

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 888

January 23, 1992  
sec.txt/Susie

SUBJECT; CSSB 329 (STA): PENSION FUND INVESTMENT LEGISLATION

TO; Senator Pat Pourchot

FROM; Susan Barnett, Staff

This legislation establishes a Board of Trustees to manage and invest the following funds: PERS, TRS, Judicial, Military, SBS and Deferred Compensation.

TITLE; An Act establishing the Alaska State Pension Investment Board, hereinafter referred to as the Investment Board; relating to management and investment of state pension funds and other state funds; and providing for an effective date.

SECTION 1: creates the Alaska State Pension Investment Board.

Sec. 37.10.210 (a) establishes the Investment Board and sets the purpose of the Investment Board as providing prudent and productive management and investment of state pension funds and other funds by agreement.

Subsection (b) sets out the eight voting trustees, two of whom are members of and elected by the Public Employees Retirement System (PERS) participants. One of the PERS elected trustees must be a participant in SBS. Two trustees are members of and elected by the Teachers Retirement System (TRS) participants. Nominations may be made by the TRS Board, PERS Board or by petition signed by at least 10 persons eligible to vote in the election. Three public member trustees are appointed by the governor, at least one of whom represents non-State participating employers. All public members shall have business and investment experience. The Commissioner of Revenue also serves as a trustee.

Subsection (c) sets out staggered four year terms for trustees. Subsections (d) and (e) set out removal "for cause" of trustees, each trustee serving at the pleasure of the appointing or electing authority and the filling of a vacancy. The PERS and TRS Boards serve as the "electing" authorities.

Subsections (f)(g)(h) set out Investment Board organization: Board elects chair annually, five trustees constitute a quorum and designees are not allowed. Subsection (i) requires trustees to adopt a policy concerning investment education.

Sec. 37.10.220 sets out the powers and duties of the Investment Board. Subsection (a) provides that the Investment Board shall establish investment policies for the funds for which it is responsible after reviewing recommendations from the advisory council and DOR, submit investment reports to the legislature,

*Sectional Analysis*

employers, appropriate boards, departments, contract for external performance reviews, engage independent auditors, review the actuarial earnings assumption every two years and report findings to the appropriate board, select and retain external investment managers and fund custodians and develop and present a budget plan to DOR, OMB and the legislature. Subsection (b) provides that the Investment Board may employ legal counsel, engage outside investment advisors, contract for services necessary to allow the Investment Board to perform its functions, enter into an agreement to assume responsibility for other state funds upon agreement with the Commissioner of the department or the fiduciary responsible for those funds. Subsection (c) sets out that the Investment Board shall annually meet with PERS, TRS boards and the Department of Administration to review benefits administration.

Sec. 37.10.230 (a) (b) set out conflict of interest provisions for the trustees. Under this section, the Investment Board shall adopt regulations to restrict trustees from having a substantial interest in any of the fund assets.

Sec. 37.10.240 exempts the Investment Board from the Administrative Procedures Act but requires the Board to adopt and publish regulations relating to procurement that reflect competitive bidding and to provide public notification. The Investment Board must also comply with the open meetings law. Subsection (e) sets out emergency regulations procedures.

Sec. 37.10.250 sets the honorarium for trustees at \$150 per meeting day and states that those who are public employees shall serve without compensation but shall be granted administrative leave.

Sec. 37.10.260 (a) requires DOR to provide staff for the Investment Board. (b) allows Board to designate a signatory.

Sec. 37.10.270 requires the Investment Board to appoint an investment advisory council composed of at least three and not more than five members who must meet qualifications. Subsection (b) sets out that the members serve at the pleasure of the Investment Board and serve for staggered three year terms. Subsection (c) requires Investment Board to establish compensation for advisory members. Subsection (d) sets out duties of the council to include reviewing investments, recommending investment policy, advising on selection of consultants and auditors. Subsection (e) allows the council to contract with other state agencies to provide advice, with Investment Board approval.

Sec. 37.10.280 requires the Investment Board to ensure that assets held in trust are protected and that insurance must protect the board and state from liability to others and from loss of trustee assets due to acts or omissions of the trustees.

Sec. 37.10.290 exempts the retirement systems and property they own, manage or hold in trust from all taxes and assessments in the state with the exception of municipal taxation on property acquired

through foreclosure or in lieu of foreclosure.

Sec.37.10.300 prohibits the Investment Board from engaging in commercial banking activity, from acting as a depository or trustee for a private person and from acting as a lender to a private person of money from any source other than the money from the state funds under its own management.

Sec. 37.10.310 limits the state's responsibility for liabilities of the Investment Board.

Sec. 37.10.390 defines board, retirement systems. Retirement Systems are: TRS, PERS, Judicial, Military.

SECTION 2: substitutes the Board for the Commissioner of Revenue in reporting about the condition of the teachers retirement system (TRS) and requires the Board provide the TRS board with an annual external performance review of the trust fund.

SECTION 3; requires the TRS board to adopt regulations for the election and removal of trustees to the Investment Board. Note: changes to 14.25.280 alter several other funds. 14.25.280 is considered the standard.

SECTION 4; makes the Investment Board fiduciary of the TRS fund in place of the Commissioner of Revenue and requires the Board to work in the best financial interest of the system's beneficiaries and the retirement plan.

SECTION 5; allows the Teachers Retirement System member contributions held in the system to be taxed under the proposed changes to Title 29, allowing municipal taxation of foreclosed properties.

SECTION 6; substitutes the Investment Board for the commissioner of revenue in management and investment of the Judicial Retirement Trust.

SECTION 7; substitutes the Investment Board for the commissioner of revenue in management and investment of the Alaska National Guard and Alaska Naval Militia retirement fund, referred to as the Military fund or system.

SECTIONS 8,9and 10 exempt the Investment Board from the procurement code but require the Board to adopt comparable procedures.

SECTION 11 includes the receipts of SBS and Deferred Compensation on the list of funds excluded from the Program Receipts/ General Fund definition.

SECTION 12 substitutes the Investment Board for the Commissioner of Revenue in the section that sets out the current statutes concerning powers and duties of the fiduciary that invests and manages state funds. In paragraph (8) the bill requires accounting

records to be kept in accordance with generally accepted accounting principles. Subsection (c) requires the fiduciary to exercise the Prudent Investor Rule in exercising powers and duties. Subsections (d) (e) require the state to defend and indemnify the fiduciary if fiduciary or the fiduciary's designee performed in good faith and was prudent. Subsection (f) defines fiduciary to include trustee, and any other person who exercises control over assets or who gives investment advice to the board.

SECTION 13 is a conforming amendment to correct the Public School Trust Fund (which is not included in the board's responsibility) statutes, to reflect changes made to the TRS statutes.

SECTION 14: identifies the Investment Board as the fiduciary of the receipts of the employee benefits program (SBS). Subsection (b) allows, but does not require, the Investment Board to offer a "participant directed" plan and protects the Board from liability from the individual's exercise of control. Subsection (c) requires the Board to consult with Commissioner of Administration prior to contracting or modifying contracts concerning management of SBS. Subsection (d) requires Board to develop a contingency plan for potential investment problems.

SECTION 15: in existing PERS statutes, requires the Investment Board to provide specified information to the commissioner of administration.

SECTION 16: requires the PERS Board to adopt regulations concerning the election and removal of trustees to the Investment Board.

SECTION 17: substitutes the Investment Board for the Commissioner of Revenue as the fiduciary for the PERS fund and references to the requirements set out in the TRS sections.

SECTION 18: allows the PERS member contributions held in the system to be taxed under the changes in Title 29, concerning foreclosed property.

SECTIONS 19 and 20: substitute the Investment Board for the commissioner of administration as investor of the deferred compensation funds and gives the Board the same powers and duties in investing Deferred Compensation funds as set out in the TRS statutes. The language is similar to that in Section 14 (SBS) concerning investments, fiduciary responsibility, consultation with Admin. and contingency planning.

SECTION 21: includes the Investment Board trustees in the conflict of interest statutes.

SECTION 22: amends the duties of the Department of Revenue to reflect the changes made by the bill and the funds for which the Board is responsible for, requires that the department collect, account for, have custody of, invest and manage the funds in accordance with the policies set by the Investment Board.

SECTION 23; allows the commissioner of Revenue to designate employees who are subject to conflict of interest provisions and sets out that failure to comply is grounds for termination.

SECTION 24; repeals definition of "insured" as the language in AS 39.45.030 (b) has been changed from an investment limitation list to the language in Sections 19 and 20 for deferred compensation and the word "insured" no longer appears in either section.

SECTION 25; is a transition section.

SECTION 26; sets out the initial terms of the Investment Board and permits the Board to hold organizational meetings as soon as a quorum has been appointed or elected.

SECTION 27; sets July 1, 1992 as the effective date for Board organization.

SECTION 28; sets the earlier of July 1, 1993 or the date established by resolution of the trustees as the effective date for the Board to begin managing and investing assets as well as other duties as defined in the bill.

LETTER OF INTENT;

SB329

# SENATE FINANCE COMMITTEE REPORT

DATE: 1/24/92

FURTHER:

DATE TURNED INTO OFFICE: 1-28-92

The Finance Committee considered SENATE BILL NO. 329

"An Act establishing the Alaska State Pension Investment Board; relating to management and investment of state pension funds, receipts of the supplemental employee benefits program, receipts of the deferred compensation program, and other state funds; and providing for an effective date."

and recommends:

replace with \_\_\_\_\_ CS \_\_\_\_\_ (FINANCE)  same title  
or  adopt previous CS SB 329 (STA)  new title  
 attaches amendment(s)  technical title change (HB only)

adopts CSSB 329 (STA) Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES:** Dept/Date

zero fiscal notes \_\_\_\_\_

fiscal notes DOA-1-27-92 (2:36.1)

appropriation--no fiscal note

**PREVIOUS FISCAL NOTES:** Dept/Date

zero fiscal notes \_\_\_\_\_

fiscal notes DOE 12-20-91-7176.9

**DO PASS:**

**OTHER RECOMMENDATIONS:**

1. [Signature]  
Co-Chair: Signature/Recommendation

2. [Signature]  
Co-Chair: Signature/Recommendation

FISCAL NOTE

BILL NO. CSSB 329 (STA)

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: January 27, 1992  
 Title: An Act establishing the Alaska State Pension Investment Board  
 Sponsor: Pourchot  
 Requestor: Senate State Affairs

Department Affected: Administration  
 BRU: Retirement and Benefits  
 Component: Retirement and Benefits  
 COMPONENT SERIAL NO. 64

Expenditures/Revenues: (Thousands of Dollars)

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

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
-------------------------	---	---	---	---	---	---

FUNDING: (Thousands of dollars)

GENERAL FUND	<2736.1>	<2736.1>	<2736.1>	<2736.1>	<2736.1>	<2736.1>
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE	2736.1	2736.1	2736.1	2736.1	2736.1	2736.1
TOTAL	0	0	0	0	0	0

POSITIONS

FULL-TIME:	0	0	0	0	0	0
PART-TIME:	0	0	0	0	0	0
TEMPORARY:	0	0	0	0	0	0

Estimate of current year impact: none

ANALYSIS: (attach a separate page if necessary.) This analysis is based on the assumption that the Department of Revenue will provide staff assistance to the board to accomplish required administrative tasks. Section 13 includes the receipts of the Supplemental Benefits System and the Deferred Compensation Program as exceptions to the list of general fund program receipts. These receipts are considered to be held in trust and not available for general appropriation and results in the transfer of funding from General Fund to Other Fund Source (Benefit Systems Receipts).

