

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 889

SB 330

SENATE FINANCE COMMITTEE REPORT

DATE: 1/24/92

FURTHER:

DATE TURNED INTO OFFICE: 1-28-92

The Finance Committee considered SENATE BILL NO. 330

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

and recommends:

replace with _____ CS SB 330 (FINANCE)
or adopt previous _____ CS _____
 attaches amendment(s)

same title
 new title
 technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes DOR - 1-21-92

fiscal notes _____

appropriation - no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes DOR & RA 1-18-92

fiscal notes _____

DO PASS:

OTHER RECOMMENDATIONS:

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

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

STATE OF ALASKA
1992 LEGISLATIVE SESSION

1-26-92
BILL NO. SB 330
R/O 5 Feb
1-28-93

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

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

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

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

FUNDING: (Thousands of Dollars)

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

SB 330

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Changes in 055B.330 (Fin.) have no fiscal impact. This fiscal note is appropriate.

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

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

FISCAL NOTE

Bill Version: SB 330
(S) Publish Date: 1/22/92

STATE OF ALASKA
1992 LEGISLATIVE SESSION

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

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

COMPONENT SERIAL NO.

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Changes in CS5B 330 (Fin.) have no fiscal impact. This fiscal note is appropriate.

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

Prepared By: Remond Henderson
Division: Administrative Services Division

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

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

Date: 1-14-92

Final

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:
Referred:

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

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.

Adopted

7-LS1587A.1
Cook
01/22/92

A M E N D M E N T

OFFERED IN THE SENATE
TO: SB 330

BY THE SENATE RESOURCES COMMITTEE

Page 2, line 22:

Delete "stumpage"

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

- 150 THIRD STREET
JUNEAU, ALASKA 99801-1291
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
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January 17, 1992

POSITION PAPER

RE: Senate Bill 330

SPONSOR: Senator Adams

Program Effects of Bill

The passage of this bill would cause all natural resources in place, as defined in the legislation, to become mandatorily exempt from municipal property taxation. The passage of this measure would make the temporary exemption for natural resources in place enacted by HB 159 in 1990 permanent. That exemption expires July 1, 1992.

Comments

The Department strongly supports the passage of SB 330. This position is the result of our recent study conducted under CH 127, SLA 1990. The full report of that study, along with our conclusions and recommendations, has already been delivered to the Committee. A suggestion for a minor technical amendment is attached to this position paper.

Ed. Blatchford
Edgar Blatchford, Commissioner

Attachment

MEMORANDUM

State of Alaska

To: The Honorable Walter J. Hickel
Governor

December 16, 1991

From: Rural Development Sub-cabinet

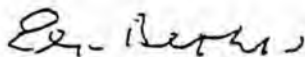
Phone: 465-4700

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

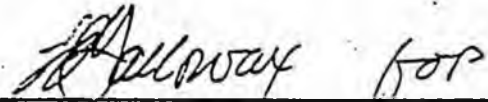
The rural development sub-cabinet has been following with concern the issue of whether or not natural resources in place should be subject to local property taxation. A study of the issue was conducted by the Department of Community and Regional Affairs, and a report will be submitted to the Legislature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



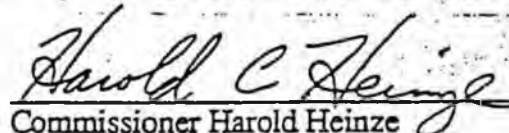
Commissioner Edgar Blatchford, Chair
Community & Regional Affairs



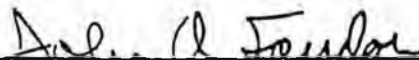
Commissioner Glenn A. Olds
Commerce & Economic Development



Commissioner Carl L. Rosier
Fish and Game



Commissioner Harold Heinze
Natural Resources



Commissioner John A. Sandor
Environmental Conservation

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 of 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

**Report to the Alaska Legislature
on
The Taxation of Natural Resources In Place**

January 1992

**by
The Department of Community
and Regional Affairs**

**Walter J. Hickel, Governor
State of Alaska**

**Edgar Blatchford, Commissioner
Department of Community and Regional Affairs**



**Report to the Alaska Legislature
on
The Taxation of Natural Resources In Place**

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in the States and Provinces



**REPORT TO THE ALASKA LEGISLATURE
ON
THE TAXATION OF NATURAL RESOURCES IN PLACE**

I. Introduction

In 1990, the Alaska Legislature passed an act creating a temporary exemption from property taxation for natural resources in place. (HB 159, enacted as CH 127 SLA 1990, hereafter "the Act".) The temporary exemption in the Act expires July 1, 1992.

