition of \$100 million to its tax base would increase its Full Value Determination by 22 percent, resulting in a decrease of \$400,000 in annual school funding. Against this uncertainty, timber presents a different issue. Timber is easier to value because it can be seen and measured, although market prices can also be volatile, and in-place value is also affected by its location (more remote, difficult to access stands would have higher costs, thus lower in-place values).

### **What other states do**

Thirty one states can legally tax natural resources in place but only 12 states actually do it, in varying ways. Arizona, Colorado, Indiana, Kentucky, Michigan, Mississippi, Missouri, South Dakota, Texas, Virginia, West Virginia and Wisconsin now have different forms of resource in-place taxes. Nineteen states exempt natural resources in place from property assessments.

States that do have active resource in-place taxes have resources sufficient to generate the revenue to justify staff and expenditure. Arizona and Kentucky are very active, but both centralize the assessment function with state government, to assure uniformity. Kentucky assessed and taxes at the state level, then passes the revenues through the local governments. Arizona provides assessments to local governments, which then levy the tax.

*(Continued next page 9)*

## **Sales approach to value hard to "verify"**

*(Cont'd from page 8)* In other states that allow in-place taxes, many rely on the market, or sales approach to valuation, a traditional method in real estates appraisal. But actual sales of resource properties are rare, hard to verify, and are often not comparable to other properties being assessed. Many states have mandatory sales disclosure laws, which requires sale prices to be provided to assessment offices. Still, sales data is considered generally inadequate to reliably assess resource properties. Generally, many states that allow in-place taxes disregard them because of lack of reliable data. In Canada, resource taxation is generally similar to that of the U.S. Resource development projects are subject to federal, provincial and local taxes in the form of income and severance taxes.

## **A complex impact on projects**

The Department of Commerce and Economic Development pointed out that states with the highest taxes, including in-place taxes, offer more in the way of infrastructure for industrial development than does Alaska. Alaska mining operators now pay a mining license tax, state corporate income taxes, and rents and royalties, such that the total burden on mining places Alaska in the upper 1/3 of states with taxes on mining. The department also said: "A tax on unmined, in-place reserves would seriously penalize a company for pursuing the sensible, longer-term, in-depth approach to evaluation of an ore body. Companies now often take a slow methodical approach to proving up properties. A tax might discourage programs to define reserves. Instead such a tax might encourage a company to make a quicker, less-informed decision that could result in costly mistakes or, just as bad, the abandonment of a good project that simply needed more work to demonstrate its economic viability." DCED also questioned whether a tax on standing timber would encourage premature harvesting of the resource to avoid taxes, or otherwise distort harvest planning based on market criteria.

## **Comments from state agencies included in the C&RA study**

The State Assessor pointed out that, based on the Red Dog experience, the complexity of valuing ore bodies is beyond the experience of local governments and state agencies in Alaska. Alaska Municipal League contested this assertion, and said that Alaska assessors are capable of valuing resources if market criteria can be developed. If minerals are to be taxed, the state assessor said, "proven reserves" should be the criteria and the assessment function should be centralized in state government. Municipal League also opposed this: "Only the state perceives a problem with current assessment practices. Municipalities do not want the state to determine local values or increase the regulation of local taxation," AML said in correspondence to the C&RA study team.

The state assessor also said the state does not now have adequate staffing or trained personnel to undertake a central assessment task. Alaska has other problems, the assessor pointed out: Adequate maps and complete property ownership information are not available. Municipal League said: "The question of taxation refers only to known natural resources that have measurable market value. The broad definition of in-place natural resources includes known and unproven deposits of material that may not have any measurable market value. By definition, ad valorem taxation is based on value. No value - no tax.