Prepared By: Gary Bader  
 Division: Retirement and Benefits

Phone: 465-4470  
 Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usga  
 Agency: Department of Administration

Date: 1/27/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB & Impacted Agency(ies).  
 Rev 10/90

FISCAL NOTE

No. 1

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Bill Version: SB 329

Revision Date: \_\_\_\_\_

Department Affected: Revenue

(S) Publish Date: 1-24-92

Title: Alaska State Pension Investment Board.

BRU: Operations

Component: Treasury Management

Sponsor: Senator Pourchot

Component Serial No.

Requestor: Senator Pourchot

0	1	2	1
---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONNEL SERVICES	50.0	52.0	54.1	56.2	58.5	60.8
TRAVEL	99.0	80.6	83.8	87.3	90.8	94.4
CONTRACTUAL	9.6	10.0	10.4	10.8	11.2	11.7
SUPPLIES	3.3	2.6	2.7	2.8	2.9	3.0
EQUIPMENT	15.0	1.0	1.0	1.0	1.0	1.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>176.9</b>	<b>146.2</b>	<b>152.0</b>	<b>158.1</b>	<b>164.4</b>	<b>170.9</b>

PITAL						
-------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	176.9	146.2	152.0	158.1	164.4	170.9
<b>TOTAL</b>	<b>176.9</b>	<b>146.2</b>	<b>152.0</b>	<b>158.1</b>	<b>164.4</b>	<b>170.9</b>

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Changes in CSB 329 (STA)  
reflect NO FISCAL CHANGE from the original  
fiscal note. This fiscal note is appropriate.

Estimate of current year impact: None

ANALYSIS: See attached worksheet.	date <u>1-23-92</u> Comte Aide (initial) <u>Max [Signature]</u>
-----------------------------------	-----------------------------------------------------------------

Prepared by: Brian C. Andrews

Phone: 465-2350

Division: Treasury

Date: December 20, 1991

Approved by Commissioner: [Signature]

by: Revenue

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Cost Analysis for Investment Board Legislation  
 Prepared by Brian C. Andrews  
 December 20, 1991

Assumptions:	Meeting Yr 1	Meeting Yrs 2-6	Education Yrs 1-6
Number of Board members	8	8	8
Number of Meetings	6	4	5
Length of Meetings (days)	2	2	3
Travel days	1	1	1.5
Annual cost increase		4%	4%

Meeting Costs:	Per Category	Per Member	Per Meeting	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
Travel @	\$500	\$500	\$4,000	\$24,000	\$16,640	\$17,306	\$17,998	\$18,718	\$19,466
Per Diem @	150	450	3,600	21,600	14,976	15,575	16,198	16,846	17,520
Honorarium @	150	450	3,150	18,900	13,104	13,628	14,173	14,740	15,330
Supplies/Misc @	50	50	400	2,400	1,664	1,731	1,800	1,872	1,947
<b>Total</b>	<b>850</b>	<b>1,450</b>	<b>11,150</b>	<b>66,900</b>	<b>46,384</b>	<b>48,239</b>	<b>50,169</b>	<b>52,176</b>	<b>54,263</b>

Education Costs:	Per Category	Per Member	Per Meeting	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
Travel @	1,500	1,500	12,000	18,000	18,720	19,469	20,248	21,057	21,900
Per Diem @	175	788	6,300	9,450	9,828	10,221	10,630	11,055	11,497
Honorarium @	150	675	4,725	7,088	7,371	7,666	7,972	8,291	8,623
Supplies/Misc @	75	75	600	900	936	973	1,012	1,053	1,095
Registration @	800	800	6,400	9,600	9,984	10,383	10,799	11,231	11,680
<b>Total</b>	<b>2,700</b>	<b>3,838</b>	<b>30,025</b>	<b>45,038</b>	<b>46,839</b>	<b>48,713</b>	<b>50,661</b>	<b>52,688</b>	<b>54,795</b>

Personal Service Costs:	PFT	Salary	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
Board Liaison	1	50,000	50,000	52,000	54,080	56,243	58,493	60,833
Equipment - Projector/PC/Software			15,000	1,000	1,000	1,000	1,000	1,000
<b>Total</b>			<b>65,000</b>	<b>53,000</b>	<b>55,080</b>	<b>57,243</b>	<b>59,493</b>	<b>61,833</b>
<b>Total Investment Board Operating Costs:</b>			<b>176,938</b>	<b>146,223</b>	<b>152,032</b>	<b>158,073</b>	<b>164,356</b>	<b>170,890</b>

Budget Categorization:	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
Personal Service	50,000	52,000	54,080	56,243	58,493	60,833
Travel	99,038	80,639	83,865	87,219	90,708	94,336
Intra-annual	9,600	9,984	10,383	10,799	11,231	11,680
Supplies	3,300	2,600	2,704	2,812	2,925	3,042
Equipment	15,000	1,000	1,000	1,000	1,000	1,000
<b>Ending - Other</b>	<b>\$176,938</b>	<b>\$146,223</b>	<b>\$152,032</b>	<b>\$158,073</b>	<b>\$164,356</b>	<b>\$170,890</b>
<b>Total</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>

202



# Alaska State Legislature

SENATE

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

## SENATE STATE AFFAIRS COMMITTEE

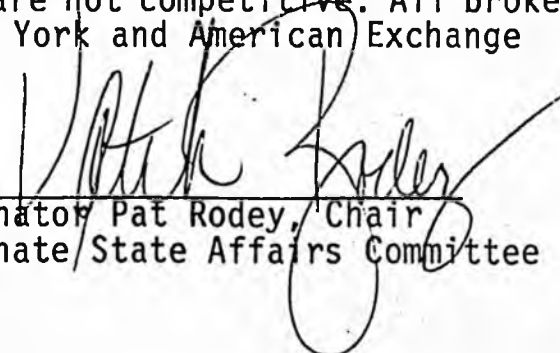
### LETTER OF INTENT

#### CSSB 329 (STA)

An Act establishing the Alaska State Pension Investment Board; relating to management and investment of state pension funds, receipts of the supplemental employee benefits program, receipts of the deferred compensation program and other state funds; and providing for an effective date.

Acting within the fiduciary responsibility under the Prudent Investor Rule, and provided that, in the judgement of the manager, Purchase/Sale execution and transaction cost are competitive with Non-Alaska affiliated brokers, active managers are encouraged to do business with brokerage firms having offices in Alaska. The managers and index account managers are not required to execute trades with Alaska firms if they are not competitive. All brokerage firms must be members of the New York and American Exchange

1/22/92  
Date

  
Senator Pat Rodey, Chair  
Senate State Affairs Committee

CS FOR SENATE BILL NO. 329 (STATE AFFAIRS)  
 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE STATE AFFAIRS COMMITTEE

Offered: 1/24/92  
 Referred: Finance

Sponsor(s): SENATORS POURCHOT, Sturgulewski, Duncan, Collins, Pearce

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Alaska State Pension Investment Board; relating to management  
 2 and investment of state pension funds, receipts of the supplemental employee benefits  
 3 program, receipts of the deferred compensation program, and other state funds; and  
 4 providing for an effective date."

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

6 \* Section 1. AS 37.10 is amended by adding new sections to read:

7 ARTICLE 5. ALASKA STATE PENSION INVESTMENT BOARD.

8 Sec. 37.10.210. ALASKA STATE PENSION INVESTMENT BOARD. (a) There is  
 9 established the Alaska State Pension Investment Board in the Department of Revenue. The  
 10 purpose of the board is to provide prudent and productive management and investment of state  
 11 pension funds and of other state funds upon agreement with the commissioner of the department  
 12 or the fiduciary responsible for the fund.

13 (b) The board consists of eight trustees. Two of the trustees shall be elected by the  
 14 members of the public employees' retirement system from the membership of the system.

1 Nominations may be made by the Public Employees' Retirement Board or by petition signed by  
2 at least 10 persons eligible to vote in the election. One of the trustees elected from the  
3 membership of the public employees' retirement system must be a participant in the supplemental  
4 employee benefits program established under AS 39.30.150 - 39.30.180. Two of the trustees  
5 shall be elected by the members of the teachers' retirement system from the membership of the  
6 system. Nominations may be made by the Teachers' Retirement Board or by petition signed by  
7 at least 10 persons eligible to vote in the election. The governor shall appoint three trustees. At  
8 least one of the appointed trustees must represent employers, other than the state, who participate  
9 in one of the retirement systems. The appointed trustees must have business and investment  
10 experience. The commissioner of revenue serves as a trustee.

11 (c) The appointed and elected trustees shall serve for staggered terms of four years and  
12 may be reappointed or reelected to the board.

13 (d) The governor may, by written notice to the trustee, remove an appointed trustee for  
14 cause. The Public Employees' Retirement Board may, by written notice to the trustee, remove  
15 a member elected from the membership of that retirement system for cause. The Teachers'  
16 Retirement Board may, by written notice to the trustee, remove a member elected from the  
17 membership of that retirement system for cause. After a trustee receives written notice of  
18 removal, the trustee may not participate in board business and may not be counted for purposes  
19 of establishing a quorum.

20 (e) A vacancy on the board of trustees shall be promptly filled in the same manner as  
21 the seat was originally filled. A person filling a vacancy holds office for the balance of the  
22 unexpired term of the person's predecessor. A vacancy on the board does not impair the  
23 authority of a quorum of the board to exercise all the powers and perform all the duties of the  
24 board.

25 (f) The board of trustees shall annually elect a chair from among its members.

26 (g) Five trustees constitute a quorum for the transaction of business and the exercise of  
27 the powers and duties of the board.

28 (h) A trustee may not designate another person to serve on the board in the absence of  
29 the trustee.

30 (i) The board shall adopt a policy concerning investment education for trustees.

31 Sec. 37.10.220. POWERS AND DUTIES OF THE BOARD. (a) The board shall

1 (1) hold regular and special meetings at the call of the chair or of at least four  
2 members;

3 (2) establish investment policies for the funds for which it is responsible after  
4 reviewing recommendations from the investment advisory council and the Department of  
5 Revenue;

6 (3) submit long-range and quarterly investment reports to the Legislative Budget  
7 and Audit Committee;

8 (4) report to the governor, the legislature, and employers participating in the  
9 retirement systems by the first day of each regular legislative session concerning the investment  
10 of funds for which the board is responsible, including financial and investment policies  
11 established by the board, and enclose a summary of the most recent performance evaluations of  
12 the funds managed by the board;

13 (5) contract with external performance evaluators to review the performance of  
14 each fund for which the board is responsible and report each year on the fund's condition to the  
15 board of trustees and to the other appropriate boards;

16 (6) engage independent certified public accountants to perform an annual audit  
17 of each of the funds for which the board is responsible and to report to the board with the results  
18 of the audit;

19 (7) review the actuarial earnings assumption for each fund for which the board  
20 is responsible every two years and report its findings and recommendations to the appropriate  
21 board or agency;

22 (8) after reviewing the recommendations from the Department of Revenue and  
23 the advisory council, select and retain the external investment managers and custodians for the  
24 funds managed by the board;

25 (9) develop an annual operating budget plan and present it to the Department of  
26 Revenue, the office of management and budget, and the legislature.