In the Act, the Legislature required the Department of Community and Regional Affairs (DCRA) to conduct a study of the potential effects of various natural resource taxation options. This report represents DCRA's effort to fulfill this directive. The purpose of this report is to raise the relevant policy issues and highlight some of the major ramifications for local governments, the state, and resource industries of various taxation strategies. Volumes could be written on the pros and cons of the various taxation strategies to be considered and how they might impact the various resource industries and the various municipalities. However, this study does not purport to be an in-depth discussion of all the possible implications of the taxation strategies examined. If the Legislature determines there is sufficient interest in, or need to further examine the questions raised, it may choose to allocate additional resources to studying those questions. However, at this time there appears to be a statewide consensus in support of totally exempting natural resources in place from local taxation.

Alaska statutes pertaining to property taxation by local governments, while presently exempting certain kinds of property from taxation, do not (except for the temporary exemption in the Act) exempt natural resources in place from taxation. Consequently, natural resources in place are required to be taxable property. As long as the resources remain in place, they could only be taxed through the method of property taxation. Thus, the basic issue of this study was:

Should natural resources in place be taxable by municipalities? Or, in other words, should natural resources be subject to municipal property taxation?

The Legislature also asked DCRA to examine natural resource taxation options other than total taxability of natural resources in place or total exemption of natural resources in place from municipal property taxation. Consequently, the study also examined the following questions:

- 1. Should natural resources in place be partially exempt from local taxation?**
- 2. Should natural resources in place be totally or partially exempt from local taxation at the option of the local government?**
- 3. What other forms of taxation, if any, should municipalities be able to apply to natural resources?**

To answer these questions the study examined several major policy concerns:

- ✓ Fairness among taxpayers
- ✓ Fairness among municipalities
- ✓ Stimulation of economic development
- ✓ Cost-effectiveness of taxation methods
- ✓ Municipal revenue needs/sources

In particular, the study looked at the consequences of various options for taxation of natural resources on municipalities, the resource industries, and the state government (in particular the State Assessor's Office). A survey of other states and provinces was also conducted. An addendum at the end of this report discusses the results of the questionnaire on the subject of natural resources taxation in the other states and provinces.

The Act mandated that DCRA conduct the study in concert with the Department of Revenue (DOR) and the Alaska Municipal League (AML), and with the participation of representatives of municipalities and unincorporated communities in boroughs and in the Unorganized Borough. After initial meetings with technical and more broadly based working groups in 1990 and early 1991, and teleconferences specifically with the AML working group in August and September 1991, DCRA issued a Preliminary Report on The Study of Taxation of Natural Resources in Place on September 13, 1991. The report was sent to all members of the technical and other working groups for comment. Presentations on the approach to the study and its tentative results were made at the Southeast Conference in Juneau, the Alaska Forest Association convention in Sitka, during the Alaska Federation of Natives convention in Anchorage, at the Alaska Miners Association convention in Anchorage, and at the Alaska Municipal League conference in Fairbanks during the fall of 1991. Before the AML conference, a Draft Report on The Taxation of Natural Resources in Place, dated November 1, 1991, was circulated to all of the members of the various working groups and the people who expressed interest in being on the mailing list as a result of the live presentations on the study. The result of the study process is a consensus that natural resources in place should be totally exempted from local property taxation. Without legislative action during the 1992 legislative session, however, the temporary exemption from municipal taxation for natural resources in place will expire July 1, 1992, and natural resources in place will once again be taxable.

To encourage reasoned discussion of the focal issues of the study, the draft report and the live presentations discussed the existing framework of municipal taxation in Alaska, the potential effect of the assessed value of resources in place (if deemed taxable) on the state education foundation aid and state revenue sharing monies to be received by local governments, and the local revenue generation required in order to qualify for those monies under the existing formulas. Both of these formula-based programs are tied to the full and true value of real and personal property within municipalities. Certain aspects of these programs and their terminology had to be understood to lay the groundwork for discussion of the central issue of taxation of resources in place.

The balance of this report follows the format and provides the information circulated to the public as part of the study. It explains the framework for municipal taxation in Alaska, the state foundation aid program for schools, and the state revenue sharing program before returning to the specific issue of the taxation of natural resources in place. The report also examines assessing issues and the policy concerns listed above in relation to the taxation options DCRA was directed to study. This final report will also be circulated to the public before the 1992 legislative session begins.

