

**HB**

**58**

<TARGET><BILL>HB 58</BILL><SUBJECT>HB  
58</SUBJECT><COMM>HRES27</COMM></TARGET>

# Alaska State Legislature

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## REPRESENTATIVE Paul Seaton

District 35

### HB 58 Sponsor Statement

House Bill 58 recognizes our constitutional duty to provide a reasonable share of Alaska's non-renewable resources to benefit all Alaskans by updating the mining tax statutes for the first time since 1955. The bill makes changes to the existing Mining License Tax, minerals and coal royalties, as well as the rentals for mining activity on state land.

The Mining License Tax is paid by all mineral mining operations in the state and is levied on net income. Tax rates are based on a graduated scale that increases with net income. HB 58 increases current rates by 2% per income bracket, adds an additional marginal tax bracket for net income over \$1 million to be taxed at 11%, and exempts mines with a net income under \$100,000 from paying the mining license tax.

Mineral mining operations are currently exempt from paying the mining license tax for the first three and a half years of production. HB 58 changes this exemption to a deferral that is payable over the following 10 years of production. HB 58 disallows mining companies from deducting their state corporate income tax from their mining license income tax. Other industries in Alaska are not allowed this deduction nor are mining companies allowed to deduct federal income taxes from their mining license tax. HB 58 also allows mining companies to use only cost depletion as a deduction from their taxes.

HB 58 changes the calculation of the royalty for mineral mining on state land from our current 3% of net income to a 3% Net Smelter Return (NSR) tax. This change ensures that the State receives a reasonable return for the material that is extracted from the ground by basing the royalty on the value of the mineral as opposed to the profitability of the mine in any given year. Most land owners in Alaska, other than the State, negotiate a NSR royalty between 2% and 5%.

HB 58 also adjusts land claim rental rates: hard rock and placer claims will be charged \$1.65/acre for the first five years and \$3.30/acre for every year thereafter.

HB 58 updates coal statutes to reflect what is currently in regulation. The bill allows the State to accept coal as royalty in kind, similar to how the State accepts oil and gas. The University of Alaska Fairbanks has a coal fired electric plant and could benefit financially by not having to purchase coal.

Alaska's mining industry bears a light tax burden compared to Alaska's other high value resource industries. HB 58 allows the State a reasonable share of the wealth for its mined resources through overdue changes to the mining tax structure. It is important that we establish a stable tax structure that is fair to the private sector and provides the people of Alaska with a reasonable benefit from their resources.

## **HB 58 – Simplified Comparative Sectional v.A**

*Mining taxes have not been updated since 1955, some of the changes are updating drafting language to modern standards. (Royalty statutes were added in 1989 as none existed previously.)*

### **Sec. 1 Coal Royalty**

Shortens the time a royalty is fixed to 10 years.

Changes coal royalty to 5-12% of the adjusted gross value. Increases the minimum rental amount to \$3 an acre for coal, fixed for no more than 20 years.

Sets minimum rental rate to \$3 an acre.  
*(Updates statute to reflect regulation)*

### **Sec. 2 Coal In-kind**

Allows the coal lessee to give the state royalty-in-kind rather than cash to fuel the State coal fired power plant. At least every 10 years the Commissioner of DNR will update the in kind rental amount to reflect inflation. *(New section)*

### **Sec. 3 Mining Rentals**

A holder of a mining claim, lease, leasehold location, prospecting site is required to pay:

- \$200 for the two year term of prospecting the site *(Current statute)*
- Annual rental for a mining claim no less than \$1.65 an acre for the first 5 years and no less than \$3.30 an acre for subsequent years  
*(Current rental is based on a sliding scale of \$.50 - \$2.50 an acre)*

### **Sec. 4 Adjustment of Rental Rate for mines before 2012**

Applies the revision of rental rates every 10 years using the January – June 1989 base CPI only to mining property first located before January 1, 2012.

### **Sec. 5 Adjustment of Rental Rate for mines after 2012**

Applies the revision of rental rates every 10 years using the January – June 2005 base CPI for a mining property first located after January 1, 2012 in \$5 increments. *(Currently the base index is from 1989)*

### **Sec. 6 Net Smelter Return Production Royalty**

Exploration incentive tax credits can be applied to the royalty. *(Current statute)*

Replaces the current production royalty with a 3% Net Smelter Return (NSR) or 3% of the gross value of the mineral at the point of production if the mineral is not further processed by a smelter or refinery. *(Current royalty is 3% of net income for mines on State land)*

### **Sec. 7 Defines Net Smelter Return**

“net smelter return” - the value that the mining company receives from the sale of ore after it has been smelted or refined. That value could be based on:

- the current price of the mineral minus what was spent processing the mineral and transporting it between the refinery and the mine
- OR however the department determines in regulation.

*(New definition)*

### **Sec. 8 Gross Value at Point of Production**

Establishes “Gross Value at Point of Production” as the value of the mineral immediately after it is removed from the mine excluding income received from extraction or processing mine waste previously taxed.

The value of the mineral immediately after it is removed from the mine is what the mining company receives after they have added value to the resources through production unless:

1. the Department feels like the price the company received is less than the fair market value
2. the price received does not reflect the total value received by the mining company in the transaction
3. the buyer and seller are affiliated
4. the price received was not negotiated in an arms length transaction

If the Department thinks the price the company received is not adequate they shall substitute the fair market value of the resource.

In order to determine the Gross Value at Point of Production the cost of transportation is deducted.

The cost of transportation = the actual cost unless:

1. parties are affiliated
2. the transportation contract is not the result of an arms length transaction or is not representative of fair market value
3. an unreasonable method of transportation was used

If the Department determines that the transportation costs used to calculate the gross value at point of production are not representative of fair market value they will determine the reasonable cost of transportation

Definitions of affiliated and destination value.

*(New section)*

### **Sec. 9 Application for Mining License**

The application period for a mining license tax is before May 1 or 30 days after mining begins, whichever is later. *(Currently the application for renewal of mining license is due before May of each year)*

The Department will adopt regulations on what needs to be submitted on the application and the application fee.

**Sec. 10 Mining License Tax Deferral**

A mining company can defer their mining license tax payments for their first 3 ½ years of production. However, they are required to pay the amount deferred (without interest) in equal payments over the next 10 years. Sand and gravel do not have the option to defer mining license taxes. *(Currently mining companies, excluding sand and gravel, have an exemption for the first 3 1/2 years)*

**Sec. 11 Certification**

DNR certifies the date production begins at the mine. *(No substantive changes)*

**Sec. 12 Mining License Tax Rates**

The mining license tax is based on the company’s net income minus allowable depletion plus royalty received in connection with mining property in the state of Alaska.

**PROPOSED MINING LICENSE TAX RATES**

NET INCOME	BASE TAX	PLUS %	OF EXCESS OVER
\$0-\$100,000	\$0	0	0
\$100,001-\$250,000	\$0	5%	\$100,000
\$250,001-\$500,000	\$7,500	7%	\$250,000
\$500,001-\$1m	\$25,000	9%	\$500,000
Over \$1m	\$70,000	11%	\$1m

**CURRENT MINING LICENSE TAX RATES**

NET INCOME	BASE TAX	PLUS %	OF EXCESS OVER
\$0-\$40,000	\$0	0	0
\$40,001-\$50,000	\$0	3%	\$0
\$50,001-\$100,000	\$1,500	5%	\$50,000
Over \$100,000	\$4,000	7%	\$100,000

**Sec. 13 Taxing Multiple Mines**

If one company has more than one mining operation taxes are based on aggregate income. If an organization leases a mine to a company the organization will pay taxes on the royalties received as if it were the mining company. *(Updates language to confirm with current drafting style, no substantive changes)*

**Sec. 14 Depletion**

Deletes existing depletion statute and allows only cost depletion. *(Current statue allows a company in any given year to choose between percent and cost depletion.)*

### **Sec. 15-20 Definitions**

15. “gross income from property” – gross income from mining in the state (*no substantive change*).
16. “mining” – the extraction of minerals (lists minerals) taken from the earth and treated by the mine to produce a marketable product. Does not include oil and gas. (*no substantive change*).
17. “net income of the taxpayer from the property” and “taxpayer’s net income” – [gross income from mining] – MINUS- [allowable deductions for depletion and treatment (for example, overhead, operating expenses, development costs, depreciation, taxes, and losses)]. Does not include deductions for federal income taxes, state corporate income taxes, or mining license taxes. (*current statute allows the deduction of state corporate income taxes*)
18. “new mining operation” – first operation on property that has never been mined before. (*no substantive change*).
19. “ordinary treatment process” – defines the how the minerals of hard metal and sulphur ores, among others are traditionally processed. (*no substantive change*).
20. “date production begins” – when a mining company first ships their product (*new definition*)

### **Sec. 21 Repeals**

Repeals AS 38.05.211(b) establishing 1989 as the base year for rentals; repeals AS. 38.05.211(e), the reduced rental allowance and MTRSC reference because the act adopts a new rental structure; repeals AS. 43.65.030, the reference to the application date for renewing mining licenses because it is covered in this act; repeals AS 43.65.060(6), definition of production because it is covered in this act. (*These statutes are no longer relevant*)

### **Sec. 22 Applicability**

Applies this legislation to all leases entered into or renegotiated after December 31, 2011.

### **Sec. 23 Effective Date**

This legislation takes effect January 1, 2012.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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

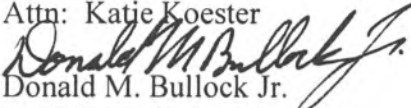
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 7, 2011

**SUBJECT:** Sectional Summary of HB 58 (Work Order No. 27-LS0316\A)

**TO:** Representative Paul Seaton  
Attn: Katie Koester

**FROM:**   
Donald M. Bullock Jr.  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Amends AS 38.05.150(d) by shortening to 10 years the period during which a coal royalty shall be effective; changing the amount of royalty to 5 percent of the adjusted gross value of coal sold, disposed, transferred, or consumed by a lessee in a noncompetitive lease or a competitive lease in which royalty is a bid variable; and increasing the minimum amount of annual rental.

**Section 2.** Adds new subsections to AS 28.05.150 to allow the commissioner of natural resources to require the lessee to pay royalty-in-kind as necessary to fuel a coal-fired power plant owned by the state or an agency of the state, and requires the commissioner to calculate changes in the rental amount for a coal lease based on the Consumer Price Index.

**Section 3.** Amends AS 38.05.211(a) by increasing the minimum rent for a mining claim, leasehold location, or mining lease.

**Section 4.** Amends AS 38.05.211(d) to apply only to a claim, leasehold location, prospecting site, and mining lease first located before January 1, 2012.

**Section 5.** Adds a new subsection to AS 38.05.211 that is applicable to a claim, leasehold location, prospecting site, and mining lease first located after December 31, 2011; requires the commissioner of natural resources to revise the rental amount based on changes in the Consumer Price Index; requires the commissioner to increase or decrease the rental amount rounded to the nearest whole \$5 unit; requires the commissioner to

calculate a change in the rental amount each 10 years and to establish revised rental amounts by regulation; provides that a revised rental amount applies to a rental payment if the regulation establishing the revised rental amount took effect at least 90 days before the date the rental payment is due.

**Section 6.** Repeals and reenacts AS 38.05.212(b) to change the basis for the calculation of the production royalty to three percent of the net smelter return or the gross value at the point of production, depending on whether the mining production is processed by a smelter or refinery.

**Section 7.** Adds a new section to AS 38.05.212 to define "net smelter return."

**Section 8.** Adds a new section, AS 38.05.213, that defines the gross value at the point of production; describes when the value of a resource immediately after extraction is the price received by the person engaged in mining the resource (adjusted for value added) and when the department may reject that basis for determining value; directs the substitution of fair market value for the price reported by the person if the department rejects the reported price; uses the reasonable cost of transportation to determine the gross value at the point of production and provides for an alternate determination of the reasonable cost when the actual cost is rejected; defines "affiliated" and "destination value" as those terms are used in the section.

**Section 9.** Adds a new section to AS 43.65 that requires a person engaged in mining after December 31, 2011 to apply for a mining license and directs the Department of Revenue to adopt regulations prescribing the information to be provided by the applicant and the fee for the license.

**Section 10.** Amends AS 43.65.010(a) to change the exemption of the mining tax during the first three and one-half years to a deferral; requires the deferred tax to be paid during the ten-year period following the end of the period in which the tax is deferred.

**Section 11.** Amends AS 43.65.010(b) by simplifying the language and conforming the text to the amendment to AS 43.65.010(a) in sec. 10 of the bill.

**Section 12.** Repeals and reenacts AS 43.65.010(c) to increase the tax rates and add an additional bracket applicable to net income over \$500,000.

**Section 13.** Amends AS 43.65.010(d) to conform the language to the current drafting style.

**Section 14.** Repeals and reenacts AS 43.65.010(e) to use cost depletion.

**Section 15.** Corrects the term defined in AS 43.65.060(1) to match the term as used in AS 43.65.020(a).

**Section 16.** Amends the definition of "mining" in AS 43.65.060(2).

**Section 17.** Defines "net income of the taxpayer" and includes the term "taxpayer's net income" in the definition in AS 43.65.060(3).

**Section 18.** Amends the definition of "new mining operation" in AS 43.65.060(4).

**Section 19.** Makes nonsubstantive editorial corrections to the definition of "ordinary treatment processes" in AS 43.65.060(5).