27 (b) The board may

28 (1) employ outside investment advisors to review investment policies and make  
29 recommendations to the board;

30 (2) employ legal counsel;

31 (3) contract for services necessary to carry out its powers and duties;

1 (4) enter into an agreement with the commissioner of the department or the  
2 fiduciary responsible for another state fund to assume fiduciary or management responsibilities  
3 for investing the other state fund;

4 (5) do all acts necessary to carry out the powers expressly granted or necessarily  
5 implied in this chapter.

6 (c) The board shall meet annually, either jointly or separately, with the Public  
7 Employees' Retirement Board, the Teachers' Retirement Board, and the Department of  
8 Administration to review benefit administration of each of the retirement systems and of the  
9 employee benefits program established under AS 39.30.150 - 39.30.180 and the deferred  
10 compensation program under AS 39.45. The Department of Administration and each retirement  
11 board shall report to the investment board on benefit administration and other issues for that  
12 retirement system or program that may affect the investment and management of the fund.

13 (d) The chair of the board shall appoint a trustee to present the board's position to  
14 legislative committees when the committees are considering the board's operating budget. The  
15 board is otherwise subject to AS 37.07.

16 Sec. 37.10.230. CONFLICTS OF INTEREST. (a) Trustees are subject to the provisions  
17 of AS 39.50.

18 (b) If a trustee acquires, owns, or controls an interest, direct or indirect, in an entity or  
19 project in which assets under the control of the board are invested, the trustee shall immediately  
20 disclose the interest to the board. The disclosure is a matter of public record and shall be  
21 included in the minutes of the board meeting next following the disclosure. The board shall  
22 adopt regulations to restrict trustees from having a substantial interest in an entity or project in  
23 which assets under the control of the board are invested.

24 Sec. 37.10.240. REGULATIONS AND OPEN MEETINGS. (a) The board may adopt  
25 regulations to implement AS 37.10.210 - 37.10.390. Regulations adopted by the board are not  
26 subject to the Administrative Procedure Act (AS 44.62). The board shall adopt regulations  
27 required by AS 36.30.015(f) relating to procurement. The board shall comply with the  
28 requirements of AS 44.62.310 - 44.62.312.

29 (b) Notwithstanding (a) of this section, a regulation adopted under AS 37.10.210 -  
30 37.10.390 shall be published in the Alaska Administrative Register and Alaska Administrative  
31 Code for informational purposes. A regulation adopted under this section shall conform to the

1 style and format requirements of the drafting manual for administrative regulations that is  
2 published under AS 44.62.050.

3 (c) At least 30 days before the adoption, amendment, or repeal of a regulation under this  
4 chapter, the board shall provide notice of the action that is being considered. The notice must  
5 include publication in one or more newspapers of general circulation in each judicial district of  
6 the state.

7 (d) A regulation adopted under this chapter takes effect 30 days after adoption by the  
8 board unless a later effective date is stated in the regulation.

9 (e) Notwithstanding the other provisions of this section, a regulation may be adopted,  
10 amended, or repealed, effective immediately, as an emergency regulation. For an emergency  
11 regulation to be effective the board must find that the immediate adoption, amendment, or repeal  
12 of the regulation is necessary. The board shall, within 10 days after adoption of an emergency  
13 regulation, give notice of the adoption under (c) of this section. An emergency regulation  
14 adopted under this subsection may not remain in effect past the date of the next regular meeting  
15 of the board unless the board complies with the procedures set out in this section and adopts the  
16 regulation as a permanent regulation.

17 (f) In this section, "regulation" has the meaning given in AS 44.62.640(a).

18 Sec. 37.10.250. COMPENSATION OF TRUSTEES. Trustees, other than trustees who  
19 are employees of the state or a political subdivision of the state, receive an honorarium of \$150  
20 for each day spent at a meeting of the board or at a meeting of a subcommittee of the board or  
21 at a public meeting as a representative of the board. Trustees who are state employees are  
22 entitled to administrative leave for service as a trustee. Trustees who are employees of a political  
23 subdivision of the state are entitled to leave benefits provided by their employers comparable to  
24 those provided to state employees for service as a trustee. Trustees are entitled to per diem and  
25 travel expenses authorized for boards and commissions under AS 39.20.180.

26 Sec. 37.10.260. STAFF. (a) The Department of Revenue shall provide staff for the  
27 board.

28 (b) The board may designate a trustee or an officer or employee of the Department of  
29 Revenue to be responsible for signing on behalf of the board a deed, contract, or other document  
30 that must be executed by or on behalf of the board.

31 Sec. 37.10.270. INVESTMENT ADVISORY COUNCIL. (a) The board shall appoint

1 an investment advisory council composed of at least three and not more than five members.  
2 Members of the council shall possess experience and expertise in financial investments and  
3 management of investment portfolios for public, corporate, or union pension benefit funds,  
4 foundations, or endowments.

5 (b) Members of the council serve at the pleasure of the board for staggered terms of three  
6 years.

7 (c) The board shall establish the compensation of members of the council. Members of  
8 the council are entitled to per diem and travel expenses authorized for boards and commissions  
9 under AS 39.20.180.

10 (d) The council shall

11 (1) review the investments made by the board;

12 (2) make recommendations to the board concerning the board's investment  
13 policies, investment strategy, and investment procedures;

14 (3) advise the board on selection of performance consultants and on the form and  
15 content of annual reports;

16 (4) provide other advice as requested by the board.

17 (e) With approval of the board, the council may contract with other state agencies to  
18 provide investment advice.

19 Sec. 37.10.280. INSURANCE. The board shall ensure that trustee assets and its own  
20 services are protected. The board may purchase insurance or provide for self-insurance retention  
21 in amounts recommended by the commissioner of revenue and approved by the board to cover  
22 the acts, including fiduciary acts, errors, and omissions of its board members and agents. Insur-  
23 ance must protect the board and the state from liability to others and from loss of trustee assets  
24 due to the acts or omissions of the trustees.

25 Sec. 37.10.290. EXEMPTION FROM TAXATION. Except as provided in  
26 AS 29.45.030(a) for property acquired through foreclosure or deed in lieu of foreclosure, the  
27 board and all properties at any time owned by it, managed by it, or held by it in trust, and the  
28 income from those activities, are exempt from all taxes and assessments in the state. All security  
29 instruments issued by the board and income from them are exempt from all taxes and  
30 assessments in the state, including transfer taxes.

31 Sec. 37.10.300. LIMITATIONS. The board may not engage in commercial banking

1 activity or private trust activity. The board may not act as a depository or trustee for a private  
2 person, association, or corporation. The board may not act as a lender to a private person,  
3 association, or corporation of money from any source except state funds under management by  
4 the board.

5 Sec. 37.10.310. LIABILITY. A liability incurred by the board shall be satisfied  
6 exclusively from the trust assets or trust revenue, and a creditor or other person may not have  
7 a right of action against the state because of a debt, obligation, or liability of the board.

8 Sec. 37.10.390. DEFINITIONS. In AS 37.10.210 - 37.10.390, unless the context  
9 otherwise requires,

10 (1) "board" means the board of trustees of the Alaska State Pension Investment  
11 Board;

12 (2) "retirement systems" means the teachers' retirement system, the judicial  
13 retirement system, the Alaska National Guard and Alaska Naval Militia retirement system, and  
14 the public employees' retirement system.

15 \* Sec. 2. AS 14.25.035(d) is amended to read:

16 (d) The commissioner of administration shall report to the board concerning the condition  
17 and administration of the system. The reports shall be distributed to the members of the system.  
18 The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE] shall provide  
19 reports to the board on the condition and investment performance of the teachers' retirement trust  
20 fund including a summary of an annual external performance review.

21 \* Sec. 3. AS 14.25.035 is amended by adding a new subsection to read:

22 (j) The board shall adopt regulations for the election of trustees to the Alaska State  
23 Pension Investment Board and for removal from the investment board of trustees elected from  
24 the system.

25 \* Sec. 4. AS 14.25.180 is amended to read:

26 Sec. 14.25.180. MANAGEMENT AND INVESTMENT OF FUND. (a) The Alaska  
27 State Pension Investment Board [COMMISSIONER OF REVENUE] is the [TREASURER OF  
28 THE SYSTEM AND THE] fiduciary of the fund. In managing the fund, the Alaska State  
29 Pension Investment Board [COMMISSIONER OF REVENUE] shall

30 (1) consider the status of the fund's investments and the system's liabilities on  
31 both a current and a probable future basis;

1 (2) determine the appropriate investment objectives for the fund;  
2 (3) establish investment policies aimed at achieving the objectives; and  
3 (4) act only in regard to the best financial interests of the system's plan and  
4 beneficiaries.

5 (b) The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE]  
6 may invest the fund on the basis of probable total rate of return without regard to the distinction  
7 between principal and income or to the generation of income.

8 (c) In carrying out investment duties under this chapter, the Alaska State Pension  
9 Investment Board [COMMISSIONER OF REVENUE] has the same powers and duties in regard  
10 to the teacher's retirement trust fund as are provided in AS 37.10.071, except that the standard  
11 of prudence that the board [COMMISSIONER] must obey under AS 37.10.071(c) shall be in  
12 regard to the management of large trust investments rather than large investments.

13 \* Sec. 5. AS 14.25.200(a) is amended to read:

14 (a) Except as provided in AS 29.45.030(a)(1), member [MEMBER] contributions and  
15 other amounts held in the system on behalf of a member or other person who is or may become  
16 eligible for benefits under the system are exempt from Alaska state and municipal taxes and are  
17 not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge  
18 of any kind, either voluntary or involuntary, before they are received by the person entitled to  
19 the amount under the terms of the system, and any attempt to anticipate, alienate, sell, transfer,  
20 assign, pledge, encumber, charge, or otherwise dispose of any right to amounts accrued in the  
21 system is void. However, a member's right to receive benefits may be assigned under a qualified  
22 domestic relations order.

23 \* Sec. 6. AS 22.25.048(c) is amended to read:

24 (c) The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE]  
25 is the [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund and has the same  
26 powers and duties under this section in regard to the judicial retirement trust fund as are provided  
27 in AS 14.25.180.

28 \* Sec. 7. AS 26.05.228(c) is amended to read:

29 (c) The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE]  
30 is the [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund and has the same  
31 powers and duties under this section in regard to the fund as are provided under AS 14.25.180.

1 \* Sec. 8. AS 36.30.015(f) is amended to read:

2 (f) The board of directors of the Alaska Housing Finance Corporation, notwithstanding  
3 AS 18.56.088, and the board of directors of the Alaska State Housing Authority shall adopt  
4 regulations under the Administrative Procedure Act (AS 44.62) and the board of trustees of the  
5 Alaska State Pension Investment Board shall adopt regulations under AS 37.10.240 to  
6 govern the procurement of supplies, services, professional services, and construction for the  
7 respective public corporations and board. The regulations must

8 (1) reflect competitive bidding principles and provide vendors reasonable and  
9 equitable opportunities to participate in the procurement process; and

10 (2) include procurement methods to meet emergency and extraordinary  
11 circumstances.