II. The Legal Framework for Municipal Taxation in Alaska

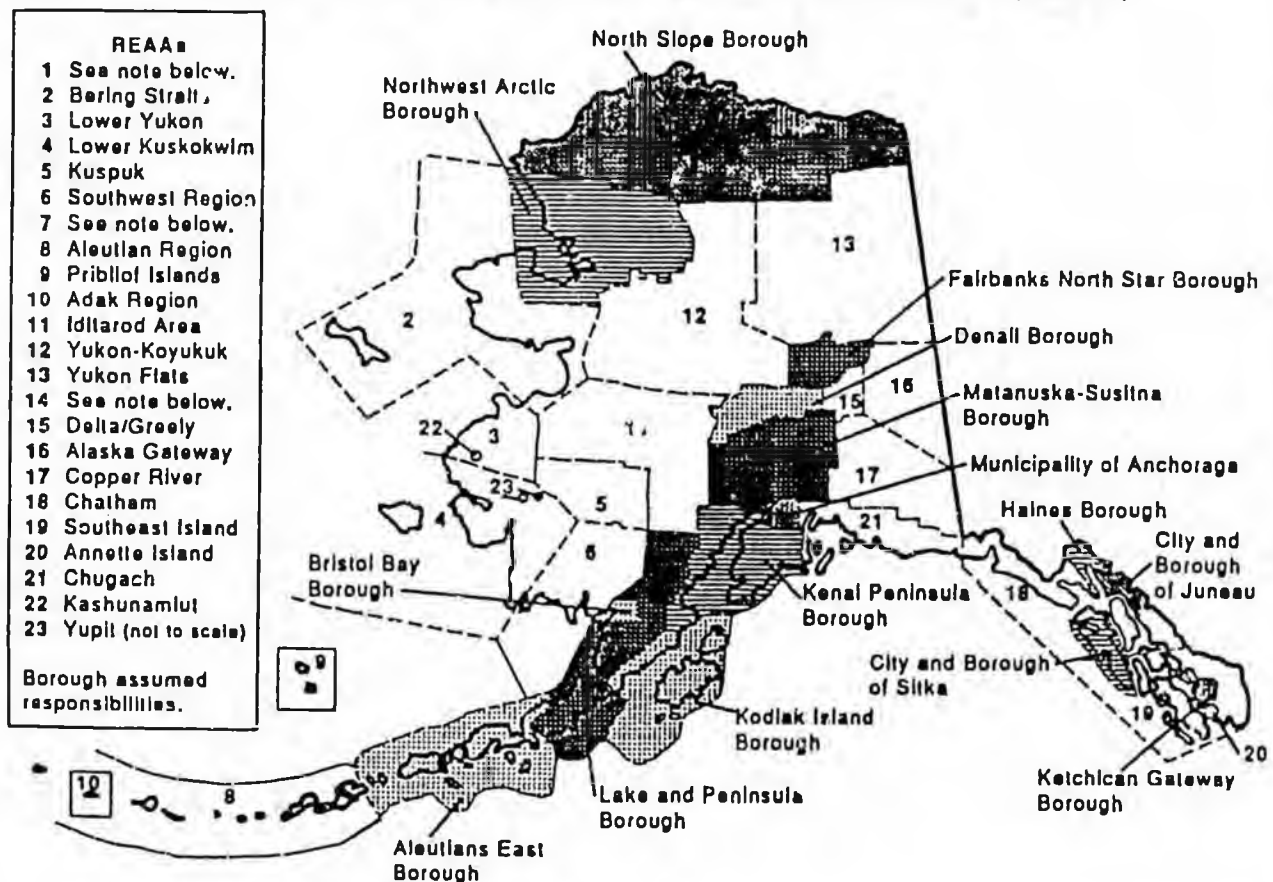
Articles IX and X of the Alaska Constitution and Title 29 of the Alaska Statutes establish the framework for municipal taxation in Alaska. Home rule municipalities are granted broad governmental powers by the Alaska Constitution, while general law municipalities are, among other specified powers, granted the right to levy a tax or special assessment, and impose a lien for its enforcement (AS 29.35.010). Home rule and general law municipalities are subject to limita-

tions on their taxing powers found in Chapter 29.45 of the Alaska Statutes. Within Chapter 29.45 there are provisions on property taxes, sales taxes and use taxes. Section 29.45.010 authorizes cities, boroughs, and unified municipalities to levy a property tax. If a tax is levied on real or personal property, it must be assessed, levied, and collected as provided in Chapter 29.45. Nowhere in Chapter 29.45, however, is there a statement of what is taxable. Instead, the assumption is that all real and personal property is taxable unless it is exempted from property taxation. That assumption is supported by Section 1 of Article X of the Alaska Constitution, which provides that "a liberal construction shall be given to the powers of local government." The following two sections describe the geographic distribution of municipal taxing powers and discuss the concept of taxability. Part IX of this report discusses various property taxation options and other taxation options that the Legislature directed DCRA to study.

A. The geographic distribution of municipal taxing powers

Natural resources in place, in order to be subject to municipal property taxation, have to be located within a city, borough or a unified municipality. The map below indicates the boroughs, the unified municipalities, and the unorganized borough. Not shown on the map are many cities located within the Unorganized Borough. Most cities do not contain many natural resource properties because of the limited area included within their boundaries. Nevertheless, any natural resource properties located within their boundaries could be affected by legislation (or lack thereof) pertaining to the taxation of resources in place. The issue of taxation of resources in place is also of significance to residents and property owners in the Unorganized Borough because, upon borough formation, whatever is taxable under state law will be taxable by the new borough, whether or not the new borough elects to levy a property tax.