**Section 20.** Adds the definition of "date production begins" to AS 43.65.060.

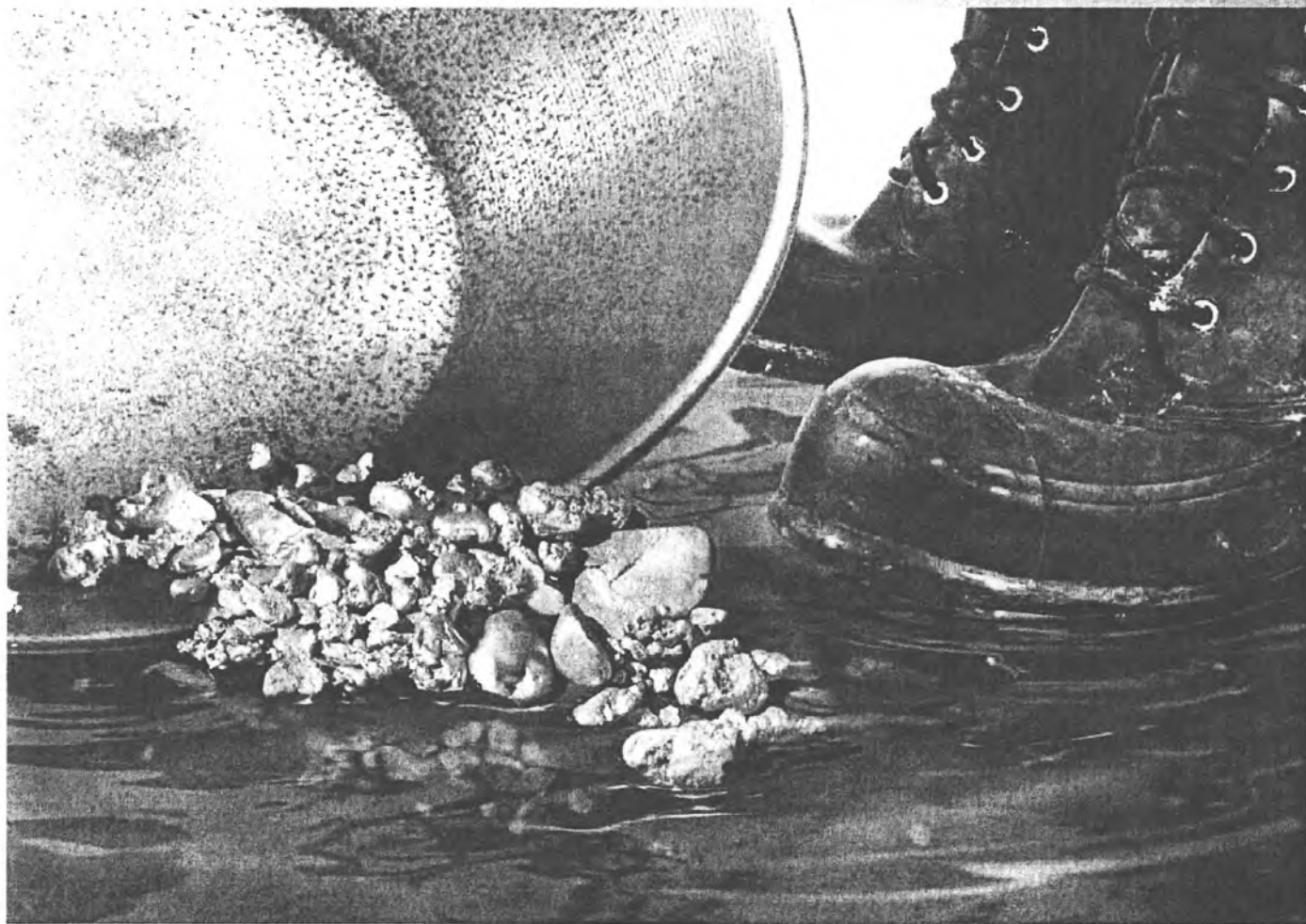
**Section 21.** Repeals AS 38.05.211(b) and 38.05.211(e) that relate to annual rental for a mining claim, leasehold location, prospecting site, and mining lease. Repeals AS 43.65.010(f) that related to the allowance for depletion determined as a percentage of gross income from the property. Repeals AS 43.65.030 that related to the renewal of a mining license and AS 43.65.060(6) that defined "production."

**Section 22.** Adds a new section to the uncodified law of the State of Alaska that makes the mining royalty and lease amendments applicable to leases entered into or renegotiated after December 31, 2011.

**Section 23.** Makes the Act take effect January 1, 2012.

DMB:plm  
11-058.plm

# Survey of Mining Companies 2009/2010



Fred McMahon and Miguel Cervantes



This publication has been made possible thanks to the support of the Prospectors and Developers Association of Canada (PDAC) and the Fraser Institute.

**Figure 3: Policy/Mineral Potential assuming no land use restrictions in place and assuming industry "best practices"**

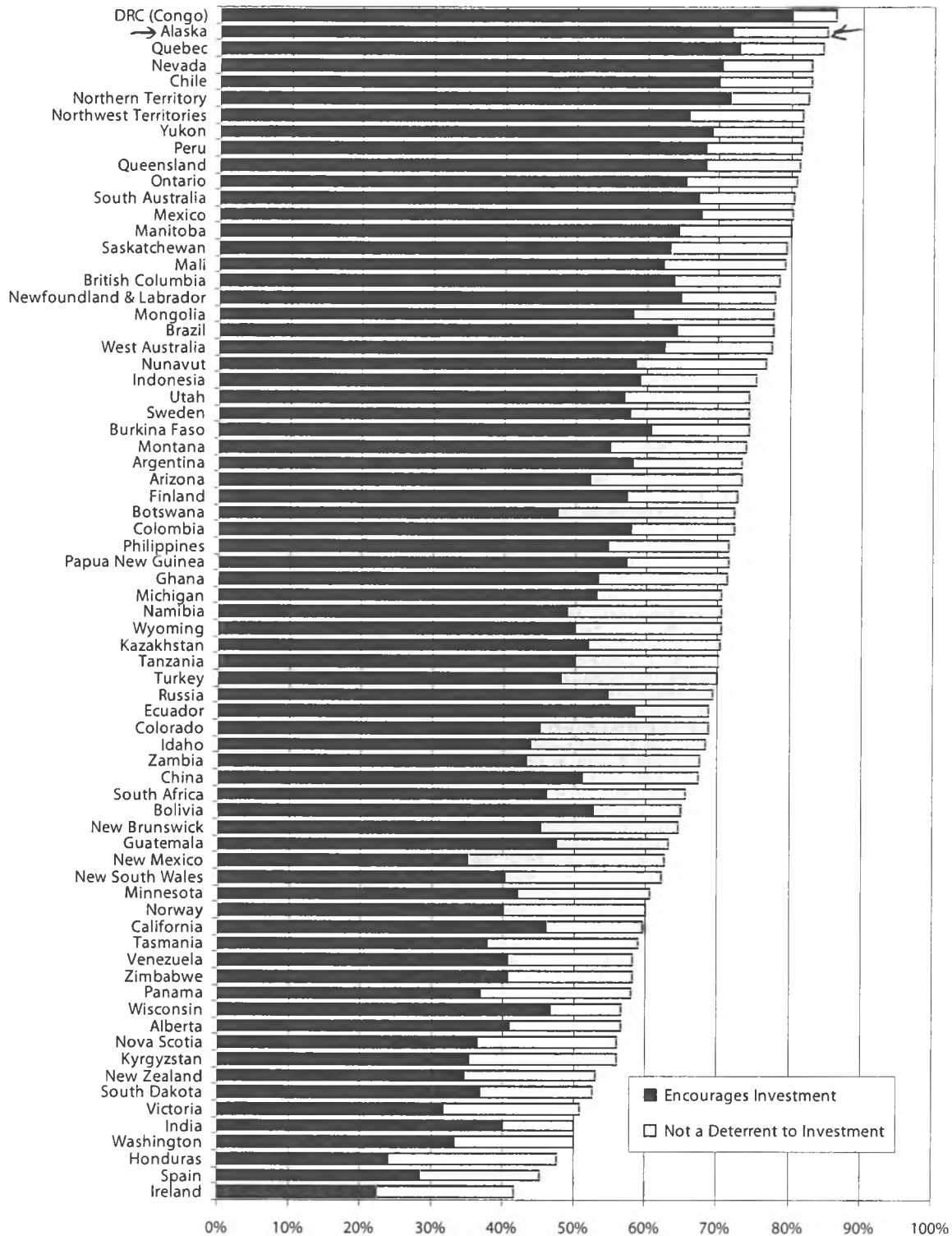


Figure 8: Taxation regime

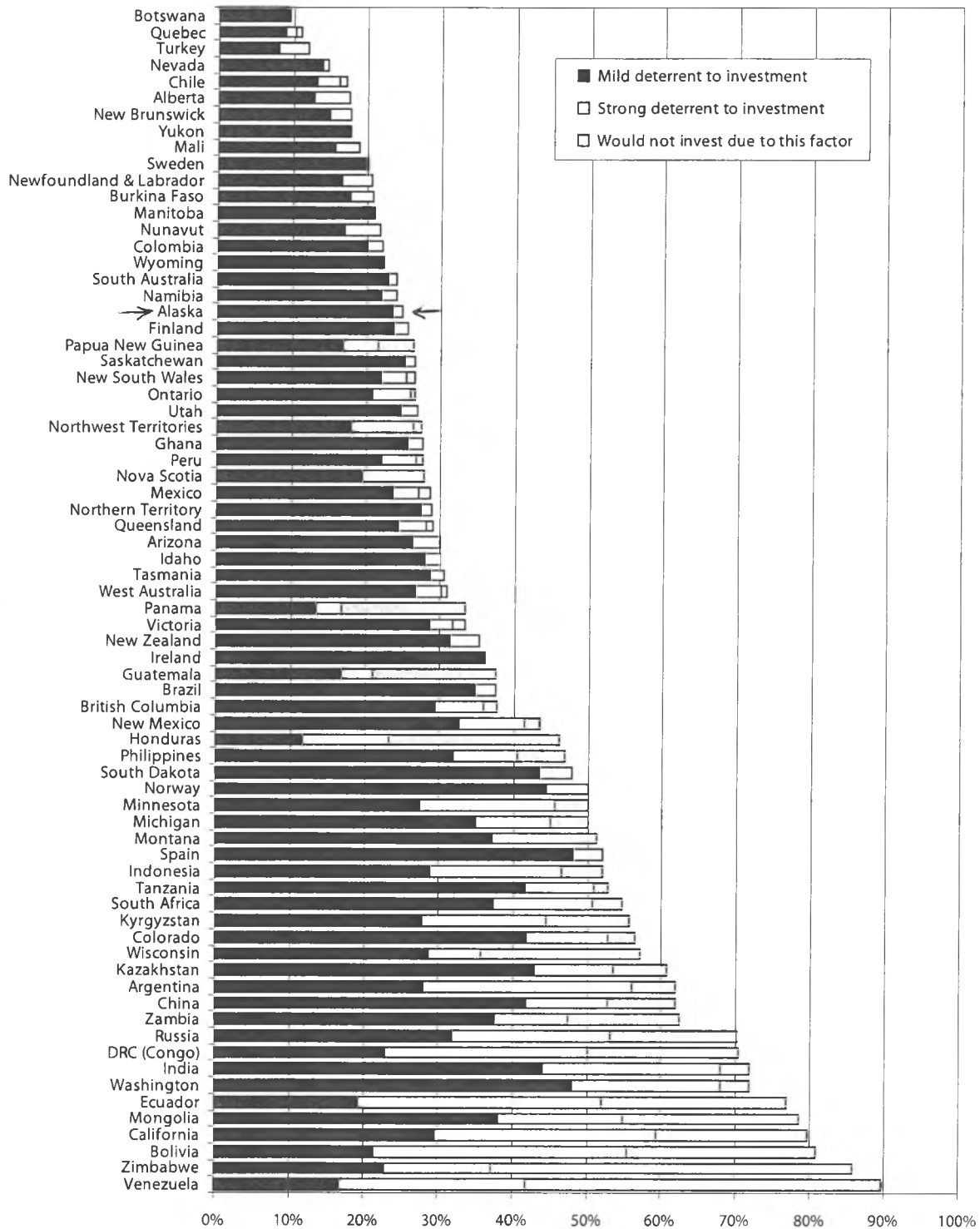
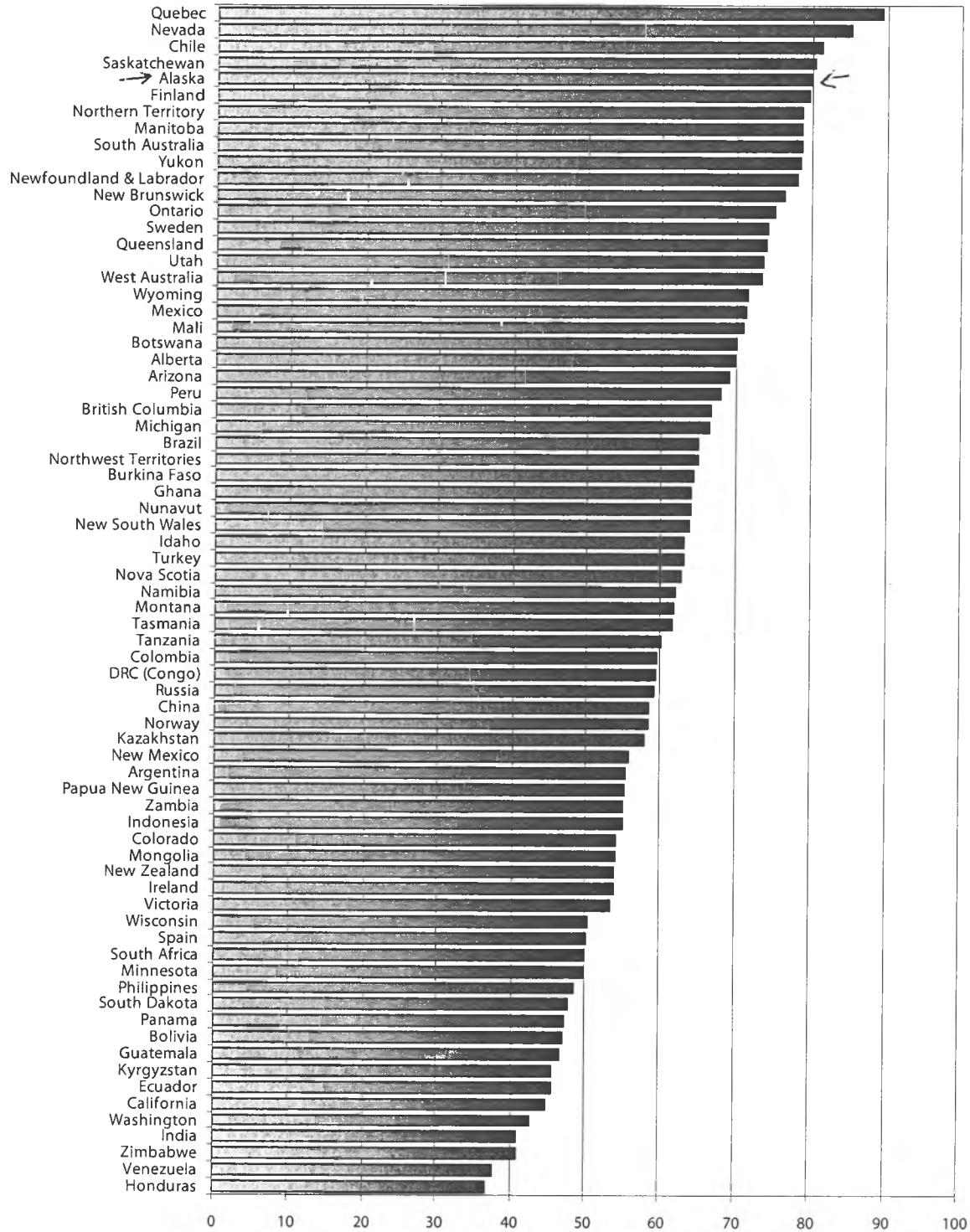