12 \* Sec. 9. AS 36.30.850(b)(15) is amended to read:

13 (15) a contract that is a delegation, in whole or in part, of investment powers held  
14 by the commissioner of revenue under [AS 14.25.180,] AS 14.40.400, AS 14.42.200, 14.42.210,  
15 AS 18.56.095, [AS 22.25.048, AS 26.05.228,] AS 37.10.070, 37.10.071, or AS 37.14 [, OR  
16 AS 39.35.080];

17 \* Sec. 10. AS 36.30.990(1) is amended to read:

18 (1) "agency"

19 (A) means a department, institution, board, commission, division,  
20 authority, public corporation, the Alaska Pioneers' Home, or other administrative unit of  
21 the executive branch of state government;

22 (B) does not include

23 (i) the University of Alaska;

24 (ii) the Alaska State Housing Authority;

25 (iii) the Alaska Railroad Corporation;

26 (iv) the Alaska Housing Finance Corporation;

27 (v) a regional Native housing authority created under AS 18.55.996

28 [,] or a regional electrical authority created under AS 18.57.020;

29 (vi) the Alaska Aerospace Developmen. Corporation;

30 (vii) the Alaska State Pension Investment Board;

31 \* Sec. 11. AS 37.05.146 is amended to read:

1           Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS. In AS 37.05.142 - 37.05.146  
2 and AS 37.07.080, "program receipts" means fees, charges, income earned on assets, and other  
3 state money received by a state agency in connection with the performance of its functions; all  
4 program receipts except the following are general fund program receipts:

5           (1) federal receipts;

6           (2) University of Alaska receipts (AS 14.40.491);

7           (3) individual, foundation, or corporation gifts, grants, or bequests that by their  
8 terms are restricted to a specific purpose;

9           (4) receipts of the following funds:

10           (A) highway working capital fund (AS 44.68.210);

11           (B) correctional industries fund (AS 33.32.020);

12           (C) loan funds;

13           (D) international airport revenue fund (AS 37.15.430);

14           (E) funds managed by the Alaska State Housing Authority (AS 18.55.020),  
15 the Alaska Housing Finance Corporation (AS 18.56.020), the Alaska Railroad Corporation  
16 (AS 42.40.010), the Municipal Bond Bank Authority (AS 44.85.020), the Alaska  
17 Aerospace Development Corporation (AS 14.40.821), or the Alaska Industrial  
18 Development and Export Authority (AS 44.88.020);

19           (F) fish and game fund (AS 16.05.100);

20           (G) school fund (AS 43.50.140);

21           (H) training and building fund (AS 23.20.130);

22           (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and  
23 former AS 39.37);

24           (J) permanent fund (art. IX, sec. 15, Alaska Constitution);

25           (K) public school fund (AS 37.14.110);

26           (L) second injury fund (AS 23.30.040);

27           (M) fishermen's fund (AS 23.35.060);

28           (N) FICA administration fund (AS 39.30.050);

29           (O) receipts of the employee benefits program established under  
30 AS 39.30.150 - 39.30.180;

31           (P) receipts of the deferred compensation program established under

1 AS 39.45.

2 \* Sec. 12. AS 37.10.071 is amended to read:

3 Sec. 37.10.071. INVESTMENT POWERS AND DUTIES. (a) In making investments  
4 under this section, the fiduciary of a state fund [COMMISSIONER OF REVENUE] shall

5 (1) act as official custodian of cash and investments by securing adequate and safe  
6 custodial facilities for them;

7 (2) receive all items of cash and investments;

8 (3) collect and deposit the principal of and income from owned or acquired  
9 investments;

10 (4) invest and reinvest the assets in accordance with this section;

11 (5) receive and spend appropriations to cover the cost of the exercise of duties  
12 under this section;

13 (6) exercise the powers of an owner with respect to the assets;

14 (7) perform all acts, not prohibited by this section, whether or not expressly  
15 authorized, that the fiduciary [COMMISSIONER] considers necessary or proper in administering  
16 the assets;

17 (8) maintain accounting records in accordance with generally accepted  
18 [INVESTMENT] accounting principles;

19 (9) engage an independent certified public accountant to conduct an annual audit  
20 of the financial condition and investment transactions;

21 (10) enter into and enforce contracts or agreements considered necessary,  
22 convenient, or desirable for the investment purposes of this section; and

23 (11) when choosing to acquire or dispose of investments, secure competitive  
24 national or international market rates or prices, or the equivalence of those rates or prices in the  
25 judgment of the fiduciary [COMMISSIONER].

26 (b) Under this section, the fiduciary of a state fund or the fiduciary's  
27 [COMMISSIONER OR THE COMMISSIONER'S] designee may

28 (1) delegate investment, custodial, or depository authority on a discretionary or  
29 nondiscretionary basis to officers or employees of the state or to independent firms, banks,  
30 financial institutions, or trust companies [,] by designation through appointments, contracts, or  
31 letters of [OR] authority;

1 (2) acquire or dispose of investments either directly, indirectly, or through  
2 investment pools or trusts, by competitive or negotiated agreements, contracts, or auctions, in  
3 public or private markets;

4 (3) concentrate or diversify investments as the fiduciary [COMMISSIONER]  
5 considers appropriate to increase the probable total rate of return or to decrease the overall  
6 exposure to potentially adverse market value risks;

7 (4) protect the market value or the rate of return of the investments by entering  
8 into forward agreements to buy or sell assets at a future date as a hedge against existing held  
9 assets or as a precommitment of future cash flows;

10 (5) lend assets, under an agreement and for a fee, against deposited collateral of  
11 equivalent market value;

12 (6) borrow assets on a short-term basis, under an agreement and for a fee, against  
13 the deposit of collateral consisting of other assets in order to accommodate temporary cash or  
14 investment needs;

15 (7) hold investments in bearer or registered form in the name of the state, a fund,  
16 or nominees authorized by the fiduciary [COMMISSIONER];

17 (8) utilize consultants, advisors, custodians, investment services, and legal counsel  
18 for assistance in investment matters on either a continuing or a limited-term basis and with or  
19 without compensation;

20 (9) declare records to be confidential and exempt from AS 09.25.110 and  
21 09.25.120 if the records contain information that discloses the particulars of the business or the  
22 affairs of a private enterprise, investor, borrower, advisor, consultant, counsel, or manager.

23 (c) In exercising investment, custodial, or depository powers or duties under this section,  
24 the fiduciary of a state fund [COMMISSIONER] shall exercise the judgment and care under  
25 the circumstances then prevailing that an institutional investor of ordinary professional prudence,  
26 discretion, and intelligence exercises in managing large investments with consideration for the  
27 purpose of the fund, the investment objectives, the continuing disposition of the fund's  
28 investments, and the probable safety of the capital as well as the probable investment returns.  
29 With respect to the Alaska State Pension Investment Board, the fiduciaries of the board  
30 shall apply the prudent investor rule and exercise their fiduciary duty in the sole financial  
31 best interest of the funds entrusted to them and of the beneficiaries of those funds. The

1 trustees may not make or authorize investment decisions or voting of shares for a purpose  
2 other than the sole financial best interest of the funds or beneficiaries.

3 (d) In exercising investment, custodial, or depository powers or duties under this section,  
4 the fiduciary or the fiduciary's [COMMISSIONER OR A] designee [OF THE  
5 COMMISSIONER] is liable for a breach of a duty that is assigned or delegated under this  
6 section. or under AS 14.25.180, AS 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.160,  
7 37.14.170, or AS 39.35.080. However, the fiduciary or the [COMMISSIONER OR THE  
8 COMMISSIONER'S] designee is not liable for a breach of a duty that has been delegated to  
9 another person if the delegation is prudent under the applicable standard of prudence set out in  
10 statute or if the duty is assigned by law to another person, except to the extent that the fiduciary  
11 [COMMISSIONER] or designee

12 (1) knowingly participates [PARTICIPATE] in, or knowingly undertakes to  
13 conceal, an act or omission of another person [,] knowing that the act or omission is a breach of  
14 that person's duties under this chapter;

15 (2) by failure to comply with this section in the administration of specific  
16 responsibilities, enables another person to commit a breach of duty; or

17 (3) has knowledge of a breach of duty by another person, unless the fiduciary  
18 [COMMISSIONER] or designee makes reasonable efforts under the circumstances to remedy the  
19 breach.

20 (e) The state shall defend and indemnify the fiduciary [COMMISSIONER] or an officer  
21 or employee of the state against liability under (d) of this section to the extent that the alleged  
22 act or omission was performed in good faith and was prudent under the applicable standard of  
23 prudence.

24 (f) In this section, "fiduciary of a state fund" or "fiduciary" ["COMMISSIONER OF  
25 REVENUE" OR "COMMISSIONER"] means

26 (1) the commissioner of revenue for investments under [AS 14.25.180 OR]  
27 AS 37.10.070; [OR]

28 (2) with respect to the Alaska State Pension Investment Board, for  
29 investments under AS 14.25.180,

30 (A) each trustee who serves on the board of trustees; and

31 (B) any other person who exercises control or authority with respect

1 to management or disposition of assets for which the board is responsible or who  
2 gives investment advice to the board; or

3 (3) the person or body provided by law to manage the investments [,] for  
4 investments not subject to AS 14.25.180 or AS 37.10.070.

5 \* Sec. 13. AS 37.14.160 is amended to read:

6 Sec. 37.14.160. DUTIES OF THE COMMISSIONER OF REVENUE. The commissioner  
7 of revenue is the treasurer of the trust fund created in AS 37.14.110 and shall

8 (1) in carrying out investment duties under this section, exercise the same  
9 powers and duties established for the Alaska State Pension Investment Board in  
10 AS 14.25.180(c);

11 (2) deposit the principal and income from investments in separate principal and  
12 income accounts for the fund;

13 (3) invest and maintain accounting records that distinguish between the principal  
14 and income of the fund;

15 (4) provide reports to the board established under AS 37.14.120 on the condition  
16 and investment performance of the fund.

17 \* Sec. 14. AS 39.30 is amended by adding a new section to read:

18 Sec. 39.30.175. INVESTMENT OF BENEFIT PROGRAM RECEIPTS. (a) The Alaska  
19 State Pension Investment Board is the fiduciary of the mandatory receipts, under  
20 AS 39.30.150(a), of the employee benefits program established under AS 39.30.150 - 39.30.180  
21 and has the same powers and duties concerning the management and investment in regard to  
22 those receipts as are provided under AS 14.25.180.

23 (b) The board may provide a range of investment options and permit a participant or  
24 beneficiary of the program to exercise control over the assets in the individual employee annuity  
25 account established under AS 39.30.150(a). If the board offers investment options, and if a  
26 participant or beneficiary exercises control over the assets in the individual employee annuity  
27 account,

28 (1) the participant or beneficiary is not considered a fiduciary for any reason on  
29 the basis of exercising that control; and

30 (2) a person who is otherwise a fiduciary is not liable under this section for any  
31 loss, or by reason of any breach, that results from the individual's exercise of control.

1 (c) If the board is considering entering into a contract or modifying an existing contract  
2 concerning the management or investment of the mandatory receipts of the supplemental  
3 employee benefits program, the board shall consult with the commissioner of administration  
4 before making a decision on the issue.