Borough and Rural Education Attendance Areas (REAA)



B. What is taxable?

The focal issue of this study is: should natural resources in place be taxable by municipalities? As explained above, under the statutory framework for municipal taxation in Alaska, all real and personal property is taxable unless it is exempted from property taxation. Required exemptions from municipal property taxation are specified in AS 29.45.030. Examples from the laundry list of property exempted from property taxation by AS 29.45.030 are household furniture and personal effects of members of a household, and property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes. Property owned by ANCSA Native corporations is also exempt from municipal taxation until development occurs or it is leased to a third party. In addition to these exemptions from property taxation, AS 43.56 provides for certain exemptions of oil and gas production and pipeline property, including oil and gas in place. All of the exemptions discussed in this paragraph are mandatory exemptions. In other words, the property mentioned in the above-referenced statutes is simply not taxable at all.

Section 29.45.050 of the Alaska Statutes provides for optional exemptions and exclusions from local property taxation. The exemptions and exclusions are at the option of the local government which levies the property tax. Two examples of optional exemptions are the exemption from property taxation of personal property and the exemption of up to \$10,000 of value in a residence. The exemptions in AS 29.45.050 require action by the local government and they sometimes also require approval of the voters.

Since there are existing mandatory exemptions and optional exemptions, and since there is a mandatory exemption from property taxation for oil and gas in place in particular, it is reasonable to consider some form of exemption for some other, or all natural resources in place. If a mandatory or optional exemption is to be considered, however, we must have a working definition of the term "natural resource in place."

III. What is a "Natural Resource in Place"?

The term "natural resources in place" does not correspond to any commonly used assessment terminology and appears to be very broad. The term "natural resources in place" is used several times in the Act, but only Section 2 gives an indication of what the term means. Section 2 of the Act reads as follows:

Sec.2. Temporary Tax Exemption. Natural resources in place, including proven or unproven mineral and other deposits of valuable materials and timber stumpage, are exempt from property taxation by a municipality. (emphasis added)

By the language of Section 2, the term "natural resources in place" covers 1) unproven mineral and other deposits of valuable materials, 2) proven mineral and other deposits of valuable materials, 3) timber stumpage, 4) and a category best described as "other." The "other" category arises from the wording of the Act that says natural resources in place "including" the named categories that are listed. Apparently, something in addition to the named categories in the Act was contemplated by the Legislature. Another ambiguous term in the Act is the phrase "other deposits of valuable materials." This term probably includes sand and gravel, but does it include glacial ice, for instance?

For the purposes of the study, the term "natural resources in place" was defined as:

Any material in its native state before it has been severed or extracted.

With that working definition of "natural resources in place," we looked at the effect of having natural resources in place taxable, as they were before the temporary exemption went into place in 1990. An important effect of taxability of a natural resource in place is that its market value must be included in the "full value determination" for the municipality in which the resource is located. The value of all taxable real and personal property in a municipality is included in its full value determination. The obvious question, then, is: What is a full value determination?

IV. What is a "Full Value Determination" ?

In brief, a full value determination is the sum total for a municipality of the full and true value established for each piece of taxable real and personal property within a municipality. AS 29.45.110 (a) specifies that the full and true value (FTV) is "the estimated price that the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels." AS 29.45.110 (a) also requires the assessor to assess property at its full and true value as of January 1 of the assessment year.

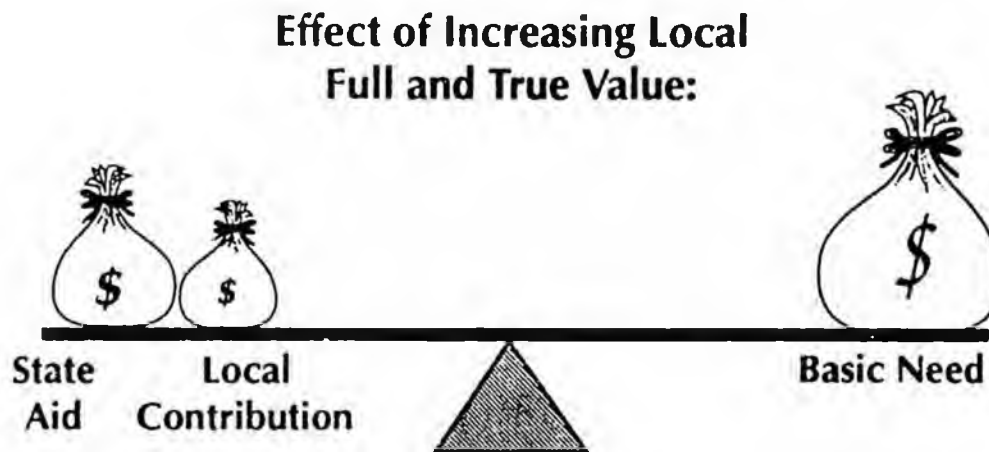
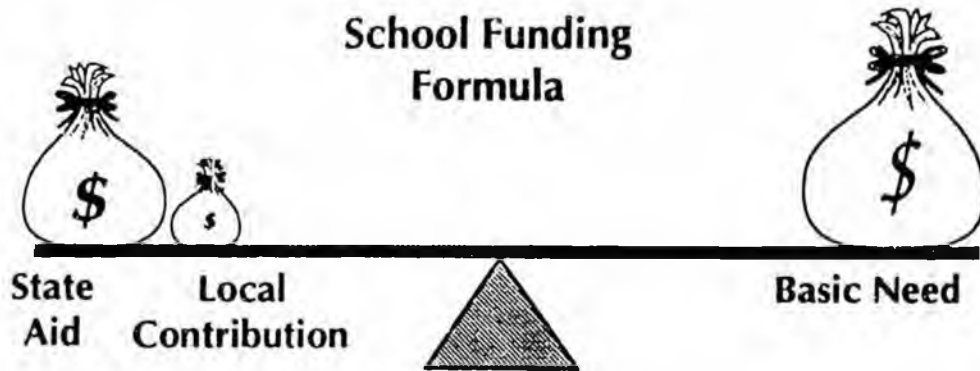
The education title of the Alaska Statutes, specifically AS 14.17.140, requires the Department of Community and Regional Affairs, in consultation with the assessor for each school district, to establish the full value of the taxable real and personal property in each city and borough school district. Not all cities and boroughs have property taxes, however, and, consequently, not all cities and boroughs have assessors. For those that do not, the State Assessor, located in the Department of Community and Regional Affairs, must estimate the full value of the taxable real and personal property without the consultation of a local assessor.