Figure 18: Composite policy and mineral potential



**Table 10: What commodity is assigned the largest proportion of your budget?**

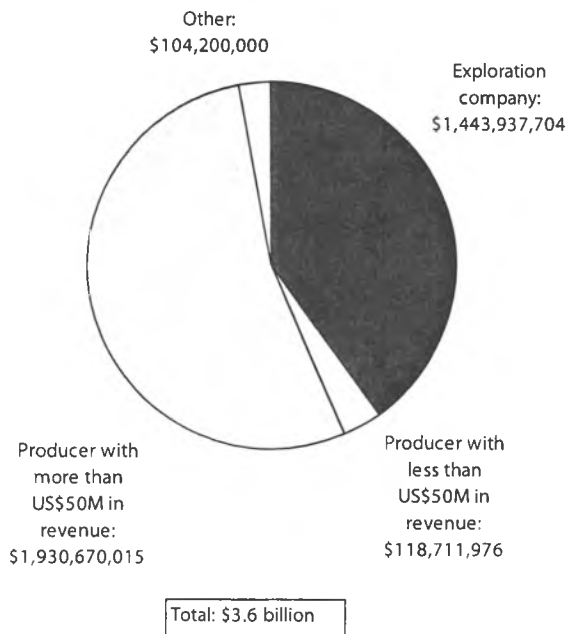
Mineral	Percent	Number
* Au (Gold)	45.15%	242
Cu (Copper)	14.93%	80
Ni (Nickel)	6.53%	35
U (Uranium)	5.97%	32
Coal	4.85%	26
Ag (Silver)	4.29%	23
Zn (Zinc)	3.17%	17
Fe (Iron)	2.99%	16
Diamonds	2.05%	11
Mo (Molybdenum)	1.68%	9
Potash	0.93%	5
PGM (Platinum)	0.75%	4
Li (Lithium)	0.75%	4
Other (please specify)	5.97%	32

**Table 11: How do you rate the importance of mineral potential versus policy factors?**

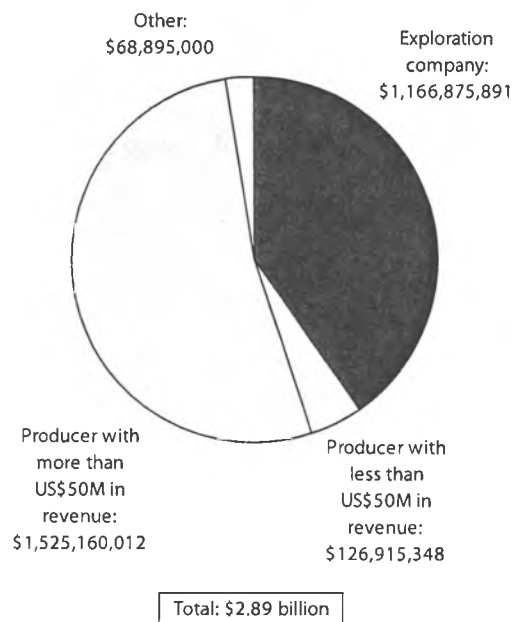
Mineral Potential	60.35%
Policy Factors	39.65%

Overall, our respondents indicated that they spent US\$2.9 billion in 2009 and US\$3.6 billion in 2008 on investment (see figures 19 and 20). And it remains true that "all that glitters is gold." We asked which mineral represents the greatest proportion of each company's budget: 45.2 percent of those responding to this question indicated it is gold. No other metal came close (see table 10).

**Figure 19: Exploration Budget by Company Type (\$US), 2008**



**Figure 20: Exploration Budget by Company Type in \$US, 2009**



# ALASKA STATEWIDE PUBLIC OPINION RESEARCH SURVEY

February 12th to 20th, 2007

Sample size = 402; margin of error  $\pm$  4.89%

## HELLENTHAL AND ASSOCIATES

2200 Vanderbilt Circle  
Anchorage, Alaska 99508

(907) 276-1001 or  
277-2315 (fax)

hellenthal@gci.net (e-mail)

### Introduction and Methodology

This report presents an analysis of a survey of Alaskan statewide registered voters. The survey measured properties of Alaskan voters' demographics, behaviors and attitudes concerning the proposed Pebble Mine project.

Research typically involves estimating the characteristics of a designated population. Because of the costs of conducting a census of all items in a population and the adequacy of sample results, sample statistics were used to make statistical inferences concerning population parameters.

Four hundred and two (402) Alaskan registered voters were interviewed between February 12th and 20th, 2007. Interviewing was conducted by telephone on a random digit basis. That is, random numbers were computer generated for the last two digits of the suffix of each workable telephone prefix in Alaska. All Alaskan voters who are accessible by telephone had an equal chance of being interviewed.

This survey is a true random digit survey. Other research firms promote "supervoter" surveys. These surveys are not true surveys of voters or supervoters. Their sample does not include unlisted or underlisted registered voters and, therefore, cannot be generalized to voters or supervoters. They only are surveys of registered voters whose telephone numbers can be determined from a telephone directory. They save the researcher money, to the detriment of their clients' desire for accuracy.

### Margin of error

At a 95% confidence level, the empirical proportions reported in the general population survey can be projected, within plus or minus 4.89%, to the entire Alaskan registered voter population. This means one can be 95% sure that the frequencies reported in the general population survey are within 4.89% of the true Alaskan registered voter population proportions.

10. Would you strongly favor, somewhat favor, somewhat oppose, or strongly oppose a statewide ballot initiative that would require large mines to pay 10% of their gross profit to the state? What about \_\_\_\_\_ (FILL IN 15%, 20%, 25%)?

TAX RATES	4	3	2	1	0	MEAN
	STRONGLY FAVOR	SOMEWHAT FAVOR	NEUTRAL	SOMEWHAT OPPOSE	VERY OPPOSE	
10%.....	45.4%	24.5%	9.8%	6.8%	13.6%	2.81
15%.....	38.0%	18.9%	11.2%	12.9%	19.0%	2.44
20%.....	36.8%	11.3%	12.9%	14.1%	24.8%	2.21
25%.....	38.0%	9.0%	12.7%	12.0%	28.3%	2.17

11. Would you strongly favor, somewhat favor, somewhat oppose, or strongly oppose 50% of the gross profit paid to the state by large mines going directly to the Permanent Fund?

50% PROFIT TO P.F.	FREQUENCY	PERCENT
4. Strongly favor.....	172	42.8%
3. Somewhat favor.....	64	16.0%
2. Neutral.....	36	9.0%
1. Somewhat oppose.....	44	11.0%
0. Strongly oppose.....	85	21.3%
(Mean = 2.480)		

12. Do you feel that the creation of one of the world's largest open pit mines at the headwaters of the Bristol Bay watershed is a very positive, somewhat positive, somewhat negative, or very negative development for Alaska?

WORLD'S LARGEST OPEN PIT MINE	FREQUENCY	PERCENT
4. Very positive.....	31	7.7%
3. Somewhat positive.....	62	15.5%
2. Neutral.....	31	7.6%
1. Somewhat negative.....	80	19.8%
0. Very negative.....	198	49.4%
(Mean = 1.124)		

13. Do you support a statewide ballot initiative to strengthen Alaska's clean water laws and enhance the safety of its earthen dams?

BALLOT INITIATIVE	FREQUENCY	PERCENT
Yes.....	326	81.2%
No.....	76	18.8%

THE FOLLOWING VARIABLE IS CALCULATED USING THE TELEPHONE PREFIX

AREAS OF ALASKA	FREQUENCY	PERCENT	MARGIN OF ERROR
Southeast.....	53.....	13.2%.....	+ 13.5 %
Valdez-Kenai-Matsu...	75.....	18.6%.....	+ 11.3 %
Anchorage.....	167.....	41.4%.....	+ 7.6 %
Greater Fairbanks....	53.....	13.2%.....	+ 13.5 %
Rural/Bush.....	55.....	13.6%.....	+ 13.2 %
TOTALS.....	403.....	100.0%.....	+ 4.88%

The questionnaire with results is as follows:

**ALASKA PUBLIC OPINION RESEARCH SURVEY**

March 5th to 18th, 2007

Sample size = 403; margin of error  $\pm$  4.88%

**HELLENTHAL AND ASSOCIATES**

2200 Vanderbilt Circle  
Anchorage, Alaska 99508  
(907) 276-1001 or  
277-2315 (fax)  
hellenthal@gci.net (e-mail)

Hello, I am \_\_\_\_\_ from Hellenthal and Associates. We are conducting a public opinion research survey of Alaskans. Your telephone number was randomly selected. The questions I need to ask will only take a couple of minutes. All of your responses will be completely confidential.

- S1. Is this telephone number \_\_\_\_\_?
- S2. Is this a residential telephone?
- S3. Are you registered to vote in the State of Alaska?

IF YES, THEN PROCEED TO QUESTION #1

IF NO, THEN ASK...

Is there anyone home who is registered to vote in the State of Alaska?

IF YES THEN ASK...

May I speak with them?

IF NO, THEN ASK...

When will someone be home who is registered to vote?

20. Presently, about 85-90% of our state revenue comes from oil and gas production. Do you favor or oppose reducing oil taxes to encourage more oil and gas exploration and production to produce more state revenue?

REDUCING OIL TAXES	FREQUENCY	PERCENT
Favor.....	156.....	38.8%
Oppose.....	218.....	54.2%
Don't know.....	28.....	7.0%

Presently, about 85-90% of our State revenue comes from oil and gas production. Roughly half of that revenue comes from the state's royalty share of oil while the other half comes from taxes the state levies on oil production. The more oil and gas produced in Alaska, the more revenue the state receives.

21. If higher state taxes lowered oil production and oil exploration, would you favor or oppose higher state taxes on oil production and oil exploration?

HIGHER TAXES ON OIL	FREQUENCY	PERCENT
Favor.....	147.....	36.6%
Oppose.....	223.....	55.4%
Don't know.....	32.....	8.0%

22. Some say the state should build and own 100% of the natural gas pipeline. Do you favor or oppose the state building and owning the natural gas pipeline knowing it could cost the state at least \$25 billion?

BUILDING/OWNING GAS PIPELINE	FREQUENCY	PERCENT
Favor.....	142.....	35.2%
Oppose.....	232.....	57.6%
Don't know.....	29.....	7.2%

23. Do you favor or oppose increasing taxes on the mining industry?

INCREASING MINING TAXES	FREQUENCY	PERCENT
Favor.....	207.....	51.3%
Oppose.....	135.....	33.5%
Don't know.....	61.....	15.1%

} \*



STATE OF ALASKA  
DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT

Division of Community & Regional Affairs

*Sarah Palin, Governor*  
*Emil Notti, Commissioner*  
*Tara Jollie, Director*

## MEMORANDUM

DATE: October 17, 2007  
TO: Mike Black, Deputy Commissioner  
THRU: Steve Van Sant, State Assessor  
FROM: Ron Brown, Assistant State Assessor  
RE: Review of Alaska and National Mining Taxation

Attached is a copy of the information collected in regards to mining taxation in Alaska and other States. The primary source of data for this report came from InfoMine USA, which contained data on 31 of the 50 states including Alaska.

There are three major taxes applicable to mines in the State of Alaska, these are;

- Corporate Income Tax
- Royalties
- Mining License Tax

The most significant issue noted in the review is that unlike other states, the Alaskan tax structure is almost solely based upon the calculation of net income in its treatment of mines. Due to this dependence on net income the significance of this single calculation cannot be overstated. However, due to allowed deductions for Mineral Incentive Credits, other taxes, percentage based depletion allowances and other issues, the net income calculation may be a questionable measure.

Currently, HB 156 is pending in the legislature. This bill appears to address several of the issues mentioned in this report and is a good source of additional information and comment.

# Analysis of Mining Taxation of All 50 States

## ANALYSIS OF STATE MINING TAXATION

Data was obtained on Mining Taxation from 31 of the 50 states from InfoMine USA, Inc. A basic review of the tax structure across the country is provided below. A presentation of the individual programs for each state is available in excel format.

### **Income Tax:**

23 of the states levy an income tax with an average tax rate of 6.32% and a median rate of 6.6%. Alaska levies a progressive income tax of between 1% and 9.4%. The actual rate depends upon the net income of the corporation's Alaskan operations. All taxes paid in the State of Alaska are deductible for income tax purposes.

Six of the remaining states levy a tax that is very similar to the income tax, but is sufficiently different that it should not be included in this category. Only two states (Washington and Wyoming) do not levy any type of tax that is based primarily on income.

### Alaska Corporate Rate Schedule (AS 43.20.011)

Alaska Taxable Income	Tax	Marginal Rate*
\$ 0 - \$10,000	\$0	1%
\$10,000 - \$20,000	\$100	2%
\$20,000 - \$30,000	\$300	3%
\$30,000 - \$40,000	\$600	4%
\$40,000 - \$50,000	\$1,000	5%
\$50,000 - \$60,000	\$1,500	6%
\$60,000 - \$70,000	\$2,100	7%
\$70,000 - \$80,000	\$2,800	8%
\$80,000 - \$90,000	\$3,600	9%
\$90,000 or More	\$4,500	9.4%

\* The marginal rate is the rate applied to income above the minimum income level set by the schedule. For example, a corporation with an income of \$15,000 would pay \$100, plus 2% of the \$5,000 of income over \$10,000 (\$100) for a total tax bill of \$200.

### **Sales Tax:**

27 of the states levy a sales tax with an average tax rate of 6.16% and a median rate of 6.0%. Alaska does not levy a state sales tax, however some local municipalities can levy sales taxes. The actual rate depends upon the physical location of the mining operation. Local sales tax rates in Alaska vary from 1% to 7% in areas where a sales tax is levied.

Three of the four remaining states levy a tax that is very similar to the sales tax, but is sufficiently different that it should not be included in this category. Only one state, Oregon, does not levy a tax that is based upon sales.

It should be noted that sales taxes would only apply to assets purchased by and for the mine from inside a borough/city that levies a sales tax. Sales of the ore, ore concentrate or refined products from the mine will *typically* not be sold from the mine and therefore would not pay a sales tax. However, locally utilized materials gravel, sand etc., could be subject to such a tax.

**Property Tax:**

27 of the states levy a state property tax. The remaining four states, including Alaska, have property taxes but they are administered on the local level. The actual rate depends upon the physical location of the mining operation and the means of valuation (fractional versus full value) so any comparison of tax rates would be highly questionable. Property tax rates for local governments in Alaska vary from 0.5% in Whittier to 1.9% for the North Slope Borough.