5 (d) The board shall develop a contingency plan that addresses the board's response to  
6 possible future investment problems.

7 (e) In this section, "board" means the Alaska State Pension Investment Board.

8 \* Sec. 15. AS 39.35.020 is amended to read:

9 Sec. 39.35.020. ADMINISTRATION. The commissioner of administration is responsible  
10 for the administration of the system and for carrying out this chapter. In addition, the  
11 commissioner shall

12 (1) maintain the accounts of the system;  
13 (2) make payments for the various purposes specified;  
14 (3) submit periodic reports or statements of account that are needed;  
15 (4) issue a statement of account to an employee requesting it showing the amount  
16 of the employee's contributions to the system;

17 (5) as soon as possible after the close of each fiscal year, and not later than six  
18 months after the close of each fiscal year, send to the governor, the legislature, and the board an  
19 annual statement on the operations of the system containing

20 (A) a balance sheet;  
21 (B) a statement of income and expenditures for the year;  
22 (C) a report on an actuarial valuation of its assets and liabilities;  
23 (D) a summary of assets held in the pension fund listed by the categories  
24 of investment, as provided by the Alaska State Pension Investment Board  
25 [COMMISSIONER OF REVENUE];

26 (E) other statistical financial data that are necessary for a proper  
27 understanding of the financial condition of the system and the result of its operations;

28 (6) establish a public employees retirement trust fund in which the assets of the  
29 system shall be deposited and held;

30 (7) engage an independent certified public accountant to conduct an annual audit  
31 of the system's accounts and the annual report of the system's financial condition and activity;

1 (8) report to the board concerning the condition and administration of the system  
2 and distribute the report to the members of the system.

3 \* Sec. 16. AS 39.35.040 is amended by adding a new paragraph to read:

4 (11) adopt regulations for the election of trustees to the Alaska State Pension  
5 Investment Board and for removal from the investment board of trustees elected from the system.

6 \* Sec. 17. AS 39.35.080 is amended to read:

7 Sec. 39.35.080. DUTIES OF THE ALASKA STATE PENSION INVESTMENT  
8 BOARD [COMMISSIONER OF REVENUE]. The Alaska State Pension Investment Board  
9 [COMMISSIONER OF REVENUE] is the [TREASURER OF THE SYSTEM AND THE]  
10 fiduciary of the fund. The board [COMMISSIONER] has the same powers and duties  
11 established under this chapter in regard to the fund as are provided in AS 14.25.035(d) and  
12 14.25.180.

13 \* Sec. 18. AS 39.35.500 is amended to read:

14 Sec. 39.35.500. SAFEGUARD OF EMPLOYEE FUNDS HELD BY THE SYSTEM.  
15 Except as provided in AS 29.45.030(a)(1)(D), employee [EMPLOYEE] contributions and other  
16 amounts held in the system are exempt from Alaska state and local taxes. Amounts held on  
17 behalf of, or payable to, any employee or other person who is or may become eligible for  
18 benefits under the system are not subject to anticipation, alienation, sale, transfer, assignment,  
19 pledge, encumbrance, or charge of any kind, either voluntary or involuntary, before being  
20 received by the person entitled to the amount under the terms of the system. An attempt to  
21 anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of a  
22 right to amounts held under the system is void. However, an employee's right to receive benefits  
23 may be assigned under a qualified domestic relations order.

24 \* Sec. 19. AS 39.45.030(a) is repealed and reenacted to read:

25 (a) The Alaska State Pension Investment Board is authorized, subject to contracts with  
26 individual employees, to invest the funds held under a deferred compensation program. The  
27 board has the same powers and duties concerning the management and investment in regard to  
28 those funds as are provided under AS 14.25.180.

29 \* Sec. 20. AS 39.45.030 is amended by adding new subsections to read:

30 (c) The board may provide a range of investment options and permit a participant or  
31 beneficiary of the program to exercise control over the assets in the individual's account. If the

1 board offers investment options, and if a participant or beneficiary exercises control over the  
2 assets in the individual's account,

3 (1) the participant or beneficiary is not considered a fiduciary for any reason on  
4 the basis of exercising that control; and

5 (2) a person who is otherwise a fiduciary is not liable under this section for any  
6 loss, or by reason of any breach, that results from the individual's exercise of control.

7 (d) If the board is considering entering into a contract or modifying an existing contract  
8 concerning the management or investment of funds of the deferred compensation program, the  
9 board shall consult with the commissioner of administration before making a decision on the  
10 issue.

11 (e) The board shall develop a contingency plan that addresses the board's response to  
12 possible future investment problems.

13 (f) In this section, "board" means the Alaska State Pension Investment Board.

14 \* Sec. 21. AS 39.50.200(b) is amended by adding a new paragraph to read:

15 (54) Alaska State Pension Investment Board (AS 37.10.210).

16 \* Sec. 22. AS 44.25.020 is amended to read:

17 Sec. 44.25.020. DUTIES OF DEPARTMENT. The Department of Revenue shall

18 (1) enforce the tax laws of the state;

19 (2) collect, account for, have custody of, invest, and manage all state funds and  
20 all revenues of the state except revenues incidental to a program of licensing and regulation  
21 carried on by another state department and funds managed and invested by the Alaska State  
22 Pension Investment Board;

23 (3) register cattle brands;

24 (4) supply necessary clerical and administrative services for the Alcoholic  
25 Beverage Control Board; [AND]

26 (5) invest and manage the balance of the power development fund in accordance  
27 with AS 44.83.386;

28 (6) in accordance with the policies established by the board of trustees of the  
29 Alaska State Pension Investment Board, collect, account for, have custody of, invest, and  
30 manage the state funds for which the board is responsible.

31 \* Sec. 23. AS 44.25 is amended by adding a new section to read:

1           Sec. 44.25.028. CONFLICT OF INTEREST FOR ALASKA STATE PENSION  
2 INVESTMENT BOARD. (a) The commissioner of revenue may designate employees of the  
3 department who are subject to the provisions of AS 39.50 because of their responsibility for  
4 participating in the management or investment of the funds for which the Alaska State Pension  
5 Investment Board is responsible.

6           (b) If an officer or employee of the department with responsibility for funds for which  
7 the Alaska State Pension Investment Board is responsible acquires, owns, or controls an interest,  
8 direct or indirect, in an entity or project in which assets under the control of the board are  
9 invested, the officer or employee shall immediately disclose the interest to the board. The  
10 disclosure is a matter of public record and shall be included in the minutes of the board meeting  
11 next following the disclosure. The commissioner shall adopt regulations to restrict officers and  
12 employees of the department from having a substantial interest in an entity or project in which  
13 assets under the control of the board are invested.

14           (c) Failure to comply with the requirements of this section or regulations enacted under  
15 it is grounds for termination of employment.

16 \* Sec. 24. AS 39.45.030(b) is repealed.

17 \* Sec. 25. TRANSITION. All litigation, hearings, investigations, and other proceedings pending  
18 under a law amended or repealed by this Act, or in connection with functions transferred by this Act,  
19 continue in effect and may be continued and completed notwithstanding a transfer, amendment, or repeal  
20 provided for in this Act. Orders and regulations issued or adopted under authority of a law amended  
21 or repealed by this Act remain in effect for the term issued, or until revoked, vacated, or otherwise  
22 modified under the provisions of this Act. All contracts, rights, liabilities, and obligations created by  
23 or under a law amended or repealed by this Act, and in effect on the effective date set out in sec. 30 of  
24 this Act, remain in effect notwithstanding this Act's taking effect. Records, equipment, and other  
25 property of agencies of the state whose functions are transferred under this Act shall be transferred  
26 commensurate with the provisions of this Act.

27 \* Sec. 26. ORGANIZATION OF TRUSTEES. (a) Notwithstanding AS 37.10.210(c), enacted by  
28 sec. 1 of this Act, the initial terms of the members, other than the commissioner of revenue, of the board  
29 of trustees of the Alaska State Pension Investment Board shall be as follows:

30           (1) one member elected from the public employees' retirement system and one appointed  
31 member shall serve terms of four years;

1           (2) one member elected from the teachers' retirement system and one appointed member  
2 shall serve terms of three years;

3           (3) one member elected from the public employees' retirement system and one appointed  
4 member shall serve terms of two years;

5           (4) one member elected from the teachers' retirement system shall serve a one-year term.

6           (b) The board of trustees of the Alaska State Pension Investment Board may hold organizational  
7 meetings as soon as a quorum of the board has been appointed to or selected for the board.

8       \* Sec. 27. AS 37.10.210 and 37.10.230 - 37.10.390, enacted by sec. 1 of this Act, and sec. 26 of this  
9 Act take effect July 1, 1992.

10       \* Sec. 28. Except as provided in sec. 27 of this Act, this Act takes effect on the earlier of July 1,  
11 1993, or the date established by resolution of the board of trustees of the Alaska State Pension  
12 Investment Board for the transfer to it of securities and assets of all the funds of the retirement systems,  
13 as defined in AS 37.10.390, enacted by sec. 1 of this Act, and the receipts of the employee benefits  
14 program established under AS 39.30.150 - 39.50.180 and of the deferred compensation programs under  
15 AS 39.45. The board shall promptly provide the revisor of statutes and the lieutenant governor with a  
16 copy of this resolution.

FISCAL NOTE

BILL NO. CSSB 329 (STA)

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: April 21, 1992  
Title: An Act establishing the Alaska State Pension Investment Board  
Sponsor: Pourchot  
Requestor: House Finance Committee

Department Affected: Administration  
BRU: Retirement and Benefits  
Component: Retirement and Benefits  
COMPONENT SERIAL NO. 64

Expenditures/Revenues: (Thousands of Dollars)

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

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
-------------------------	---	---	---	---	---	---

FUNDING: (Thousands of dollars)

GENERAL FUND	(3,013.2)	(3,013.2)	(3,013.2)	(3,013.2)	(3,013.2)	(3,013.2)
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE	3,013.2	3,013.2	3,013.2	3,013.2	3,013.2	3,013.2
TOTAL	0	0	0	0	0	0

POSITIONS

FULL-TIME:	0	0	0	0	0	0
PART-TIME:	0	0	0	0	0	0
TEMPORARY:	0	0	0	0	0	0

Estimate of current year impact: none

ANALYSIS: (attach a separate page if necessary.) Updating the impact of moving the funding authority for the Supplemental Benefits System (SBS) and Deferred Compensation programs from general fund/program receipts to an "other" funding source (Benefit System Receipts). This update is congruent with the FY 93 Governor's Budget (form C21b, page 000618).