The State Assessor then compiles the full value determination for each municipality annually and notifies each municipality. As discussed below, the full value determination plays a significant role in the calculation of both the state foundation aid for education and the state revenue sharing programs. It is critical to municipalities, as well as property owners, whether natural resources in place are taxable (i.e., whether the value of natural resources in place will be added to the full and true value of the property in or on which these resources are located). The full and true value of all taxable property, whether the property is actually taxed or not, must be included in the full value determination for the municipality.

V. How does the Full Value Determination Affect State Foundation Aid?

Chapter 14.17 of the Alaska Statutes establishes the Public School Foundation Program. Under that program, a school is determined to have a "basic need" determined according to a formula spelled out in AS 14.17.021 (b). The local government is required to make a "local contribution" toward this basic need. The local contribution is defined in AS 14.17.025 as at least the equivalent of a 4 mill tax levy on the full and true value (FTV) of the taxable real and personal property in the district, unless a 4 mill tax levy on the FTV exceeds 35% of the district's basic need. A municipality will not receive its school foundation aid payment unless it makes its local contribution. AS 14.17.025 (e).

In other words, the higher the municipality's FTV, the greater the amount of money the municipality must raise to satisfy the local contribution requirement, up to the point where a 4 mill levy on the FTV exceeds 35% of the district's basic need. Historically, only in the North Slope Borough and the City of Valdez has the 4 mill equivalent exceeded 35% of basic need. This year, for the first time, a 4 mill levy on the FTV in the City of Unalaska will also exceed 35% of basic need. The following illustrations depict the relationship between state aid, local contribution and basic need, and demonstrate the effect on this relationship of increasing the local full and true value.



To further illustrate the point, assume that the FTV of the municipality is presently \$1 million. A 4 mill levy on \$1 million is \$4,000. If the FTV for the municipality increases to \$2 million, then the equivalent of a 4 mill levy will require the municipality to raise \$8,000. This may or may not be a problem for the municipality depending on the basis for the increase in FTV.

In summary, under the public school foundation program, assuming that basic need remains constant, as the FTV increases, the amount of the local contribution increases, and the amount of state foundation aid decreases. The question for the municipality is then: how will it raise the additional money to meet its local contribution requirement if the municipality's FTV increases?

**VI. How does the Full Value Determination
Affect State Revenue Sharing?**

Sections 29.60.010–29.60.080 establish a program for municipal tax resource equalization. This tax equalization program is part of what is commonly referred to as the state revenue sharing program. Its purpose is to even out differences in taxable wealth among the municipalities in the state by paying relatively more shared revenues to those municipalities that have little taxable property.

The formula for determining a municipality's tax equalization entitlement is fairly complex. It is based on the municipality's population, actual generation of revenue, and the local tax base. The formula requires the equivalent of a local contribution. In this case, it is called "locally generated revenue."

The formula multiplies the population by the product of the locally generated revenue (LGR,) divided by one-tenth of one percent of the full and true value of the assessed property in the municipality. The formula for the product to be multiplied by the population is as follows:

$$\left(\frac{\text{LGR}}{0.1\% \text{ of FTV}} \right)$$

If we plug in some numbers, the formula looks like this:

$$\frac{100}{0.1\% \text{ of } 1,000} = 100$$

Obviously, the product will decrease if the FTV is increased unless the LGR is also increased. For example:

If local revenues are unchanged:

$$\frac{100}{0.1\% \text{ of } 2,000} = 50$$

If local revenues are increased to the same degree as the FTV:

$$\frac{200}{0.1\% \text{ of } 2,000} = 100$$

If local revenues are increased to a greater degree than the FTV:

$$\frac{400}{0.1\% \text{ of } 2,000} = 200$$

VIII. Who Should Assess Natural Resources in Place?

If natural resources in place are taxable by local governments, their value must be included in the full value determination for the municipality in which they are located. To do that, natural resources in place must be assessed by someone. Before looking into the question of who should assess natural resources in place, it is useful to look at the present process of property tax assessment by the municipalities.