**Resources in Place:**

The value of natural resources in place (reserves) is not part of the valuation for property tax purposes in Alaska. This is also the case for nine of the remaining 27 states where information is available. However there are a wide range of ad valorem valuation methodologies across the country such as income analysis, valuation by gross product or operating status. Under some of these valuation methods, at least some of the value for mineral reserves would be incorporated in the final value. The reports on 10 of the 27 states did not contain references to the inclusion of values for resources in place.

**Royalties:**

Royalties for the extraction of State Owned minerals is addressed only in Alaska. Alaska has a royalty structure based upon 3% of net income, except for coal which is 5% to 12% of gross value depending upon the lease type. Three other states have information related to the income or property tax implications of royalties paid to private entities.

**Mining License Tax:**

Alaska has a Mining License Tax that is based upon Net Income. The tax is progressive from 0% to 7% depending upon the level of Net Income. All new mining operations are exempt from the mining license tax for the first 3-1/2 years.

**Alaska Mining License Tax Rates**

Net Income	Tax
\$0 - \$40,000	\$0
\$40,001 - \$50,000	3% of net income
\$50,001 - \$100,000	\$1,500 + 5% of net income over \$50,000
\$100,001 and more	\$4,000 + 7% of net income over \$100,000

**Severance Tax:**

Alaska levies no severance tax on the State level. Two municipal governments do levy severance taxes; Denali Borough (Coal and Gravel) and Kodiak Island Borough which

taxes the gross production value of severed natural resources at the borough-wide mill levy.

Fourteen of the other 30 States with available data levy various severance taxes that range from a dollar rate per ton to a percentage of "Gross Value", "Sale Price", "Production Value" or some other method. These values are defined in the particular tax law and are not standardized terms.

**Minerals Exploration Incentive Credits:**

The State of Alaska offers a maximum \$20 million dollar credit for the expenses of exploration activities for mineral resources. These tax credits can be applied against future corporate income taxes, Mining License Taxes or state royalty payments.

The expenses applicable to these credits include; geochemical and geophysical surveys, exploration drilling, underground exploration, surface trenching and bulk sampling, aerial photographs, logging, sample analysis, metallurgical work etc. Qualifying expenses must be approved by DNR.

The expenses, once approved, can be expended over a 15 year period. However, the credits are limited to a maximum of 50% of the income, license or royalty taxes/payments in a given year. Since the maximum marginal tax rate for the corporate income tax is 9.4%, this could allow a tax free status for almost \$213 million dollars of net income and/or a reduction in royalties to the State of up to 20 million dollars.

**Commonalities:**

There are very few commonalities between the tax policies of mining operations across the country. Each State has approached the taxation of mines differently due to the myriad of differences in the type and scale of mines present within the states and due to the general tax structure used throughout each economy.

**Basis of Valuation:**

However, it was noted that the Alaskan tax structure has one major commonality. There are three major taxes that mines are subject to on the state level; income taxes, royalties and the Mining License Tax. All three of these taxes, with the exception of coal royalties, are based upon the net income of the mine. Royalties paid to the state and the Mining License Taxes are deductible when calculating net income. Net income also allows a depletion allowance in making this calculation.

Note that by inflating expenses and/or exporting revenue, the tax impacts for all three categories could be drastically minimized. This is not to say or allege that such practices occur or that there is evidence of such. It is only meant to point out that the entire basis of all three tax modes are based upon the result of one accounting calculation.

With the exception of Oregon, the other states utilize tax policies that are based upon values other than net income, or have taxes based upon more than one valuation. For example, Georgia's Corporate "Corporate Net Worth Tax" is based upon a percentage of the net worth of the corporation. Montana's "Metal Mines License Tax" is based upon a

percentage of the gross value of mine production. Wisconsin's "Net Proceeds Occupation Tax on Mining of Metallic Minerals" is based upon the net proceeds of the mine.

**Treatment of the Ore Value:**

As well, with the combination of the major taxes applicable to mines in Alaska, it is difficult to see where the actual value of the ore extracted is exposed to any substantial type of taxation by or payment made to the State. No State property tax is levied and the local property tax is precluded from placing any value on "resources in place". No State sales tax is levied on the sales of ore/ore concentrates or refined products.

The "Minerals Exploration Credit Program" is applicable to any royalties, income or Mining License taxes charged by the State. This program can "write-off" taxes or royalties by up to 20 million dollars over a 15 year period.

The corporate income tax allows the application of a "depletion allowance" as proscribed by the State tax code. This allowance, by the percentage method, allows a producer to reduce Gross Income by 10% for coal mines, and a 15% reduction to Gross Income for metals mines.

The Mining License Tax allows for an exclusion of the tax for the first 3 1/2 years of a new mining operation. This raises the question as to what constitutes a "new mining operation". Is an extension into a new vein of a pre-existing mine a "new mining operation"?

Again, since the royalties, income and Mining License taxes are based upon net income, any costs associated with obtaining the mineral rights are expensed from the income statement prior to the calculation of net income. Indeed it would appear that using the current percentage depletion allowance, the cost of these resources is being expensed at far above the actual cost.

Just as an example, let's imagine a mine that is operating at breakeven. Since net income is zero, there would be no income tax, no mining license tax and no royalty payment to the State for the ore processed by the mine. Yet, at the same time, the mine has extracted a considerable amount of State-owned, non-renewable resources.

**Summation:**

Looking at the current taxation/royalty structure, the intent appears to have been to attract large-scale mining and exploration to develop Alaskan resource deposits. Given the relatively low prices for gold, silver, zinc and lead at the time, it appears that an "incentive-based" structure was written to promote the development of these resources and the requisite infrastructure to profitably extract them.

In the past three years there has been a tremendous increase in the value of precious and base metal prices. The prices of such commodities have double, tripled and in some cases

more than quadrupled during this time. It would appear that the need for such an “incentive-based” structure does not apply to the current market situation.

As well, as is supported by the attached information, there would appear to be a significant difference in treatment between the mining industry and petroleum industries. Since the petroleum industry has become a huge component of the Alaskan economy and the primary source of governmental revenue, the treatment of this industry has been revisited and reviewed, multiple times over the years.

Conversely, the taxation and royalty treatment of the mining industry has changed very little since Statehood. This has created a situation where the public demands upon two industries, both engaged in the for-profit extraction of non-renewable, public resources are treated in substantially different manners.

**Pending Legislation:**

Currently, the legislature is considering HB 156 which addresses many of the issues raised in this report. Currently the bill is in the House Ways and Means Committee. Notable changes in this proposed legislation are:

- increases in tax rates and income levels
- changes the Mining License Tax exemption to a deferral
- removes the deduction of the Mining License Tax from the State Corporate Income Tax
- uses the Net Smelter Return rather than net income for setting royalties
- mandates Cost Depletion rather than Percentage Depletion for calculating net income
- increases in mineral lease rents

While the bill does not address all of the issues presented in this report, it does address many of them. Copies of the bill, sponsor statement, available data and testimony in the past hearings on HB 156 are provided.

**Mining Tax Laws Across the United States**

Source: InfoMine USA

Notes  
 \* L = Local, S = State, B = Both, N = None

STATE	INCOME	INCOME RATES	PROPERTY	PROP L/S/B*	RESERVES	ROYALTIES	SEVERANCE	SEVERANCE RATES	Sig. Other Tax	STATE
ALABAMA	Y	6.5%	YES	B	?	NO	Coal, Iron & Other	Various	No	ALABAMA
ALASKA	Y	1% to 9.4% (Prog)	YES	L	No	YES	Local Only	Denali and Kodiak Only	Mining License Tax	ALASKA
ARIZONA	Y	6.968%	YES	B	Yes	NO	Metals	% of Prod. Value	No	ARIZONA
ARKANSAS	Y	1% TO 6.5% (Prog) plus 3% surcharge	YES	B	If actively mined.	YES	Various	Various	No	ARKANSAS
CALIFORNIA	Y	8.84% with AMT	YES	B	Yes	NO	No	N/A	Numerous Fees	CALIFORNIA
COLORADO	Y	4.63%	YES	B	?	NO	Various	Various	No	COLORADO
GEORGIA	Y	6.00%	YES	B	?	NO	No	N/A	Corporate Net Worth	GEORGIA
IDAHO	Y	7.60%	YES	B	?	YES	No	N/A	Mining License Tax	IDAHO
ILLINOIS	Y	4.80%	YES	B	Yes	NO	No	N/A	Personal Prop. Tax	ILLINOIS
INDIANA	Y	8.50%	YES	B	Yes	NO	No	N/A	No	INDIANA
KENTUCKY	Y	4% TO 6% (Prog) with AMT	YES	B	?	NO	Various	% of Gross Value	No	KENTUCKY
MAINE	Y	3.5% to 8.93% (Prog)	YES	B	No	NO	No	N/A	Mining Excise Tax	MAINE
MICHIGAN	Y	See Single Business Tax	YES	B	?	NO	No	N/A	Single Bus & Low Grd Ore	MICHIGAN
MINNESOTA	Y	See Occupation Tax	YES	B	Iron Ore	NO	Yes	Taconite	Several	MINNESOTA
MISSOURI	Y	6.25%	YES	B	?	NO	No	N/A	Corp. Franchise Tax	MISSOURI
MONTANA	Y	6.75%	YES	B	No	NO	Various	Various	Coal Gross & Metal Mines	MONTANA
NEVADA	N	See Proceeds of Minerals Tax	YES	B	No	YES	No	N/A	Proceeds of Minerals	NEVADA
NEW MEXICO	Y	4.8% TO 7.6%	YES	B	No	NO	Yes	Various	Gross Rec. & Resource Excise	NEW MEXICO
NORTH CAROLINA	Y	6.90%	YES	B	Yes	NO	No	N/A	Franchise & Piped Nat Gas	NORTH CAROLINA
NORTH DAKOTA	Y	2.6% TO 7.0% (Prog)	YES	B	Yes	NO	Coal	\$0.395 per ton	Coal Conv. Facility Tax	NORTH DAKOTA
OREGON	Y	6.60%	YES	B	No	NO	No	N/A	No	OREGON
PENNSYLVANIA	Y	9.99%	YES	B	?	NO	No	N/A	Cap. Stock & Franchise Tax	PENNSYLVANIA
SOUTH CAROLINA	Y	5.00%	YES	B	No	NO	No	N/A	Corp. License Tax	SOUTH CAROLINA
SOUTH DAKOTA	N	See Severance Taxes	YES	L	Yes	NO	Various	Various	Conservation Tax	SOUTH DAKOTA
TENNESSEE	Y	See Excise & Franchise Tax	YES	B	No	NO	Various	Various	Corp Excise & Corp Franch	TENNESSEE
UTAH	Y	See Corp Franchise Tax	YES	B	No	NO	Various	% of Proceeds	Corp Franchise Tax	UTAH
VIRGINIA	Y	6.00%	YES	L	?	NO	No	N/A	Reclamation Tax	VIRGINIA
WASHINGTON	N	N/A	YES	B	Yes	NO	No	N/A	Business & Occup. Tax	WASHINGTON
WEST VIRGINIA	Y	8.75%	YES	L	?	NO	Various	% of Gross Value	Business Franchise Tax	WEST VIRGINIA
WISCONSIN	Y	7.90%	YES	B	Yes	NO	No	N/A	Occ. Tax and Net Proc. Metal	WISCONSIN
WYOMING	N	N/A	YES	L	No	NO	Various	Various		WYOMING

Alaskan Mining Taxation Analysis and Data

## MINING COMPANY TAXATION IN ALASKA

INCOME TAXES	→	1% to 9.4% Progressive Rates
EXPLORATION INCENTIVE CREDIT	→	Allows up to \$20 Million in credits for each mine developed.
SALES TAXES	→	0% to 7% depending upon location, sales of mine products are usually not taxable.
PROPERTY TAXES	→	Subject to same property taxes as are other properties in the same Borough/City. Ore Reserves are not assessable.
ROYALTIES	→	3% of Net Income, except coal which is more, 5% to 12% of Gross Value.
MINING LICENSE TAX	→	0% to 7% of Net Income Progressive Rates

Table 24. Revenues paid to the state of Alaska and municipalities by Alaska's mineral Industry, 1999 - 2006

ITEM	2000	2001	2002	2003	2004	SOURCE DATA	
						2005	2006
State mineral rents and royalties <sup>a</sup>							
State claim rentals	\$1,975,376	\$1,736,522	\$1,908,228	\$2,129,440	\$2,657,939	\$3,308,752	\$3,460,803
Production royalties	\$6,175	\$1,933	\$23,447	\$270,734	\$162,637	\$124,338	\$171,220
Annual labor	\$79,907	\$103,274	\$124,741	\$224,519	\$226,191	\$332,439	\$155,007
<b>Subtotal</b>	<b>\$2,061,458</b>	<b>\$1,841,729</b>	<b>\$2,056,416</b>	<b>\$2,624,693</b>	<b>\$3,046,767</b>	<b>\$3,765,529</b>	<b>\$3,787,030</b>
State coal rents and royalties							
Rents	\$233,249	\$198,545	\$256,927	\$237,912	\$236,532	\$257,112	\$337,764
Royalties	\$1,482,803	\$1,168,043	\$860,633	\$1,064,208	\$1,239,257	\$1,476,250	\$1,473,948
Bonus	\$372,000	\$0	\$0	\$0	\$0	\$129,880	\$10
Offshore Prospecting Permits	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Subtotal</b>	<b>\$2,088,052</b>	<b>\$1,366,588</b>	<b>\$1,117,560</b>	<b>\$1,302,120</b>	<b>\$1,475,789</b>	<b>\$1,863,242</b>	<b>\$1,811,722</b>
State material Sales							
Mental Health	\$33,928	\$118,545	\$151,993	\$134,512	\$76,267	\$129,409	\$89,634
Division of Land	\$449,343	\$1,515,769	\$1,595,708	\$542,311	\$467,360	\$944,905	\$1,582,769
SPCO	\$41,395	\$12,894	\$24,725	\$208,309	\$112,047	\$46,877	\$118,904
<b>Subtotal</b>	<b>\$524,666</b>	<b>\$1,647,208</b>	<b>\$1,772,426</b>	<b>\$885,132</b>	<b>\$655,674</b>	<b>\$1,121,191</b>	<b>\$1,791,307</b>
State mining miscellaneous fees							
Filing fees	\$5,400	\$3,000	\$3,000	\$4,700	\$1,300	\$8,465	\$965
Penalty fees	\$0	\$0	\$450	\$0	\$26,110	\$20,280	\$46,249
Explore incentive app filing fee	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Bond pool payment	\$50,100	\$53,866	\$45,208	\$44,878	\$35,426	\$32,331	\$36,721
Surface coal mining app fee	\$1,830	\$3,700	\$2,530	\$1,005	\$3,116	\$3,150	\$10,897
APMA mining fees	\$18,550	\$13,175	\$11,975	\$15,113	\$14,550	\$17,131	\$17,475
<b>Subtotal</b>	<b>\$75,880</b>	<b>\$73,741</b>	<b>\$63,163</b>	<b>\$65,696</b>	<b>\$80,502</b>	<b>\$81,357</b>	<b>\$112,307</b>
<b>Total Rents, Royalties &amp; Fees</b>	<b>\$4,750,056</b>	<b>\$4,929,266</b>	<b>\$5,009,565</b>	<b>\$4,877,641</b>	<b>\$5,258,732</b>	<b>\$6,831,319</b>	<b>\$7,502,366</b>
State corporate income tax <sup>b</sup>	\$285,815	\$50,266	-\$221,936	\$406,064	\$2,104,144	\$23,641,883	\$71,299,684
Mining License Tax <sup>c-e</sup>	\$1,857,134	\$466,430	\$351,387	\$3,224,684	\$10,317,238	\$18,637,996	\$79,141,526
State Total	\$6,893,005	\$5,445,962	\$5,139,016	\$8,508,389	\$17,680,114	\$49,111,198	\$157,943,576
Payments to Municipalities	\$9,196,500	\$9,763,220	\$9,703,208	\$10,510,048	\$10,999,663	\$11,975,892	\$14,388,329
<b>TOTAL</b>	<b>\$16,089,505</b>	<b>\$15,209,182</b>	<b>\$14,842,224</b>	<b>\$19,018,437</b>	<b>\$28,679,777</b>	<b>\$61,087,090</b>	<b>\$172,331,905</b>

Notes:

<sup>a</sup>Includes upland lease and offshore lease rentals.