Prepared By: Gary Bader *Larry M. Booley*  
Division: Retirement and Benefits

Phone: 465-4470  
Date: April 21, 1992

Approved by Commissioner: Nancy Bear Usher  
Agency: Department of Administration

Date: 4/22/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB & Impacted Agency(ies).  
Rev 10/90 Page 1 of 1

580 329

# Alaska State Pension Investment Board (ASPIB)

## *CSSB 329 (STA), Senator Pourchot*

A Board of Trustees established to manage the following funds:

Public Employees Retirement System Fund **\$3.2 billion**

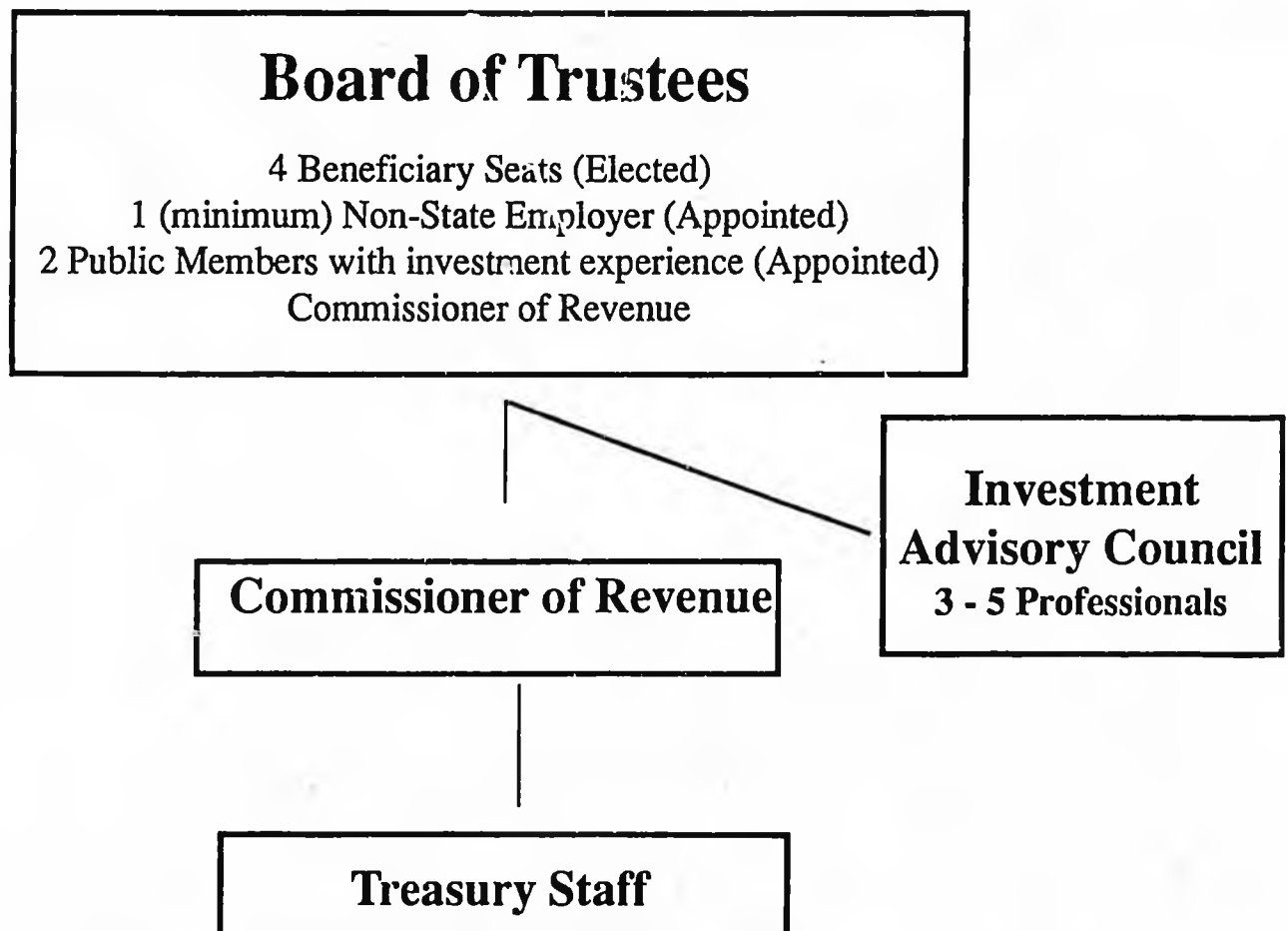
Teachers Retirement System Fund **\$1.90 billion**

Judicial Retirement System Fund **\$34.1 million**

Military Retirement Fund **\$4.2 million**

Supplemental Benefits System (SBS) **\$675 million**

Deferred Compensation **\$125 million**

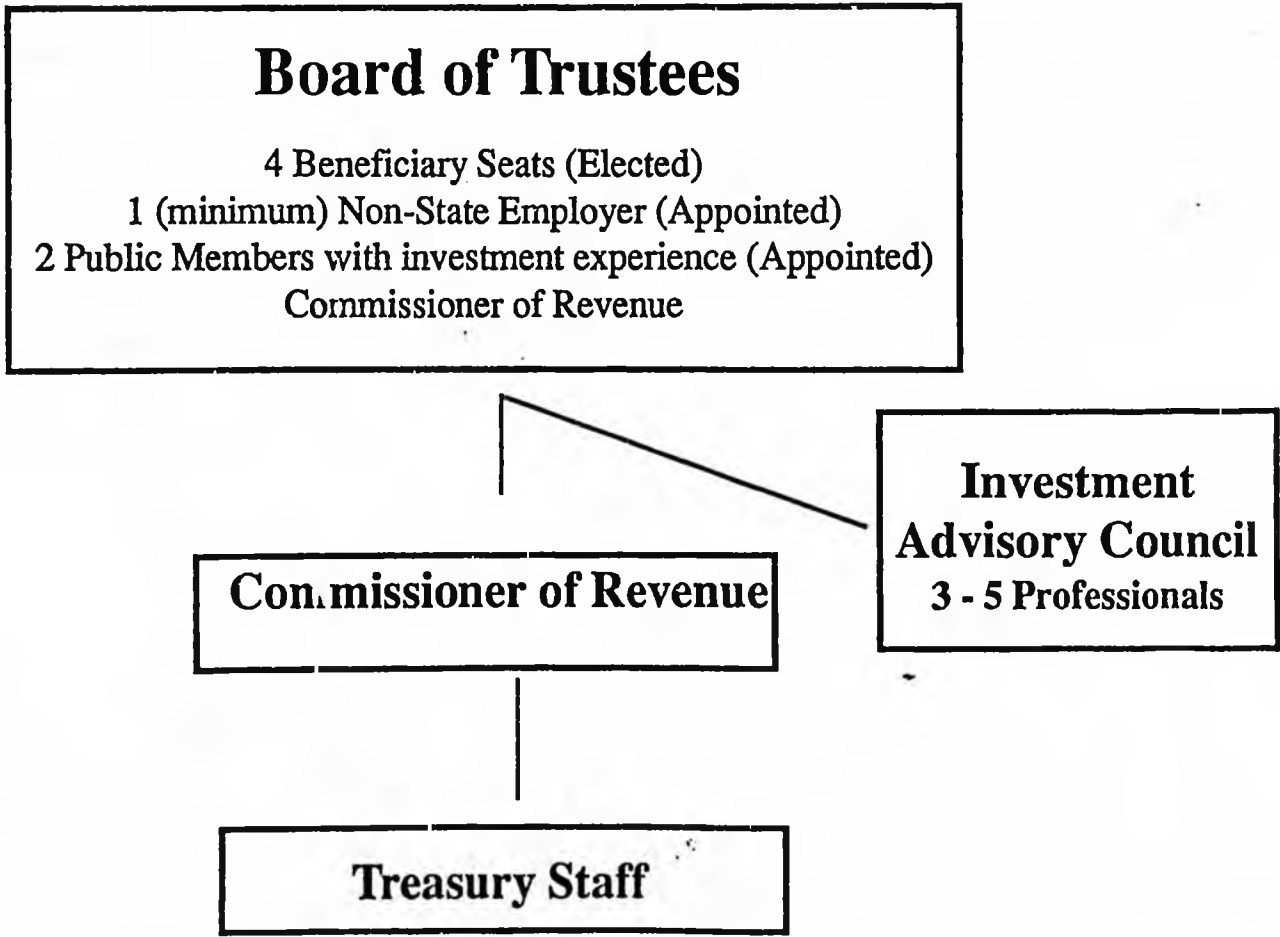


# Alaska State Pension Investment Board (ASPIB)

## *SB 329, Senator Pourchot*

A Board of Trustees established to manage the following funds:

- Public Employees Retirement System Fund **\$3.2 billion**
- Teachers Retirement System Fund **\$1.90 billion**
- Judicial Retirement System Fund **\$34.1 million**
- Military Retirement Fund **\$4.2 million**
- Supplemental Benefits System (SBS) **\$675 million**
- Deferred Compensation **\$125 million**



1/23/92  
By Senator Pourchot

## COMPARISON OF CSSB 329 AND SB 18 PENSION FUND MANAGEMENT

Senate Bill 18, which established the Alaska State Pension Corporation, passed both bodies in 1991 and was vetoed by the Governor. SB 329 was drafted in cooperation with the Department of Revenue and the Department of Administration and incorporates many of the concepts that were included in SB 18. The major differences between the two bills are listed below.

SB 329 ESTABLISHES A BOARD OF TRUSTEES WHICH DIRECTS THE DEPARTMENT OF REVENUE IN THE MANAGEMENT AND INVESTMENT OF PENSION FUNDS.

SB 329 does not establish a separate corporation, as was proposed in SB 18. Elimination of the corporate concept altered language in several areas of the bill. SB 329 does not contain any provisions for an executive director, corporate exempt employees, banking examination, or holding of assets. SB 329 does contain a new provision that allows the Commissioner of Revenue to designate employees who are subject to conflict of interest and whose failure to comply would be grounds for termination.

SB 329 ADDS DEFERRED COMPENSATION FUNDS TO THE PREVIOUS SB 18 LIST OF FUNDS.

The Board of Trustees in SB 329 will manage the funds of the following systems: PERS, TRS, Judicial, Military, SBS and Deferred Compensation. Provisions have been added that require the Board to consult with the Department of Administration prior to making any changes to either the SBS or the Deferred Compensation programs. The Board is also required to develop contingency plans for potential carrier investment problems for both SBS and Deferred Compensation.

SB 329 ALTERS CURRENT SBS AND DEFERRED COMPENSATION STATUTES BY CONVEYING FIDUCIARY POWERS TO THE BOARD AND ALLOWING FOR, BUT NOT REQUIRING, PARTICIPANT DIRECTED INVESTMENT PROGRAMS.

The current statutory Deferred Compensation "laundry list" of authorized investments has been deleted to allow the Board to set the investment strategy. The language is the same as that proposed for the SBS funds. Both provisions allow for a participant directed plan and if chosen, clarifies the liability limits of the fiduciary for losses due to the individual's exercise of control.

#### BOARD COMPOSITION:

SB 329 establishes an eight member Board, four elected and four appointed. The elected members are 1 PERS/SBS, 1 PERS, 2 TRS. The PERS and TRS Boards are empowered to set regulations concerning election and removal of the PERS/TRS board members. The Governor appointed members are: Commissioner of Revenue and three members who have investment experience, with at least one of these representing a non-state employer. The Governor may remove the appointed members for cause. The nine member board composition in SB 18 was more exacting in eligibility for both elected and appointed members and contained specific reasons for removal.

#### BOARD REQUIREMENTS:

In addition to the duties and responsibilities listed in SB 18, SB 329 requires that the Board shall:

1. Develop and present a budget to DOR, OMB and the Legislature
2. Review every two years, the actuarial earnings assumption for each fund and report to the appropriate boards and agencies
3. Adopt procurement regulations that include public notice requirements and emergency procedures
4. Select and monitor external investment managers
5. Meet annually with the PERS and TRS board and the Department of Administration to review benefit administration of each system.