Municipalities that levy a property tax either have a staff assessor or hire a contract assessor to perform the assessments for the municipality. The State Assessor then reviews the municipal assessments and makes any necessary adjustments, including addition of the value of property optionally exempted by the municipality from property taxation. The value of all taxable real and personal property, as adjusted by the State Assessor, is included in the full value determination for that municipality.

Not all municipalities empowered to levy a property tax actually do so. Those that do not levy a property tax do not assess the property within their jurisdiction. Nevertheless, by statute, the State Assessor must establish the full and true value of that municipality for purposes of the state foundation aid program and the tax equalization (revenue sharing) program. Therefore, the state has to be prepared to assess all taxable real and personal property within the municipalities in the state. If natural resources in place are taxable, the State Assessor will have to be prepared to assess them whether or not the municipality does so.

Before the temporary exemption went into effect in 1990, the municipalities did not routinely include in their assessments the value of natural resources in place and the State Assessor did not routinely add their value to the full value determinations of the municipalities. Now, however, if the temporary exemption is allowed to expire and the pre-existing law is again in effect, the full and true value of each municipality will have to include the value of natural resources in place within its boundaries because awareness of this issue has now been heightened statewide. Someone will have to establish that in place natural resource value. Under our present statutory structure, either the value will be established initially by the municipal assessor and reviewed by the State Assessor or, if the municipality does not levy a property tax, and therefore does not establish an assessment roll, the State Assessor will have to establish an estimated assessment in order to arrive at the full value determination for the municipality.

Municipal assessors are not generally trained to assess the value of mineral ore, coal, gravel, rock or timber in place. The two appraisers presently working in the State Assessor's office do not possess the necessary qualifications or experience either.

Typically, an economic geologist is hired by a mining company to determine the value of an ore body. Specially qualified forest appraisers are hired by timber companies to value timber resources. People with comparable skills will be necessary at the local and/or state level to assess natural resources in place, whether those people be hired as staff or hired under contract to provide assessing services.

The difficulty of assessing an ore body is illustrated by the Red Dog mine example where the State and the Northwest Arctic Borough hired a geologist and appraisal consultant at the rate of \$150 per hour to use the income approach and estimate the value of the entire mining operation, including the ore body under development. Under a separate agreement, the Borough contracted with the same geologist/appraiser for an appraisal of the mine utilizing the cost approach. The cost

approach appraisal was conducted in order to estimate the value of the mine improvements without the value of the ore body. By comparing the two appraisals, the consultant concluded that the value of the ore body was approximately \$30,000,000. The same consultant stated, however, that before certain metallurgical problems with smelting the ore were encountered, the value of the ore body had been \$100,000,000. He expected that within two to three years, when the metallurgical problem was solved, the value of the ore body would then again be \$100,000,000, absent some dramatic change in the world price for the mineral. This example illustrates the dramatic increases and decreases in the value of an ore body which often occur because of variable factors beyond the control of the industry.

Municipal assessors are not typically knowledgeable about the geology of mineral ores, smelting and metallurgy, world mineral prices and the other factors that go into appraising a mining property. In fact, the economic geologist who performed the Red Dog mine appraisal has stated it is easier to train a geologist to become a mining appraiser than to train an appraiser to become a mining appraiser. Likewise, appraisers of timber resources must have the training to estimate types and grades of timber, calculate the costs of road construction, harvesting, transportation, storage and loading, among other things, as well as world timber prices. Again, it is not expected that a municipal assessor will have had this training and experience.

At least two other states in which natural resources in place are taxable have gone to a centralized assessment of natural resource properties by the state. (More details on the practices of other states are found in the addendum.) If natural resources in place are to be taxable, the issue of who is going to perform the assessments of those properties will need to be resolved. If the assessments are to be performed by the State Assessor's office, additional staff with the required expertise will have to be hired or, in the alternative, funding for contract assessors with the necessary training will have to be allocated.

IX. Taxation Options and Policy Considerations

The act mandating the study asked DCRA to examine five taxation options:

- 1. Total exemption from municipal property taxation.**
- 2. Partial exemption from municipal property taxation.**
- 3. No exemption from municipal property taxation.**
- 4. Total or partial exemption from municipal property taxation at the option of each municipality.**
- 5. Taxation other than property taxation.**

A discussion of these options pertaining to natural resource taxation must include a discussion of at least the following policy considerations:

- ✓ Fairness among taxpayers**
- ✓ Fairness among municipalities**
- ✓ Stimulation of economic development**
- ✓ Cost-effectiveness of taxation methods**
- ✓ Municipal revenue needs/sources**

These policy considerations are examined, followed by a discussion of the five taxation options in the context of the present legal framework for municipal taxation and the policy considerations.