<sup>b</sup>Preliminary data for 2006.

▶ only subchapter C corporations pay income tax.

▶ this report may not reflect 100% of the returns received in a year.

▶ data from 2001 through 2006 has been updated to reflect revenue to the state for the succeeding fiscal year; ex.: FY 07 receipts are shown in calendar year 2006.

▶ In FY2003 (calendar year 2002) more refunds were given than revenues received by the state.

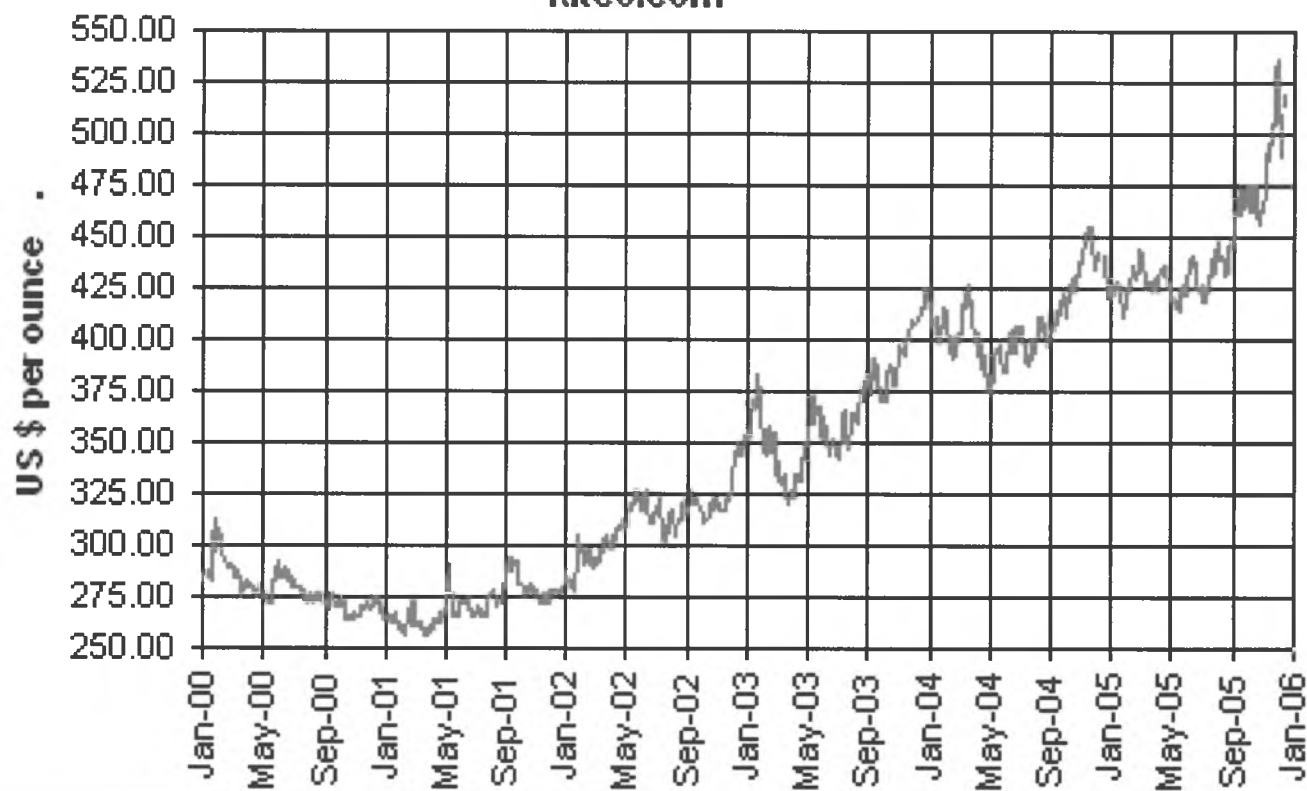
<sup>c</sup>Includes metals, coal and material.

<sup>d</sup>Mining license tax has been adjusted to reflect actual receipts for the succeeding fiscal year for the period 2001 to 2006; see note for income tax above.

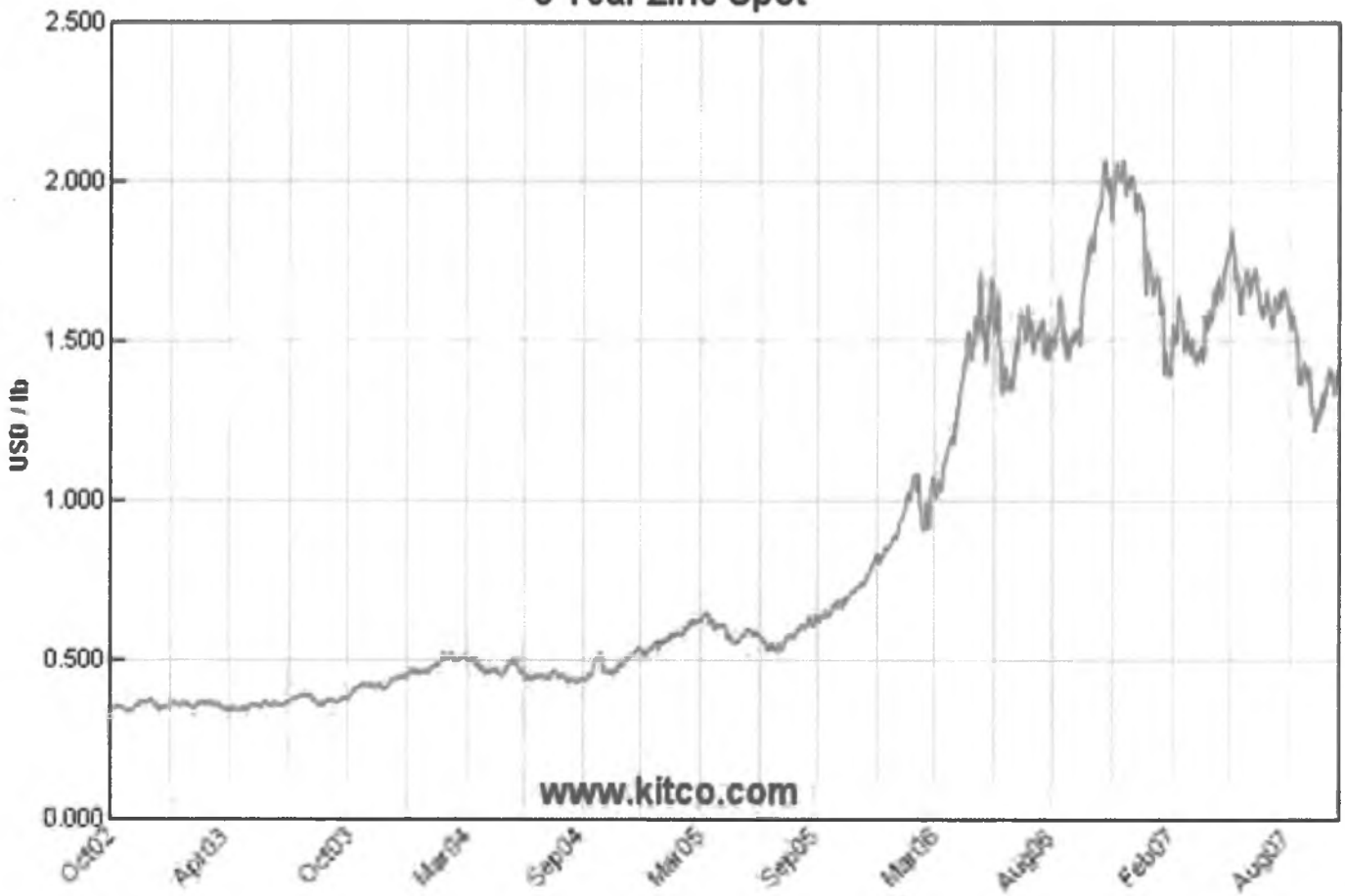
<sup>e</sup>data does not match earlier reports.

# GOLD - London PM Fix 2000 - 2005

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### 5 Year Zinc Spot

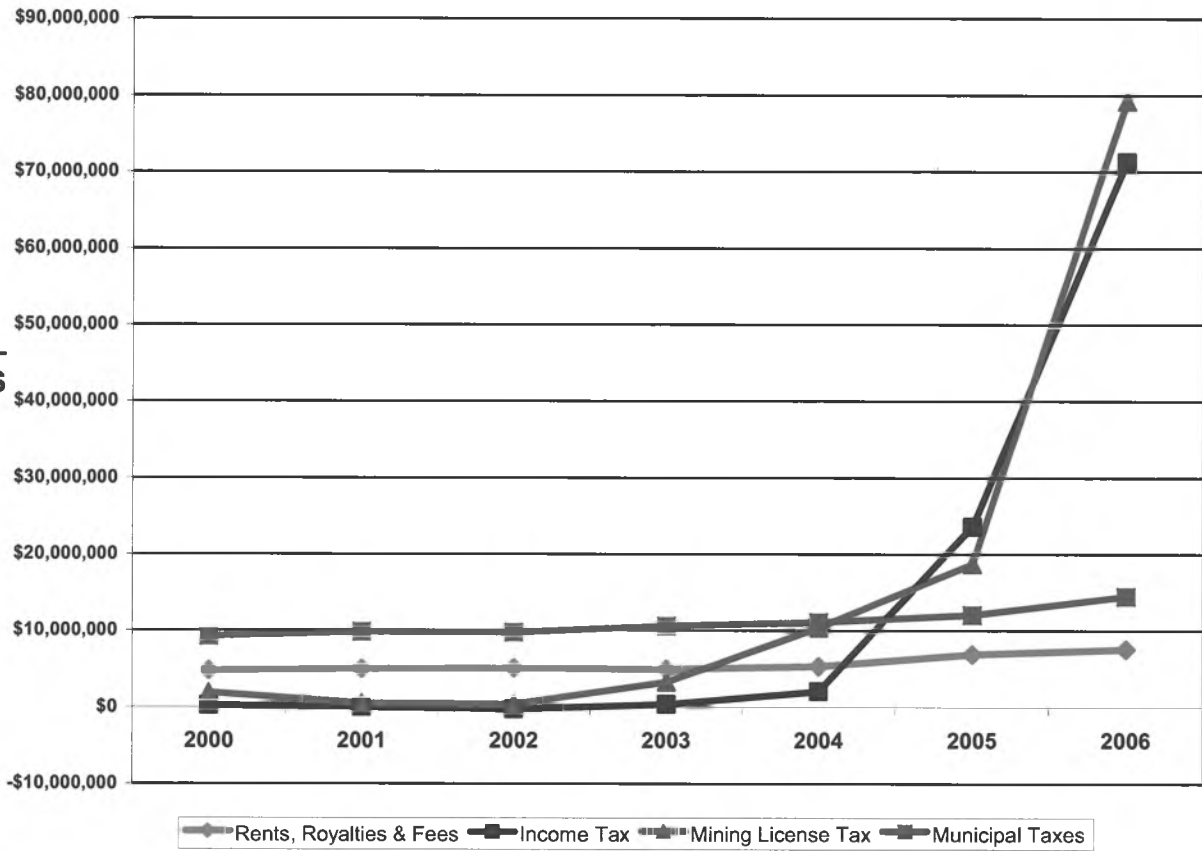


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## TOTAL STATE & MUNICIPAL REVENUES 2000 TO 2006