*(Continued on page 10)*

## **Other thoughts: "Community tax inequities will remain"**

*(Cont'd from page 9)* There are other perspectives in the shadows of debate over taxation of resources "in place." One such issue is the inequities between "have and "have not" Alaska local governments . Some have rich tax bases, some have little, some no hopes of a tax base. Naturally, every local government is looking for a high value/per capita industrial tax base. However, Alaska has many local governments with marginal tax bases, and even whole regions denied choice of real local government because they have no hope of a tax base. The resources "in place" tax issue is an initiative by some local governments looking for badly needed tax resources. As a matter of principle they would like to bring their fellow governments along for the philosophical ride. However, as the Alaska map fills up with local governments, these local governments will sooner or later turn to look at each other, and examine the sizable tax inequities between them.

### **Industrial tax base sharing ?**

If inequities become glaring enough there may well be a movement to construct a kind of state law provision that would allow 'have not' local communities to share in the benefits of a defined state industrial tax base. The problem with industrial and resource tax wealth is they tend to center on a few areas. In terms of philosophy, a tax sharing provision would be a cousin to what Congress constructed in the controversial 7(i) feature of federal native land claims legislation, a provision that requires the sharing of a portion of resource revenues between all corporations..

There is already a great disparity of tax wealth between Alaskan communities. For example, the North Slope Borough may well be the richest local tax base in the North America. In 1990 the North Slope Borough was at the top of the Alaska tax value list with a value of \$1.53-million per capita (oil property). At the bottom of tax value cities was Hooper Bay with \$8,943 per capita. Second in value in 1990 was the City of Valdez at \$280,739 per capita (oil transp facilities), followed by other boroughs and cities with some measure of industrial tax value, such as the Kenai Borough with \$86,111 per capita (oil facilities), Bristol Bay Borough, \$92,566 per capita (fish plants), Sitka and Ketchikan (pulp plants) with \$54,349 and \$63,597 per capita. However, the new Aleutians East Borough has only \$32,077, and the Lakes and Peninsula Borough has \$34,447. Municipalities with virtually no industrial base generally fall between \$25,000/\$45,000 per capita. Fairbanks and Anchorage are only in the \$42,000/per capita range, but these two communities are commercial centers that, should need require, have potential access to high yield revenue through a sales tax. A sales tax in St. Mary's, Hooper Bay, Dillingham, or Nome offers no similar high yield.

### **Direct resource tax load and trade "contradictory" ???**

Another perspective --a direct resource tax load and international trade may not mix. Remember taxes must generally be "uniformly applied." One resource may be able to stand a tax load, while another bound into extremely competitive international markets cannot stand a high tax load. A government may not be able to legally differentiate. Some economists suggest that the term "Pacific Rim" trade, with regard to any expectation of very high resource royalty or tax yield, is simply an economic contradiction. The increasingly competitive world trade market suggests that taxes, other than taxes related to management and environmental cost, must come from indirect taxation, from income taxes and sales taxes, not from a front end load on the product.

*One of our year long feature issues ?*

## **Can resources pay tax load, or must people pay taxes too ?**

Throughout 1992 we will examine the ongoing issue of expanding the state's tax base. Alaskans are fond of talking about the need to diversify their economy. Implied in this rhetoric is the suggestion that somehow 'new revenues' associated with this diversification will replace lost oil revenue.

The reality we will discuss throughout the year is whether it is realistic for Alaska to expect that many other resources can really be taxed directly, or pay royalties that provide significant revenue. Some types of resources may only be able to afford to pay for their own management and some social and rehabilitation costs. This discussion will surface intermittently throughout our publication year in Legislative Digest. We do not suggest that other resources should be 'taxless,' but we will explore whether there are other resources that can replace skidding petroleum production revenue earnings. At the bottom of this review is the reality of whether we can add much tax load to natural resources that already carrying high Alaska production costs, and still expect to be competitive in the market --especially international markets. Facing tough international competition, some resources will only be able to pay payroll, but will employ people who will, in turn, pay taxes for public services.