A. Policy Considerations

Fairness Among Property Owners

This policy consideration raises the issue of fairness among owners of various types of property. Upon whom should the tax burden to support government services within a municipality fall? Upon only the owners of personal property? Upon only the owners of real property? Upon only the owners of zoned real property? Should the owners of real property that is zoned have their assessment reflect the value of the particular zoning classification? Should owners of natural resource property have their assessment reflect the value of the resource in place? How can you be fair to all potential taxpayers? If one group of potential taxpayers is eliminated, does the burden fall unfairly on the remaining groups of taxpayers?

Fairness Among Municipalities

Fairness among municipalities is an issue because not all municipalities in Alaska are equally endowed with a tax base from which to raise revenues. Should those municipalities with a potential tax base of natural resources in place be permitted to not include the value of those natural resources in their full value determinations? If they are not required to include the value of those natural resources in their full value determinations, those municipalities will not have to increase their local contribution to schools, even though they actually have a tax base from which they could generate local revenue. As a consequence, municipalities that could raise more local revenue will still get their same share of the school foundation aid from the state. Municipalities that have no possibility of raising more revenue for their schools would be disadvantaged under this scenario in which municipalities with resources in place are not required to make a local contribution commensurate with their actual wealth.

Stimulation of Economic Development

With this policy consideration, the issue is whether or not making natural resources in place taxable would be a disincentive for economic development. It is necessary to keep in mind that taxability of natural resources in place does not necessarily mean that the taxing jurisdiction will choose to levy a property tax. If a property tax is levied, however, it must be levied equally against all taxable property. Consequently, one must contemplate whether levying a property tax on the assessed value of resources in place will act as a deterrent to economic development. What specific impacts might such a tax have on economic development? Will it discourage exploration for minerals? Will it encourage the exploitation of only the highest grades of ore? Will it encourage the rapid cutting of forests in order to eliminate the source of a higher property tax? DCRA was told by the resource industries and the Department of Commerce and Economic Development that the impact of making natural resources in place taxable will be uniformly detrimental to economic development. No contrary evidence was provided and DCRA does not have the means to hire economists to make an independent assessment of these assertions.

Cost-Effectiveness

Cost-effectiveness is an important policy consideration because assessment of natural resources in place is expected to be much more complicated and costly than the municipal property assessments typically performed now. All sources indicate that ore bodies are extremely difficult to evaluate, even for the professionals hired by mining companies to perform evaluations on the

basis of which millions of dollars may or may not be invested. Assessment of timber stumpage is also a highly specialized skill not normally possessed by municipal assessors or state assessors whose job it is to review standard municipal assessments. Assessments of both of these categories of natural resources in place would have to be accomplished either by extensive particularized investigations of specific resource properties, or through elaborate computer modeling for which both the data and the programs are not now available either to municipal assessors or to the state assessor.

If such assessments of natural resources in place are performed by the municipalities, they might sometimes have to be confirmed by the State Assessor's Office. In that case, presumably both the municipalities and the State Assessor's Office will face additional costs for contracted expert help or additional staff possessing the necessary expertise. If the municipality does not intend to levy a property tax and, therefore, does not assess property, the State Assessor's Office would still have to assess the natural resources in place in order to add their value to the full value determination for the municipality.

Several agencies and the Alaska Miners Association have commented that because of the difficulty of assessing ore bodies, serious disputes over assessed values of minerals in place can be expected, with the associated probability of litigation. At least two states have attempted to deal with the problem of assessing resources in place by centralizing the function in a state agency. (See the addendum on the results of the survey of states and provinces.) It is a policy question for both local governments and the state as to whether it would be cost-effective to have to assess natural resources in place in order to have the possibility of taxing them.

Municipal Revenue Needs and Sources

Municipalities are being required by the federal and state governments to assume more responsibilities. Most often these additional responsibilities are not accompanied by sufficient funds to cover the cost of the new activity. At the same time, municipalities are seeing the state cut the amount of money allocated to state revenue sharing and municipal assistance. While municipalities are facing these problems, they may also face the impacts of natural resource development in their area. Natural resource development may provide long-term economic benefits, but it may also require extension of roads, water lines, sewer lines, and power lines as well as the development of additional housing, schools and commercial infrastructure. In this situation, municipalities might be hesitant to give up a taxing power that would potentially provide a present revenue stream for the payment of present infrastructure costs.

Several state agencies and natural resource owners have stated that if there must be taxation of natural resource development, the taxation should not begin before severance or extraction of the resource takes place. While this may be preferable for the natural resource industries, it could leave the municipalities without the revenue needed to develop the infrastructure necessary to deal with impacts and provide support for economic development that is needed before the natural resource industry is in production. In the worst case, a community might experience impacts for many years during pre-production activities and the enterprise might never go into production with the consequence that there is never any revenue derived from a severance tax.