January 23, 1992  
sec.txt/Susie

SUBJECT; CSSB 329 (STA): PENSION FUND INVESTMENT LEGISLATION

TO; Senator Pat Pourchot

FROM; Susan Barnett, Staff

This legislation establishes a Board of Trustees to manage and invest the following funds: PERS, TRS, Judicial, Military, SBS and Deferred Compensation.

TITLE; An Act establishing the Alaska State Pension Investment Board, hereinafter referred to as the Investment Board; relating to management and investment of state pension funds and other state funds; and providing for an effective date.

SECTION 1: creates the Alaska State Pension Investment Board.

Sec. 37.10.210 (a) establishes the Investment Board and sets the purpose of the Investment Board as providing prudent and productive management and investment of state pension funds and other funds by agreement.

Subsection (b) sets out the eight voting trustees, two of whom are members of and elected by the Public Employees Retirement System (PERS) participants. One of the PERS elected trustees must be a participant in SBS. Two trustees are members of and elected by the Teachers Retirement System (TRS) participants. Nominations may be made by the TRS Board, PERS Board or by petition signed by at least 10 persons eligible to vote in the election. Three public member trustees are appointed by the governor, at least one of whom represents non-State participating employers. All public members shall have business and investment experience. The Commissioner of Revenue also serves as a trustee.

Subsection (c) sets out staggered four year terms for trustees. Subsections (d) and (e) set out removal "for cause" of trustees, each trustee serving at the pleasure of the appointing or electing authority and the filling of a vacancy. The PERS and TRS Boards serve as the "electing" authorities.

Subsections (f)(g)(h) set out Investment Board organization: Board elects chair annually, five trustees constitute a quorum and designees are not allowed. Subsection (i) requires trustees to adopt a policy concerning investment education.

Sec. 37.10.220 sets out the powers and duties of the Investment Board. Subsection (a) provides that the Investment Board shall establish investment policies for the funds for which it is responsible after reviewing recommendations from the advisory council and DOR, submit investment reports to the legislature,

employers, appropriate boards, departments, contract for external performance reviews, engage independent auditors, review the actuarial earnings assumption every two years and report findings to the appropriate board, select and retain external investment managers and fund custodians and develop and present a budget plan to DOR, OMB and the legislature. Subsection (b) provides that the Investment Board may employ legal counsel, engage outside investment advisors, contract for services necessary to allow the Investment Board to perform its functions, enter into an agreement to assume responsibility for other state funds upon agreement with the Commissioner of the department or the fiduciary responsible for those funds. Subsection (c) sets out that the Investment Board shall annually meet with PERS, TRS boards and the Department of Administration to review benefits administration.

Sec. 37.10.230 (a) (b) set out conflict of interest provisions for the trustees. Under this section, the Investment Board shall adopt regulations to restrict trustees from having a substantial interest in any of the fund assets.

Sec. 37.10.240 exempts the Investment Board from the Administrative Procedures Act but requires the Board to adopt and publish regulations relating to procurement that reflect competitive bidding and to provide public notification. The Investment Board must also comply with the open meetings law. Subsection (e) sets out emergency regulations procedures.

Sec. 37.10.250 sets the honorarium for trustees at \$150 per meeting day and states that those who are public employees shall serve without compensation but shall be granted administrative leave.

Sec. 37.10.260 (a) requires DOR to provide staff for the Investment Board. (b) allows Board to designate a signatory.

Sec. 37.10.270 requires the Investment Board to appoint an investment advisory council composed of at least three and not more than five members who must meet qualifications. Subsection (b) sets out that the members serve at the pleasure of the Investment Board and serve for staggered three year terms. Subsection (c) requires Investment Board to establish compensation for advisory members. Subsection (d) sets out duties of the council to include reviewing investments, recommending investment policy, advising on selection of consultants and auditors. Subsection (e) allows the council to contract with other state agencies to provide advice, with Investment Board approval.

Sec. 37.10.280 requires the Investment Board to ensure that assets held in trust are protected and that insurance must protect the board and state from liability to others and from loss of trustee assets due to acts or omissions of the trustees.

Sec. 37.10.290 exempts the retirement systems and property they own, manage or hold in trust from all taxes and assessments in the state with the exception of municipal taxation on property acquired

through foreclosure or in lieu of foreclosure.

Sec. 37.10.300 prohibits the Investment Board from engaging in commercial banking activity, from acting as a depository or trustee for a private person and from acting as a lender to a private person of money from any source other than the money from the state funds under its own management.

Sec. 37.10.310 limits the state's responsibility for liabilities of the Investment Board.

Sec. 37.10.390 defines board, retirement systems. Retirement Systems are: TRS, PERS, Judicial, Military.

SECTION 2: substitutes the Board for the Commissioner of Revenue in reporting about the condition of the teachers retirement system (TRS) and requires the Board provide the TRS board with an annual external performance review of the trust fund.

SECTION 3: requires the TRS board to adopt regulations for the election and removal of trustees to the Investment Board. Note: changes to 14.25.280 alter several other funds. 14.25.280 is considered the standard.

SECTION 4: makes the Investment Board fiduciary of the TRS fund in place of the Commissioner of Revenue and requires the Board to work in the best financial interest of the system's beneficiaries and the retirement plan.

SECTION 5: allows the Teachers Retirement System member contributions held in the system to be taxed under the proposed changes to Title 29, allowing municipal taxation of foreclosed properties.

SECTION 6: substitutes the Investment Board for the commissioner of revenue in management and investment of the Judicial Retirement Trust.

SECTION 7: substitutes the Investment Board for the commissioner of revenue in management and investment of the Alaska National Guard and Alaska Naval Militia retirement fund, referred to as the Military fund or system.

SECTIONS 8, 9 and 10 exempt the Investment Board from the procurement code but require the Board to adopt comparable procedures.

SECTION 11 includes the receipts of SBS and Deferred Compensation on the list of funds excluded from the Program Receipts/ General Fund definition.

SECTION 12 substitutes the Investment Board for the Commissioner of Revenue in the section that sets out the current statutes concerning powers and duties of the fiduciary that invests and manages state funds. In paragraph (8) the bill requires accounting

records to be kept in accordance with generally accepted accounting principles. Subsection (c) requires the fiduciary to exercise the Prudent Investor Rule in exercising powers and duties. Subsections (d) (e) require the state to defend and indemnify the fiduciary if fiduciary or the fiduciary's designee performed in good faith and was prudent. Subsection (f) defines fiduciary to include trustee, and any other person who exercises control over assets or who gives investment advice to the board.

SECTION 13 is a conforming amendment to correct the Public School Trust Fund (which is not included in the board's responsibility) statutes, to reflect changes made to the TRS statutes.

SECTION 14: identifies the Investment Board as the fiduciary of the receipts of the employee benefits program (SBS). Subsection (b) allows, but does not require, the Investment Board to offer a "participant directed" plan and protects the Board from liability from the individual's exercise of control. Subsection (c) requires the Board to consult with Commissioner of Administration prior to contracting or modifying contracts concerning management of SBS. Subsection (d) requires Board to develop a contingency plan for potential investment problems.

SECTION 15: in existing PERS statutes, requires the Investment Board to provide specified information to the commissioner of administration.

SECTION 16; requires the PERS Board to adopt regulations concerning the election and removal of trustees to the Investment Board.

SECTION 17; substitutes the Investment Board for the Commissioner of Revenue as the fiduciary for the PERS fund and references to the requirements set out in the TRS sections.

SECTION 18: allows the PERS member contributions held in the system to be taxed under the changes in Title 29, concerning foreclosed property.

SECTIONS 19 and 20; substitute the Investment Board for the commissioner of administration as investor of the deferred compensation funds and gives the Board the same powers and duties in investing Deferred Compensation funds as set out in the TRS statutes. The language is similar to that in Section 14 (SBS) concerning investments, fiduciary responsibility, consultation with Admin. and contingency planning.

SECTION 21; includes the Investment Board trustees in the conflict of interest statutes.

SECTION 22; amends the duties of the Department of Revenue to reflect the changes made by the bill and the funds for which the Board is responsible for, requires that the department collect, account for, have custody of, invest and manage the funds in accordance with the policies set by the Investment Board.

SECTION 23; allows the commissioner of Revenue to designate employees who are subject to conflict of interest provisions and sets out that failure to comply is grounds for termination.

SECTION 24; repeals definition of "insured" as the language in AS 39.45.030 (b) has been changed from an investment limitation list to the language in Sections 19 and 20 for deferred compensation and the word "insured" no longer appears in either section.

SECTION 25; is a transition section.

SECTION 26; sets out the initial terms of the Investment Board and permits the Board to hold organizational meetings as soon as a quorum has been appointed or elected.

SECTION 27; sets July 1, 1992 as the effective date for Board organization.

SECTION 28; sets the earlier of July 1, 1993 or the date established by resolution of the trustees as the effective date for the Board to begin managing and investing assets as well as other duties as defined in the bill.

LETTER OF INTENT;

TESTIMONY OF JON STABLES  
ASSISTANT BUSINESS MANAGER, ASEA/AFSCME LOCAL 52  
BEFORE THE SENATE FINANCE COMMITTEE  
ON SENATE BILL 329  
"ALASKA STATE PENSION INVESTMENT BOARD"  
JANUARY 28, 1992

GOOD MORNING. FOR THE COMMITTEE RECORD, MY NAME IS JON STABLES AND I AM THE ASSISTANT BUSINESS MANAGER FOR THE ALASKA STATE EMPLOYEES ASSOCIATION/AFSCME LOCAL 52. MY BUSINESS ADDRESS IS 641 WEST WILLOUGHBY, SUITE 100, JUNEAU, ALASKA 99801.

I WANT TO THANK FINANCE COMMITTEE CO-CHAIRMEN JAY KERTTULA AND PAT POURCHOT FOR ALLOWING ME TO TESTIFY ON BEHALF OF SENATE BILL 329 TODAY, AND FOR THEIR WORK IN DEVELOPING THIS LEGISLATION.

I SHOULD POINT OUT THAT MY TESTIMONY TODAY REFLECTS THE DESIRES OF THE APPROXIMATELY 9,000 MEMBERS AND OFFICERS OF THE ALASKA STATE EMPLOYEES ASSOCIATION.

AS I AM SURE THE COMMITTEE MEMBERS RECALL, OUR ASSOCIATION SUPPORTED SENATE BILL 18 LAST YEAR, WHICH WOULD HAVE ESTABLISHED A SEPARATE STATE INVESTMENT BOARD. WE FELT THIS WAS A VERY GOOD PIECE OF LEGISLATION AND OUR ONLY REGRET IS THAT GOVERNOR HICKEL VETOED THE BILL LAST SUMMER.

WHILE SENATE BILL 329 CONTAINS A FEW SIGNIFICANT CHANGES FROM SENATE BILL 18, WE AT ASEA RECOGNIZE IT AS A COMPROMISE EFFORT TO AVOID THE GOVERNOR'S VETO THIS YEAR.