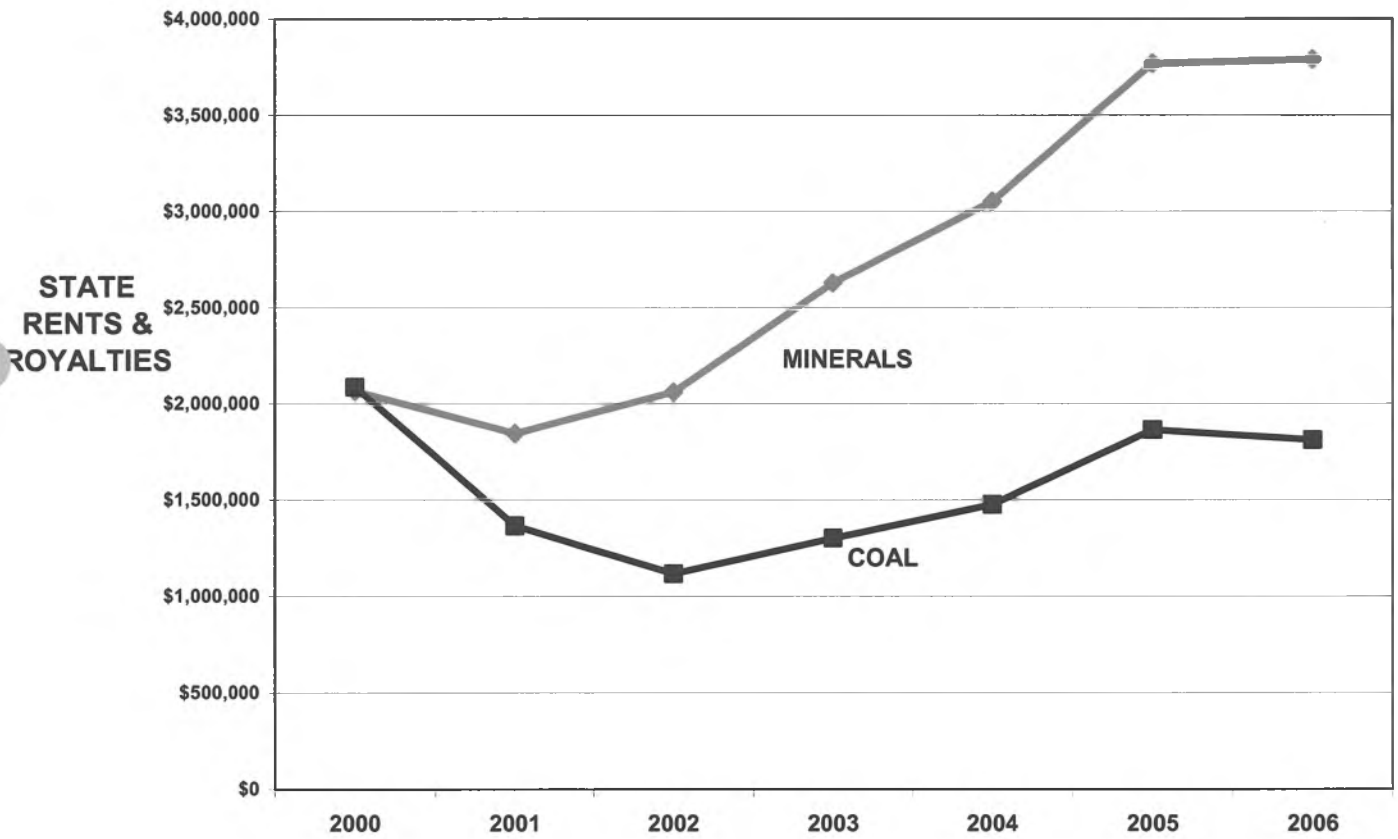
Source: Office of Economic Development

STATE &  
MUNICIPAL  
REVENUES



## TOTAL STATE RENT & ROYALTY REVENUES BY RESOURCE TYPE

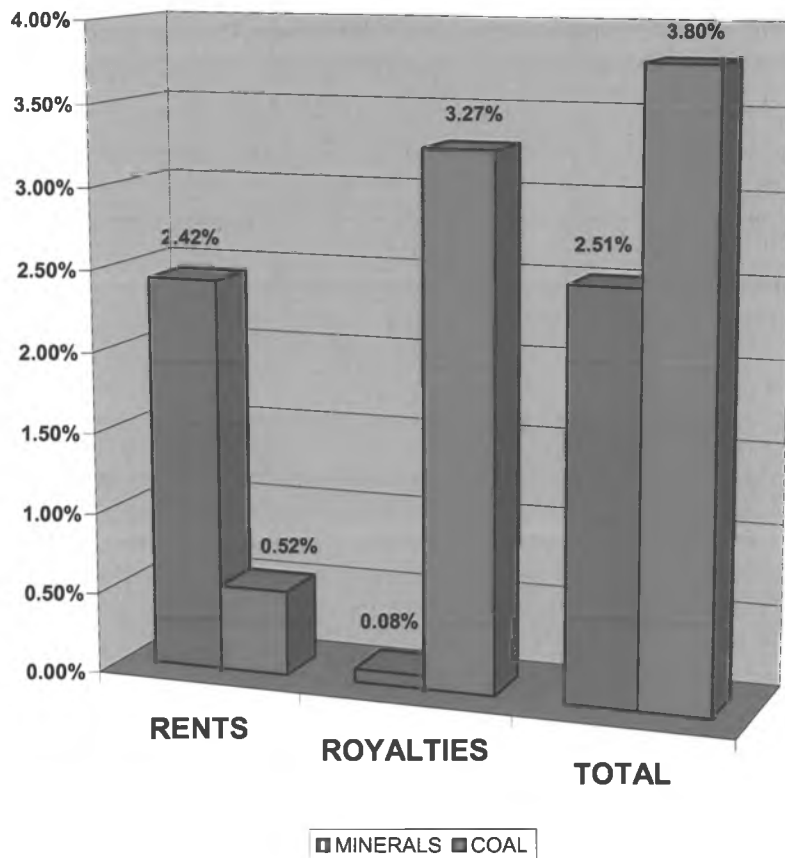
Source: Office of Economic Development



## RENTS & ROYALTIES AS A PERCENT OF PRODUCTION VALUE 2005

Source: Alaska's Mineral Industry 2005 - Special Report 60 & Office of Econ. Development

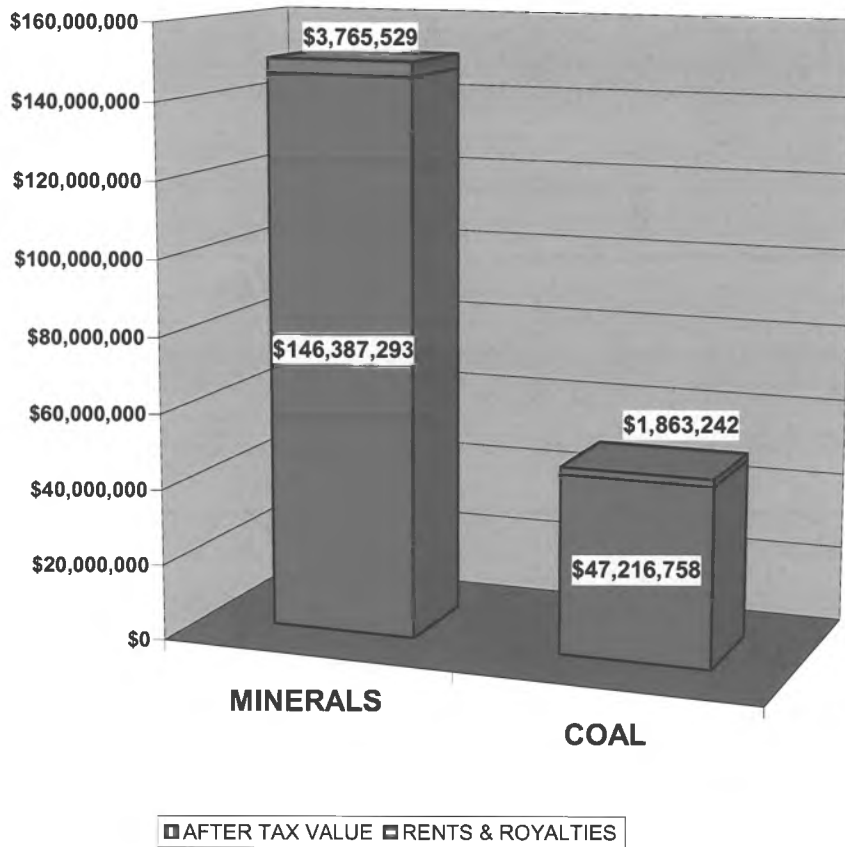
PERCENT OF  
PRODUCTION  
VALUE



This graphic compares the percentage of estimated production value for coal and minerals that is paid to the State of Alaska as either Rents or Royalties. This applies only to the Fort Knox mine and an apportioned value for all placer mines for the mineral data.

## RENTS, ROYALTIES AND AFTER TAX VALUE 2005

Source: Alaska's Mineral Industry 2005 - Special Report 60 & Office of Econ. Development

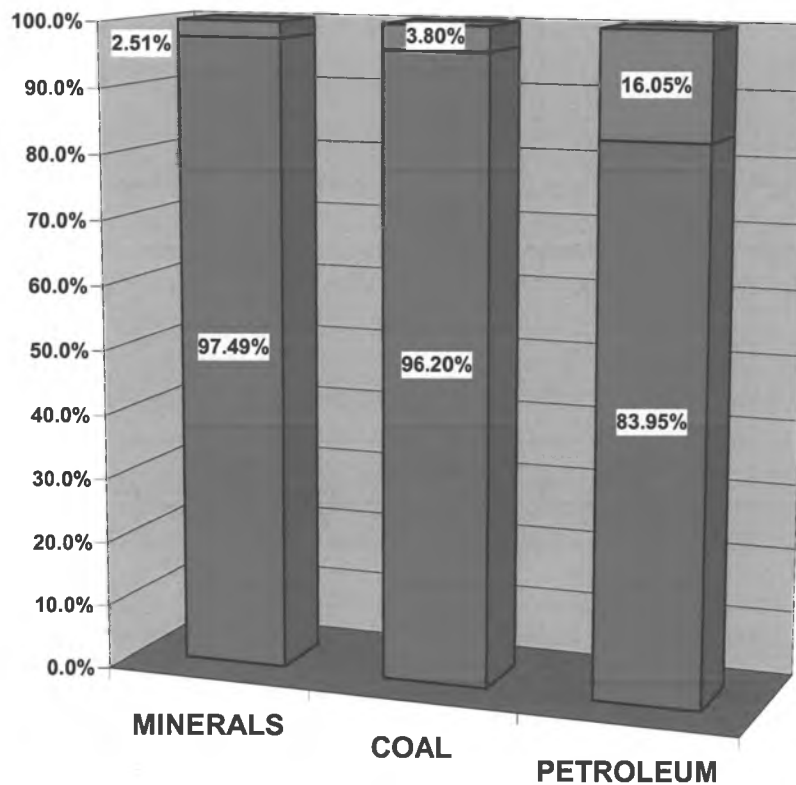


This graphic compares the estimated production value of coal and minerals that is retained by the State of Alaska as either Rents or Royalties and that portion retained by the producer. This applies only to the Fort Knox mine and an apportioned value of all placer mines for the mineral data.

## RENTS & ROYALTIES AS A PERCENT OF PRODUCTION VALUE 2005

Source: Alaska's Mineral Industry 2005 - Special Report 60, Office of Econ. Development & Dept. of Revenue Estimates

PERCENT OF PRODUCTION VALUE

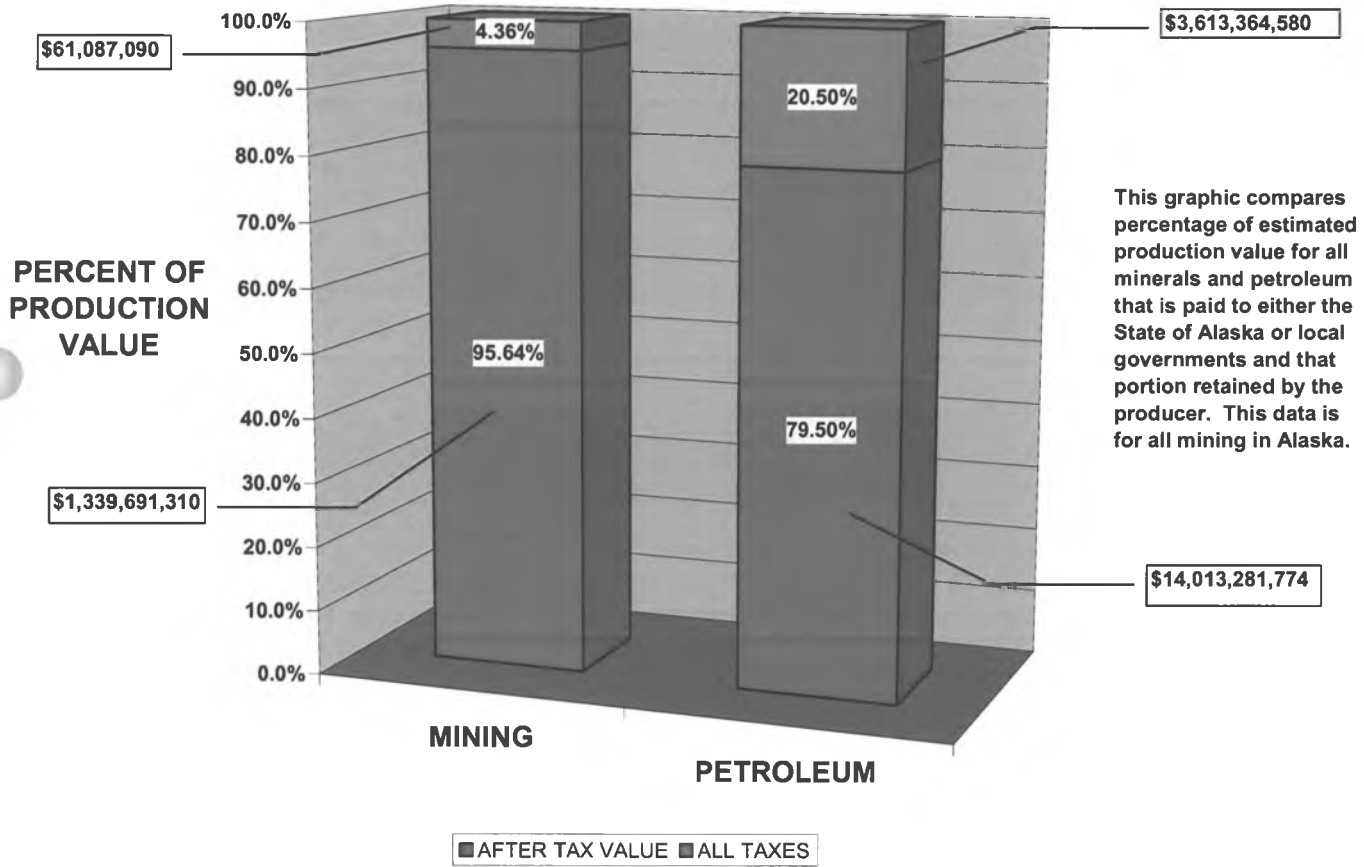


This graphic compares the percentage of estimated production value for coal, minerals and petroleum that is paid to the State of Alaska as either Rents or Royalties and that portion retained by the producer. This applies only to the Fort Knox mine and apportioned value for all placer mines for the minerals data.