**In this context we will discuss:**

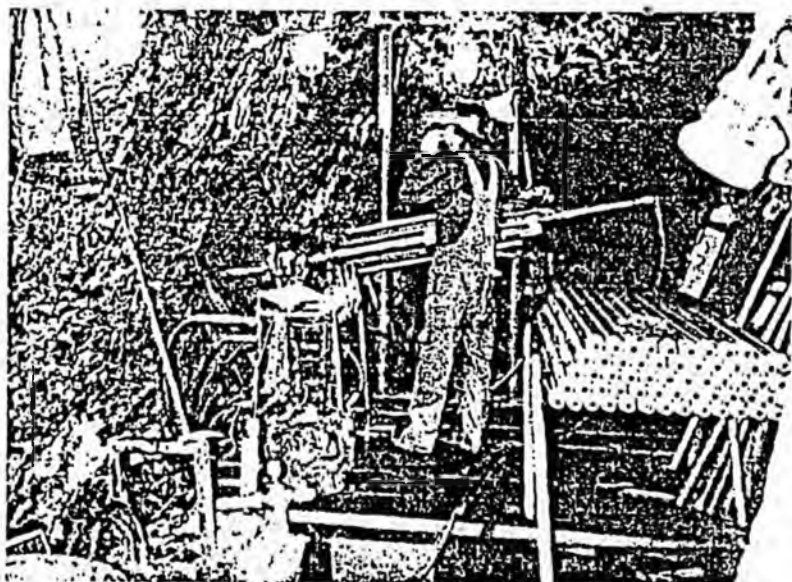
- (1) Where other states get their taxes?
- (2) Keeping state and local taxes separate!
- (3) Problems with direct resource taxation.
- (3) The stake of the business community in insuring that the state over the long-haul adopts a 'fair' agenda of taxes.
- (4) The stake of the citizen and local communities in insuring that Alaska adopts a fair tax agenda, that avoids the kind of tax competition and loading that has occurred in other states!
- (5) Public understanding of direct resource tax load and the ability of high cost Alaska to compete in the international market.



Report of the  
**ALASKA  
MINERALS  
COMMISSION**



JANUARY 1991



## EXECUTIVE SUMMARY

Hard-rock mining made a very significant contribution to the minerals sector of the Alaskan economy in 1990 after a nearly 50 year period of relative dormancy. This trend will continue as the level of hard rock exploration has nearly doubled and many very promising deposits are near development decisions.

In contrast, production during 1990 from many small gold placer mines was only half that of 1989 due to new environmental constraints. Environmental regulations also played a role in the U.S. Borax Quartz Hill project near Ketchikan, which will be on indefinite hold due in part to adverse decisions on environmental permits.

The recommendations of the Alaska Minerals Commission address some of the more important and timely concerns of the mining industry. The order in which they are presented is prioritized to reflect the urgency with which they need to be addressed, but does not necessarily imply that later recommendations have diminished importance to the long term growth and health of the industry.

The 35 recommendations of the Alaska Minerals Commission are listed below:

### I. TAXATION:

**Recommendation #1:** The Governor and Legislature should move to exempt in-place minerals from municipal taxation.

### II. MENTAL HEALTH LANDS:

**Recommendation #2:** The Governor and the Legislature should make the prompt settlement of the Mental Health Lands lawsuit a top priority during the upcoming legislative session.

### III. LAND ACCESS AND AVAILABILITY:

**Recommendation #3:** The Governor should direct the appropriate agencies to assert the state's rights on all known RS2477 trails as quickly as possible.

**Recommendation #4:** The Governor and Legislature should urge the U.S. Congress and federal administration to implement the provisions of the Alaska National Interest Lands Conservation Act (ANILCA) protecting prior existing rights and exemptions allowed in the act.

**Recommendation #5:** In conformity with sections 101d and 1326b of ANILCA, no more federal land in Alaska should be withdrawn from mineral entry by either wilderness designation or by de facto withdrawals such as the Areas of Critical Environmental Concern.

**Recommendation #6:** The State of Alaska should select some 2.5 million acres in the southern National Petroleum Reserve-Alaska (NPR-A).

### IV. WATER QUALITY ISSUES:

**Recommendation #7:** The Governor should direct the Department of Environmental Conservation (DEC) to implement a policy that allows discharge water mixing zones to extend downstream to the point of the next substantiated use.

**Recommendation #8:** DEC should also be directed by the Governor to revise the water quality standards for turbidity to attainable levels.