WE SUPPORT SENATE BILL 329 BECAUSE IT PROVIDES FOR THE MEMBERS AND BENEFICIARIES OF THE PUBLIC EMPLOYEES RETIREMENT SYSTEM, THE TEACHERS RETIREMENT SYSTEM, THE SUPPLEMENTAL BENEFITS SYSTEM

(CONTINUED)

SENATE FINANCE COMMITTEE  
TESTIMONY OF JON STABLES ON S.B. 329  
PAGE TWO

AND THOSE EMPLOYEES WITH INVESTMENTS IN THE DEFERRED COMPENSATION FUND TO ELECT THEIR REPRESENTATIVES TO THE INVESTMENT BOARD. I'M SURE IT COMES AS NO SURPRISE TO THE COMMITTEE THAT WE BELIEVE IT PRUDENT AND SENSIBLE PUBLIC POLICY TO ALLOW PUBLIC EMPLOYEES A SAY IN HOW THEIR MONEY IS INVESTED.

FURTHER, WE BELIEVE CREATION OF SUCH AN INVESTMENT BOARD, WHETHER AS A QUASI-INDEPENDENT ENTITY OR UNDER AN EXISTING STATE DEPARTMENT, IS A MAJOR STEP TOWARD AVOIDING THE TYPE OF FIASCO THAT CAME TO A HEAD LAST YEAR WITH THE STATE'S SUPPLEMENTAL BENEFITS SYSTEM AND THE SO-CALLED "GUARANTEED" INVESTMENT CONTRACTS WITH THE EXECUTIVE LIFE CORPORATION OF CALIFORNIA. MANY A CANDIDATE FOR PUBLIC OFFICE HAS BEEN BETTER ABLE TO DELIVER ON HIS OR HER CAMPAIGN GUARANTEES THAN THAT FIRM.

MANY OF THE RISKS INHERENT IN THE WAY S.B.S. FUNDS WERE INVESTED IN THE PAST WOULD BE ELIMINATED BY THE PROVISIONS IN SENATE BILL 329. FOR THE REASONS I HAVE STATED, FOR THE PROTECTION OF FUNDS INVESTED BY ALASKA'S HARD WORKING PUBLIC EMPLOYEES, AND FOR THE GOOD OF THEIR MORALE, ASEA STRONGLY URGES THE SENATE FINANCE COMMITTEE TO RECOMMEND APPROVAL OF SENATE BILL 329, AND TO PASS IT OUT TO THE SENATE RULES COMMITTEE SO IT CAN BE SCHEDULED FOR A FLOOR VOTE.

AGAIN, MY THANKS TO THE COMMITTEE CO-CHAIRMEN AND THE BILL'S SPONSOR FOR PROVIDING THE OPPORTUNITY TO TESTIFY TODAY. IF YOU HAVE ANY QUESTIONS REGARDING ASEA'S POSITION ON S.B. 329, I WILL BE PLEASED TO TRY TO ANSWER THEM.

THANK YOU.

(END TESTIMONY)



Bringing lifetimes of experience and leadership to serve all generations.

ALASKA STATE LEGISLATIVE COMMITTEE

~~XXXXXXXXXXXXXXXXXXXX~~  
~~XXXXXXXXXXXXXXXXXXXX~~  
~~XXXXXXXXXXXXXXXXXXXX~~  
X ~~XXXXXXXXXXXXXXXXXXXX~~  
~~XXXXXXXXXXXXXXXXXXXX~~  
~~XXXXXXXXXXXXXXXXXXXX~~  
(907) 586-6680

~~XXXX~~CHAIRMAN  
Mr. C. Keith Campbell  
P.O. Box 722  
Seward, AK 99664  
(907) 224-5631

SECRETARY  
Miss Ann L. Walsh  
924 Kellum #201  
Fairbanks, AK 99701  
(907) 456-6737

COORDINATOR  
Capital City Task Force  
Mr. Joe Alter  
Box 20304  
Juneau, AK 99802  
(907) 586-6680

January 22, 1992

My name is Warren Wild, and I am here on behalf of the State Legislative Committee of The American Association of Retired Persons. This committee attempts to represent the more than 34,000 older Alaskans who belong to AARP. We do this by means of a biennial survey plus communication to members in the chapters and units throughout the state.

We have, for the past two years, been supportive of legislation such as this which would provide independent management of the state pension funds. Last fall we adopted a position paper on this subject which I have attached to my testimony. The present bill, SB 329, satisfies most of our concerns and we are pleased to state that it is almost totally consistent with the our stated position.

The difference being that our positon paper advocates the creation of independent corporation whereas the proposed legislation establishes a board within the Department of Revenue. At the time of adoption of this position paper (November 1991), we did not have this proposal before us. We will discuss this aspect of the bill when we next meet on February 12 and 13, and hopefully will have another opportunity to testify after that. Except for that difference we are supportive of the legislation as proposed and look forward to its passage.

Thank you.



MANAGEMENT OF ALASKA STATE PENSION FUNDS  
POSITION PAPER  
1992

AARP POSITION

The Alaska State Legislative Committee of the American Association of Retired Persons advocates creation of an independent investment corporation to manage the state pension funds and ensure the state's prudent and faithful discharge of its investment responsibilities as the fiduciary of various trust funds.

This public corporation would carry out the state's responsibilities to facilitate the prudent maximization of trust fund earnings by providing broader and more flexible management powers.

Size of the Corporation Board of Trustees should be small (7 to 9 members, yet operationally efficient and financially prudent. Representation on the Board should include TRS and PERS members (active and retired), employers, the public, and the Commissioner of Revenue.

Provision should be made for an Investment Advisory Council to make recommendations to the Board on investment strategies and procedures. The present TRS and PERS Boards should be retained.

Benefit management should remain in the Department of Administration.

PROBLEM

Many Alaskans are contributors to various State Retirement Systems with the expectation that the funds will be carefully protected and prudently invested to ensure the availability of benefits to the eligible beneficiary upon retirement.

The State of Alaska has the responsibility for the management of investments for the trust funds (approximately \$5 billion) of the Public Employees' Retirement System (PERS), Teachers' Retirement System (TRS), Judicial Retirement System, Military Retirement System and Elected Public Officers' Retirement System.

By law, the Commissioner of Revenue is the sole fiduciary for the investment of the funds. (The Teachers' Retirement Board and Public Employees' Retirement Board have no direct role in the investment of the funds, although the boards are responsible for administering retirement benefits.) The Commissioner is a political appointee, subject to change every four years, which is disruptive to the continuity of the investment program. Since the Commissioner of Revenue has numerous responsibilities, there are limitations on the time that he/she can devote to the management of the funds.



January 22, 1992

## POSITION PAPER

### SB 329 - Alaska State Pension Investment Board

The Alaska Municipal League supports the establishment of an investment board for the management and investment of state pension trust funds, including the trust funds of the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS), insofar as the investment board includes representatives of trust beneficiaries and employers.

Alaskan municipalities make over half of all employer contributions to the PERS and TRS and are directly affected by the performance of these funds because of the effect fund earnings have on employer contribution rates and, thus, on local tax rates. At present, both PERS and TRS funds are managed by the Department of Revenue, with the commissioner as the sole fiduciary. Under SB 329, the Board would replace the commissioner as the fiduciary of the fund.

Creation of an investment board under SB 329 will give visibility to and strengthen the trust status of pension trust funds. It would increase accountability, continuity, and public disclosure for the investment management of the funds by establishing a board as fiduciary and incorporating professional investment managers and trust administrators on an investment advisory council if not as an appointed member of the board. SB 329 also provides for representatives of beneficiaries and employers on the investment board, although the mandated number of employer representatives has been reduced from two in SB 18 to one under SB 329. The legislation provides for the exercise of fiduciary powers through the forum of regularly scheduled public meetings rather than administrative actions. A board would give management the authority to act in a timely manner and compete fully with other professional institutional investors.

The Alaska Municipal League supported the passage of SB 18 last year and supports SB 329 as an acceptable compromise in light of Governor Hickel's veto.

sab2:sb329pen.122

**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: [ ] the same title  
 be replaced with \_\_\_\_\_ [ ] 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
---	---	---	---

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 CS53330 (Fin) have no fiscal impact. This fiscal note is appropriate.  
1-28-92 date JK 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
---	---	---	---

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.  
 date 1-28-92 Comte Aide (initial) sh

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

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

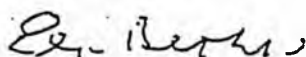
Phone: 465-4700

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

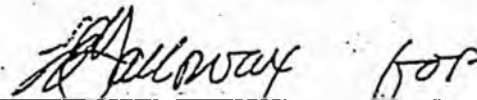
The rural development sub-cabinet has been following with concern the issue of whether or not natural resources in place should be subject to local property taxation. A study of the issue was conducted by the Department of Community and Regional Affairs, and a report will be submitted to the Legislature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

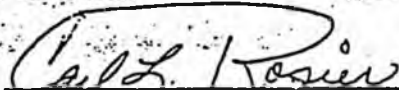
The rural development sub-cabinet supports a total exemption of natural resources in place from local property taxation, and urges the Governor to actively support legislation that will so amend Title 29 of The Alaska Statutes.



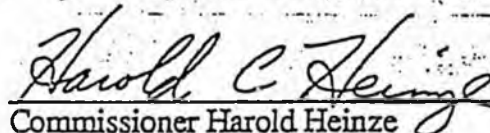
\_\_\_\_\_  
Commissioner Edgar Blatchford, Chair  
Community & Regional Affairs



\_\_\_\_\_  
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:**

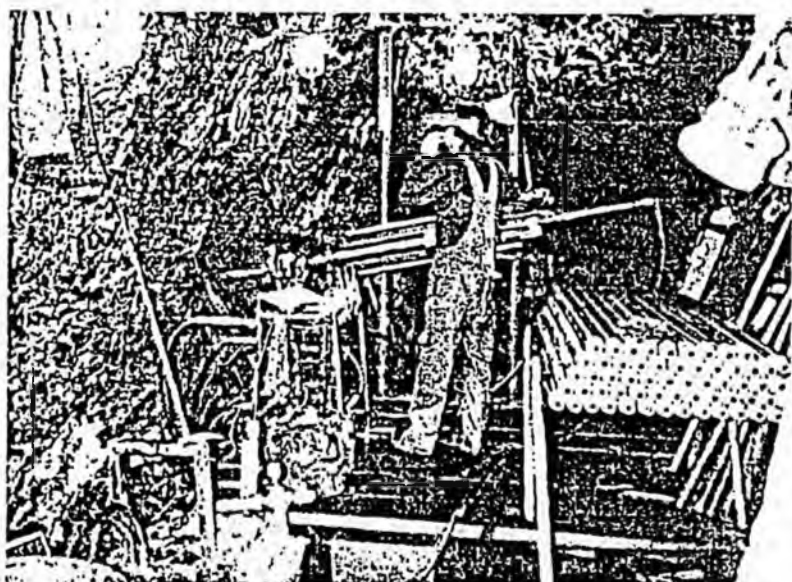
- (1) Where other states get their taxes?
- (2) Keeping state and local taxes separate!
- (3) Problems with direct resource taxation.
- (3) The stake of the business community in insuring that the state over the long-haul adopts a 'fair' agenda of taxes.
- (4) The stake of the citizen and local communities 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.