■ AFTER TAX VALUE ■ RENTS & ROYALTIES

## TOTAL TAXES AS A PERCENT OF PRODUCTION VALUE 2005

Source: Alaska's Mineral Industry 2005 - Special Report 60, Office of Econ. Development & Dept. of Revenue Estimates



**Title: Current Mining License Tax vs HB 58, FY 2006 - 2011**

**Preparer:** Tim Harper, Economist, 269-1020

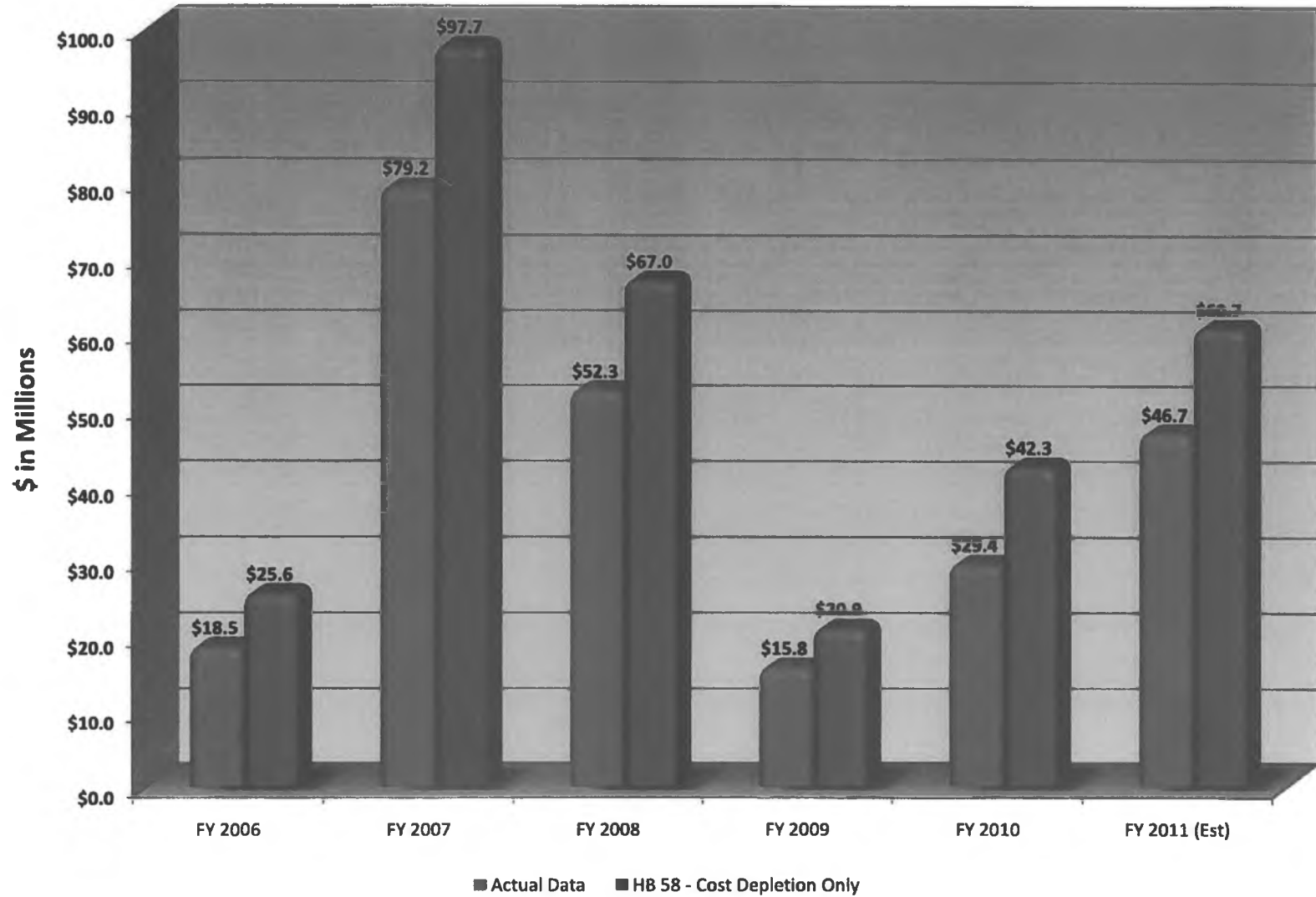
**Purpose:** To provide a revenue analysis of current Mining License Tax Law verses HB 58.

**Data Source:** Department of Revenue Tax Accounting System.

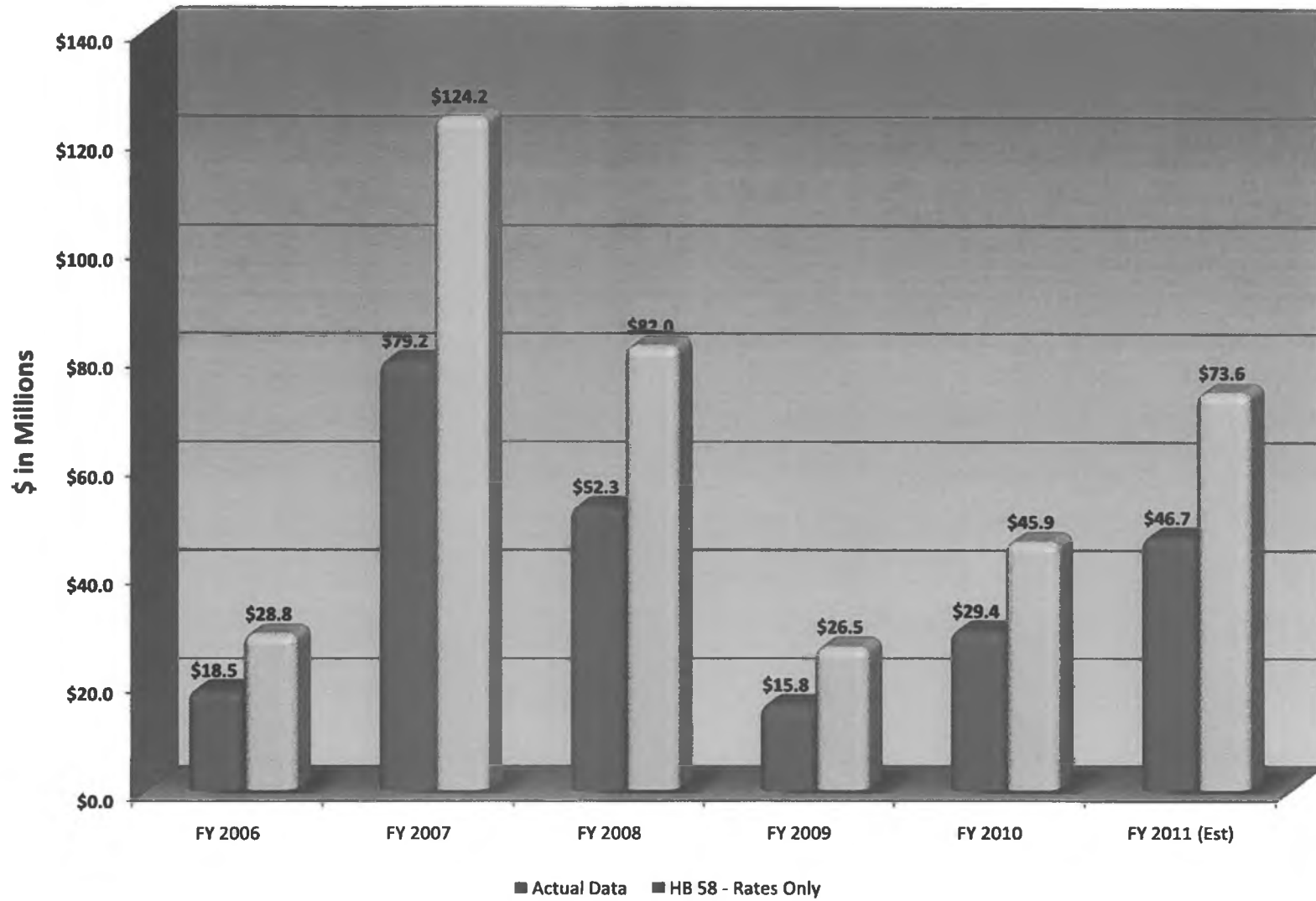
**Disclaimer:** The Department of Revenue is in the process of reviewing and updating the data on which this analysis is based. As a result, future analysis could have different results.

The attached graphs illustrate what the mining tax would have been if changes proposed by HB 58 had been in effect during fiscal years 2006 through 2010 and projected for FY 2011 provided, however, that all other variables remained the same during those years. It is possible that, if changes to the mining license tax structure had been adopted for those years, those changes could have affected the amount of mineral produced or whether a specific mine was able to operate at all.

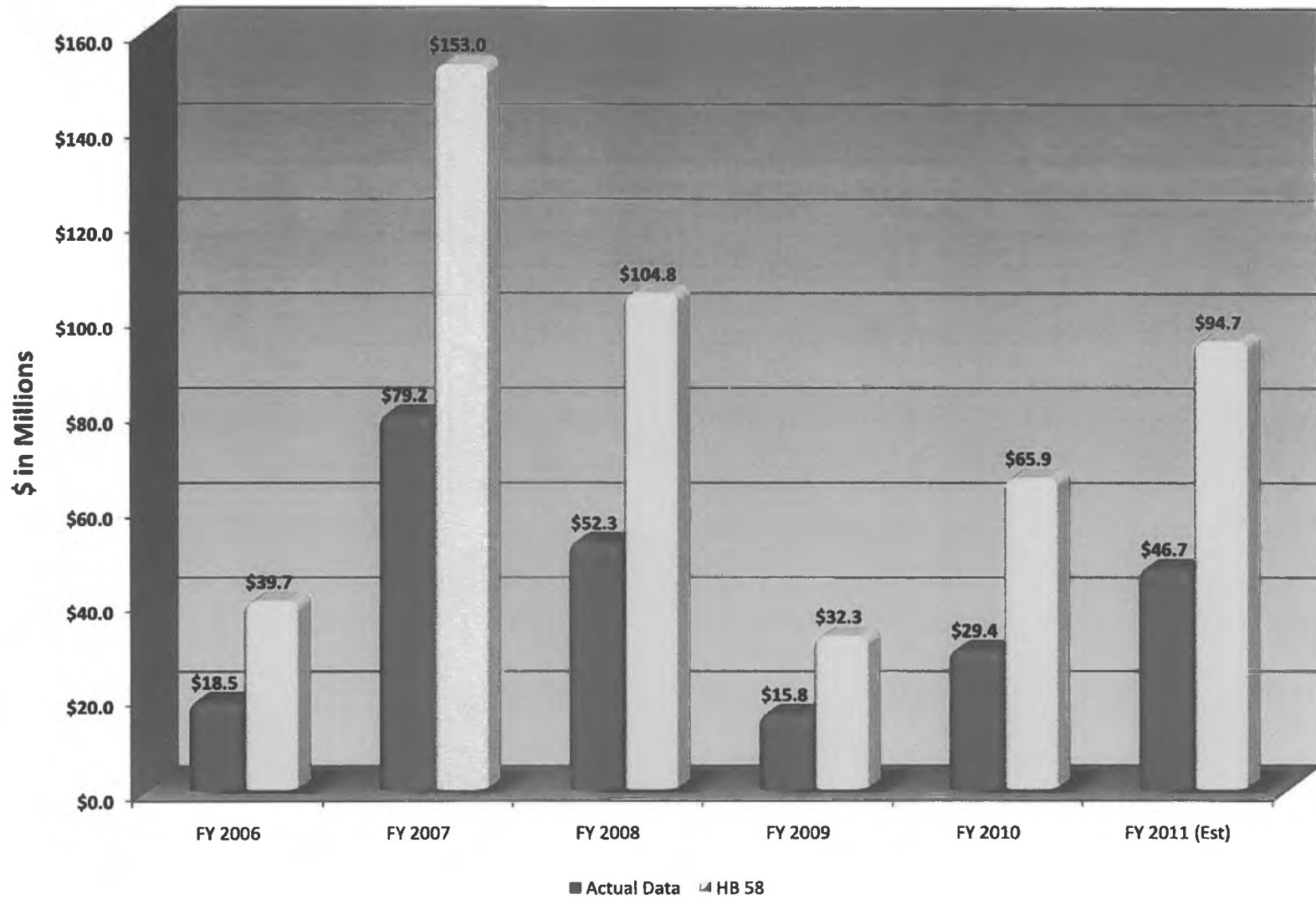
### Mining License Tax Revenues - Effect of Cost Depletion Only



### Mining License Tax Revenues - Effect of Tax Rate Change Only



### Mining License Tax Revenues - Total Revenue Effect of HB 58



Alaska Department of Revenue  
 Current Revenues vs. HB 58 Revenues  
 FY 2006 Through FY 2010 Actuals and Estimated FY 2011

Aggregate Effect of HB 58 on Mining License Tax Revenues							
	Actual Data	HB 58 - Cost Depletion Only	Difference	HB 58 - Rates Only	Difference	HB 58	Difference
FY 2006	18.5	25.6	7.1	28.8	10.4	39.7	21.3
FY 2007	79.2	97.7	18.5	124.2	45.1	153.0	73.9
FY 2008	52.3	67.0	14.7	82.0	29.7	104.8	52.5
FY 2009	15.8	20.9	5.1	26.5	10.7	32.3	16.5
FY 2010	29.4	42.3	12.9	45.9	16.5	65.9	36.4
FY 2011 (Est)	46.7	60.7	14.0	73.6	26.9	94.7	48.0

\*Analysis based upon actual Mining License Tax returns.



# LEGISLATIVE RESEARCH SERVICES

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Division of Legal and Research Services  
State Capitol, Juneau, AK 99801

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## Memorandum

TO: Representative Paul Seaton  
FROM: Susan Haymes, Legislative Analyst  
DATE: February 3, 2011  
RE: Mineral Extraction in Alaska, Government Revenue and Resource Value, 2001-2009  
*LRS Report 11.112*

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***You asked for a comparison of government revenue collected from the mining industry and the value of all minerals extracted for the years 2001 through 2009.<sup>1</sup>***

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According to *Alaska's Mineral Industry 2009 – Special Report 64 (2009 Mineral Report)*, the mining industry pays revenues to the state through a number of mechanisms including state claim rentals, production royalties, corporate income taxes, mining license taxes, coal land rentals, coal royalties, sales of material (rock, sand, and gravel) from state and Mental Health Land Trust and State Pipeline Coordinator's Office managed lands, miscellaneous fees, and state fuel taxes. The mining industry also pays revenues to municipalities in the form of property taxes, payments in lieu of taxes (PILT), severance taxes, and sales taxes.<sup>2</sup> Alaska's mining industry tax structure has remained essentially the same since statehood. In 1989, Alaska lawmakers established the mineral production royalty, codified at AS 38.04.212, which is three percent of the net income on minerals produced on state-owned land.

The *2009 Mineral Report* provides data on the *production, or resource, value* for each mineral extracted, which is based on the average market price of the resource, unless other values are provided by the operator.<sup>3</sup> Minerals include metals (gold, silver, lead, and zinc), sand, gravel and rock, and coal and peat. Metals accounted for the vast majority of production value ranging from a low of about 81 percent in 2002, to 89 percent in 2003, to almost 96 percent in 2007. During 2008 and 2009, metals accounted for about 94 percent of the total production value, coal and peat about 2.8 percent, and rock, sand gravel about 2.8 percent.<sup>4</sup> Generally, metal values are calculated from weekly averages on the London Metal Exchange.<sup>5</sup> Mineral *production value* peaked in 2007 at almost \$3.5 billion due to increased production volume and strong metal prices. In 2008 and 2009, mineral *production value* decreased to about \$2.5 billion each year, due to the decline in some metal prices.

In comparing government revenue and *resource value*, we note that not all sources of government revenue are directly related to the *resource value* of the minerals extracted. For example, the state charges an annual rental fee for state mining claims, upland mining leases, and offshore mining leases based on the number of years since the claim or lease was first located and the number of acres.<sup>6</sup> In addition, the state sells rock, sand and gravel from state lands at a prescribed rate.<sup>7</sup> The state also collects miscellaneous fees such as filing fees, exploration incentive application fees, bond pool payments, and

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<sup>1</sup> This report updates Legislative Research Report 08.080, "Mineral Extraction in Alaska, Government Revenue and Resource Value, 2001-2006," December 21, 2007.

<sup>2</sup> *Alaska's Mineral Industry 2009 – Special Report 64*, Department of Natural Resource's (DNR) Division of Geological & Geophysical Surveys in cooperation with the Division of Economic Development, Table 3, p. 6. The 2009 Mineral Report can be accessed at <http://www.dggs.dnr.state.ak.us/pubs/pubs?reqtype=citation&ID=21881>.

<sup>3</sup> The *production value* does not take into account mining, shipping, smelting and other costs incurred by the producer, (*2009 Mineral Report*, Table 12, p. 28). For purposes of this report, *production value* and *resource value* have the same meaning.

<sup>4</sup> *2003-2009 Mineral Reports*.

<sup>5</sup> The Division of Geological & Geophysical Surveys (DGGS) also calculates the *total value* of the mineral industry each year. The *total value* is determined by combining exploration and development expenditures with production value. A table showing the total value of the mineral industry in Alaska from 1981 through 2009 can be found in the *2009 Mineral Report*, Table 1, p.3.

<sup>6</sup> Annual rental fees increased in 2009 to match the changes in the Consumer Price Index (CPI) for Anchorage as compiled by the Department of Labor, AS 38.05.211. Current fees are codified in 11 AAC 86.215.

<sup>7</sup> The state's lands involved include those managed by DNR's Division of Land, the Mental Health Land Trust, and the State Pipeline Coordinator's Office (SPCO).

Annual Placer Mining application fees. Additionally, the Alaska Industrial Development Export Authority (AIDEA) collects revenue from the mineral industry for the use of state-owned facilities.<sup>8</sup> Likewise, not all revenues collected by municipalities are related to *production value*. We note there may be some tangential connection in the sense that as the value of the mineral resource increases, more state-owned buildings and lands may be used, and more permits and claims may be filed.

We identified three main government revenue sources that are related to the *production value*:

- Mineral production royalties on all net income from product sales from State-owned lands;
- Mining licensing tax on net income from product sales from all lands in the state; and
- State corporate income tax on net income.

For these sources, three major factors influence how much revenue is collected from the mining industry: the amount of minerals extracted, the market value of each mineral, and each mine's operating costs. The mine's operating costs are a factor because the state uses a company's *net* income as the basis for determining the mineral production royalty, the mining licensing tax, and corporate income tax.<sup>9</sup>

Generally, the correlation between *production value* and government revenues is positive. In other words, as the mineral value increases, so does government revenue. Nonetheless, there are some exceptions. For example, at almost \$3.5 billion, mineral production value in 2007 eclipsed that in all other years, while government revenue decreased by almost \$30 million from the previous year. According to the *2007 Minerals Report*, government revenue was lower due to the increased operating costs or lower net income claimed by mining companies.<sup>10</sup> Similarly, while *production value* remained relatively high in 2008, government revenue declined significantly. The *2008 Minerals Report* attributes the decrease to lower net incomes in the mining industry and decreasing property values.<sup>11</sup> It would seem then that the primary variable between mineral value and associated government revenue appears to be the mine's operating costs.

We note that 2009 corporate income tax revenue data were not available at the time the *2009 Mineral Report* was published. The Department of Revenue's (DOR) Tax Division provided the 2009 data, which we have incorporated into the 2009 government revenue amount.<sup>12</sup>

In Table 1 we show the available government revenue, *resource (production) value*, and government revenue as a percentage of *resource value* for the 2001-2009 time period. As noted previously, government revenue includes state and municipal taxes, fees, and royalties collected from the mining industry as reported in the *Alaska Industry Minerals Reports*.<sup>13</sup> As with *production value*, the revenue from metals accounts for the majority of government revenue, while revenue from coal rents

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<sup>8</sup> In 2008, DGGs began including the amount of funds paid to AIDEA as a component of government revenue received from the mining industry. The government revenue data used for this report includes the AIDEA funds as they projected back to 2003.

<sup>9</sup> Net income is calculated by taking a company's total revenue less the deductions allowed for the costs of doing business such as depreciation, operating expenses, losses sustained, and other expenses, AS 43.65.060(3). Mining operating costs are not available, but would affect the amount of revenue collected from these sources.

<sup>10</sup> *Alaska's Mineral Industry Report 2007 – Special Report 62*, p. 5-6. The 2007 report can be accessed at <http://www.dggs.dnr.state.ak.us/pubs/id/17841>.

<sup>11</sup> *Alaska's Mineral Industry Report 2008 – Special Report 63*, p. 5. The 2008 report can be accessed at <http://www.dggs.dnr.state.ak.us/pubs/id/20061>. According to the Department of Revenue's *Fall 2010 Revenue Sources Book*, revenue from the mining license tax is projected to increase in 2011, based on forecasts of higher profits at Alaska's mines and new mines entering production.

<sup>12</sup> According to DOR, the refunds paid to companies classified as mining operations exceeded payments for the year. The amount reported for 2009 is (\$2,558,970), meaning the state refunded \$2,558,970 more than it collected. Johanna Bales, deputy director, DOR's Tax Division, cautions that the corporate income tax data provided by DOR do not present an accurate reflection of industry activities conducted in Alaska. The data reflect the primary operations of the parent corporation, which are not necessarily its primary Alaska operations. Nor do the data necessarily reflect the industry in which each subsidiary of the parent company participates. Ms. Bales can be reached at 907.269.6620.

<sup>13</sup> To be consistent with the information presented in the prior report, we included all state and municipal revenue collected from the mining industry.

and royalties, as well as from sales of sand, rock and gravel accounted for less than nine percent of government revenue in 2009, less than two percent in 2006, and less than five percent in 2004.<sup>14</sup>

**Table 1: Mineral Extraction in Alaska: Government Revenue as a Percentage of Resource Value, 2001-2009**

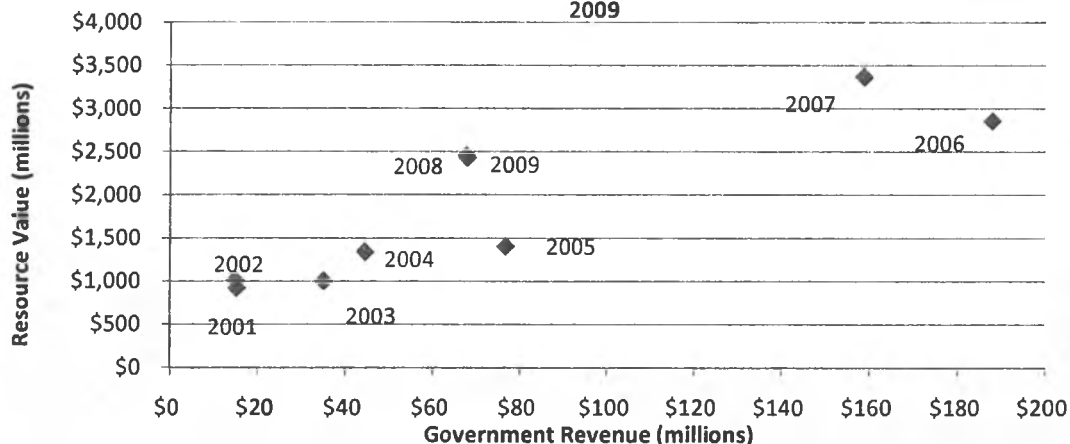
Year	Government Revenue	Resource Value	Percentage
2001	\$ 15,209,182	\$ 919,308,000	1.65%
2002	\$ 14,842,224	\$ 1,012,809,000	1.47%
2003	\$ 35,105,437	\$ 1,000,662,000	3.51%
2004	\$ 44,409,777	\$ 1,338,666,982	3.32%
2005	\$ 76,694,090	\$ 1,401,608,000	5.47%
2006	\$ 187,807,905	\$ 2,858,233,467	6.57%
2007	\$ 158,620,579	\$ 3,367,028,708	4.71%
2008	\$ 67,936,957	\$ 2,427,121,820	2.80%
2009	\$ 67,675,301	\$ 2,455,552,269	2.76%

**Notes:** *Government Revenue* includes state and municipal taxes, fees, and royalties collected from the mining industry. Metals account for the majority of government revenue (ranging from 90-98 percent). All revenue data are reported on a calendar year basis except corporate income and mining license taxes, which are reported using the succeeding fiscal year as follows: FY04 are shown in CY03. The Department of Revenue cautions that because corporate income tax revenue reflects parent corporation activity, the data provided may not accurately reflect mining activities in Alaska. *Resource value* is calculated from average mineral prices and estimates of total minerals extracted. Metals account for the vast amount of resource value (at least 94 percent in recent years). The mining industry tax structure remained constant during this period. **SOURCES:** Alaska's Mineral Industry 2003-2009--Special Reports 58--64, respectively; Johanna Bales, deputy director, Tax Division. DOR. 907.269.6620.

On the following page, we present the available data on government revenue and *resource (production) value* in Figure 1. Figure 2 shows government revenue as a percentage of resource value.

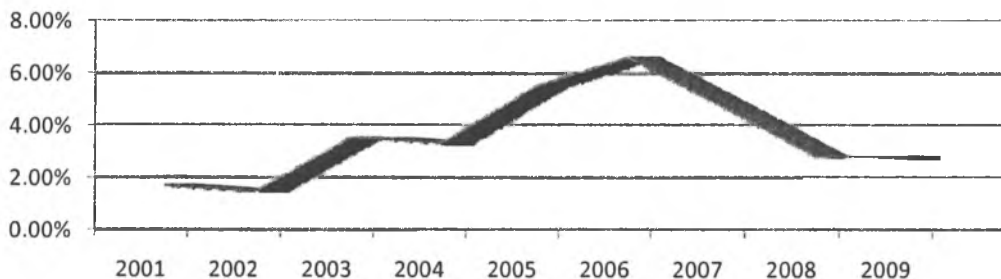
<sup>14</sup> 2009 Minerals Report, Table 3, p.6.

**Figure 1: Mineral Extraction in Alaska, Government Revenue and Resource Value, 2001-2009**



**NOTES:** Government revenue includes state and municipal taxes, fees and royalties collected from the mining industry. Metals account for the majority of government revenue (ranging from 90-98 percent). All revenue data are reported on a calendar year basis except corporate income and mining license taxes, which are reported using the succeeding fiscal year as follows: FY04 are shown in CY03. The Department of Revenue (DOR) cautions that because corporate income revenue reflects the activities of the parent corporation, the data provided may not accurately reflect mining activities in Alaska. Resource value is calculated from average mineral prices and estimates of total minerals extracted. Metals account for the vast amount of resource value (at least 94 percent in recent years). The mining industry tax structure remained constant during this time. **SOURCES:** Alaska's Mineral Industry 2003-2009, Special Reports 58-64, respectively; Johanna Bales, deputy director, Tax Division, DOR, 907.269.6620.

**Figure 2: Mineral Extraction in Alaska, Government Revenue as a Percentage of Resource Value, 2001-2009**



**NOTES:** Government Revenue includes state and municipal taxes, fees and royalties collected from the mining industry. Metals account for the majority of government revenue (ranging from 90-98 percent). All revenue data are reported on a calendar year basis except corporate income and mining license taxes, which are reported using the succeeding fiscal year as follows: FY04 are shown in CY03. The Department of Revenue (DOR) cautions that because the corporate income revenue reflects parent corporation activity, the data provided may not accurately reflect mining activities in Alaska. Resource Value is calculated from average mineral prices and estimates of total minerals extracted. Metals account for the vast amount of resource value (at least 94 percent in recent years). The mining industry tax structure remained constant during this period. **SOURCES:** Alaska's Mineral Industry 2003-2009--Special Reports 58-64, respectively; Johanna Bales, deputy director, Tax Division, DOR, 907.269.6620.

We hope this is helpful. If you have questions or need additional information, please let us know.



# ALASKA MINERS ASSOCIATION, INC.

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April 11, 2011

Honorable Eric Feige  
Honorable Paul Seaton  
Co-Chairs, House Resources Committee  
Capitol Building  
Juneau, AK 99811

RE: House Bill 58, Mining Taxes and Royalties

Dear Representatives Feige and Seaton,

The Alaska Miners Association opposes House Bill 58 which would make numerous changes to the taxes and royalties paid by the mining industry. This bill proposes replacing the current effective tax and royalty structure with a regressive structure that would adversely impact job creation and community stability and sustainability, especially in rural Alaska.

The principles and approach embodied in the current tax structure, a Mining License Tax, was first established by the Territorial Legislature in 1913 and subsequently added to State law. This type of tax is charged only against mining and not against any other natural resource produced in Alaska. This tax is in addition to corporate income tax. Companies have invested for more than two decades based on the current tax structure. To now change that structure would clearly be a case of "bait and switch."

In 1989 the Alaska State Legislature enacted a requirement that claim holders pay a rent to maintain their claims. This rent increases over time due to a provision whereby the amount is reevaluated periodically and is then increased based on the consumer price index. For a mining claim that has been in place for 10 years or more, the cost has now escalated to \$1.75/acre [one acre is 208 ft by 208 ft]. The Legislature also enacted a requirement that production occurring on State-owned lands must pay a 3% net royalty.

Today there are only six large mines operating in all of Alaska. What is needed is more mines, not more taxes on the mines that are in operation.

Sincerely,

Steven C. Borell, P.E.  
Executive Director

Cc: Resources Committee Members