With these five policy considerations in mind, the five taxation options the Legislature asked to have studied were examined. A synopsis of the thinking developed on each option during the study is provided below.

B. Taxation Options

Option One: Total Exemption from Municipal Property Taxation

Total exemption from municipal property taxation means that natural resources in place would not be taxable by local governments. This is the option for which there appears to be a statewide consensus.

Those who commented in favor of this option include the Department of Natural Resources, the Department of Commerce and Economic Development, the Department of Revenue, and the State Assessor, among state agencies. Support for this option was also voiced by the Alaska Miners Association, Sealaska Corporation, Chugach Forest Products, Afognak Native Corporation, Konkor Forest Products Corporation and NANA Corporation, among other individuals and organizations.

At the Alaska Municipal League conference, the AML unanimously adopted a resolution in support of a total exemption. In the view of the local governments, the value to be derived from having natural resources in place taxable is not worth the cost and difficulties arising from the need to assess natural resources in place, municipalities would have to increase their local contribution and locally generated revenue to obtain state monies, and, finally, the municipalities do not want to risk impeding economic development that might benefit their communities.

One potential benefit to local governments from a total exemption is that municipalities will not be required to assess natural resources in place, and they will not face possibly dramatic changes in their full value determinations that might result if natural resources in place are assessed. (For example, based on Robert Paschall's studies, the Northwest Arctic Borough could face an increase in its full value determination from \$30,000,000 to \$100,000,000 as soon as metallurgical problems at the Red Dog Mine are resolved.) Dramatic changes in full value determinations for some municipalities arising from the taxability of natural resources in place would require that those municipalities increase the absolute amount of their local contribution to the basic need for their schools. (Remember the required local contribution under the school foundation aid formula is the equivalent of a four mill levy or 35% of basic need.)

On the one hand, a property tax provides a revenue stream as soon as a value can be placed on property. It avoids the situation described above where a community may have had to deal with resource development impacts for years and then have production never start so that reliance on a severance tax would provide no revenue. (See, however, the discussion below under Option Five.)

On the other hand, owners of natural resource properties point out that a property tax is the worst possible tax for stimulating economic development. They say a property tax on resources in place will discourage exploration and encourage cutting trees prematurely. It will also encourage closing mines when only the highest grade ore has been extracted.

Option Two: Partial Exemption from Municipal Property Taxation

The Legislature asked that a partial exemption from municipal property taxation be one of the options considered in this study. The Legislature did not indicate, however, what it meant by partial.

A partial exemption could mean that some natural resources are exempted from property taxation while others are not. Alternatively, a partial exemption could mean that a portion of the assessed value of the natural resource in place would be exempted from property taxation. The former interpretation raises serious questions of taxpayer equity. The latter interpretation triggers serious concerns about the cost-effectiveness of a partial exemption.

An exemption of some natural resources in place but not others would obviously have a differential impact on potential taxpayers. Owners of timber land might question whether it was fair to exempt mineral land from taxability but not their timber land, for example. There would also be a differential impact on municipalities since natural resources are not all distributed evenly across the state. Municipalities whose resources were exempted from taxability would no longer be able to raise revenue by levying a property tax on the value of those resources in place. On the other hand, municipalities whose natural resources were not exempted would have to add the assessed value of those natural resources in place to their full and true value. The consequent increase in the full value determination means those municipalities would have to raise more revenue in order to meet their local contribution requirement for state foundation aid. Those municipalities might not have a large tax base from which to raise revenue other than by a property tax, and yet they might feel that levying a property tax would be detrimental to economic development and also to their residents who might live a largely subsistence life style.

The cost-effectiveness issue discussed above is even more persuasive against the other interpretation of "partial exemption," by which a portion of the assessed value of all natural resources in place would be not taxable. The same difficult and costly assessing work would be required to correctly assess the property, but in return only a certain portion of the assessed value would be put on the tax rolls. Under this scenario, the revenue to be derived from a property tax would be lower, while the amount and cost of the assessment work would remain the same.

Option Three: No Exemption from Municipal Property Taxation

The option of no exemption from municipal property taxation will be the conscious or unconscious result if the Legislature takes no action on the issue of the taxation of natural resources in place during the coming legislative session. As mentioned above, the temporary exemption in the Act expires July 1, 1992. On that date, if no legislation has changed the law on taxability, natural resources in place will once again be taxable. The difference is that now people are very conscious of this issue and there is a statewide consensus that natural resources in place should not be taxable.

If there is no exemption from taxation for natural resources in place after July 1, 1992, it is unlikely that resources in place that have an assessable value will be kept off the assessment rolls. Taxpayers who feel they are unfairly carrying the tax burden in their municipality might sue to put assessable resource properties on the tax rolls. If the municipality does not put assessable resource properties on the assessment rolls, the State Assessor will still be obligated to include the full and true value of those properties in the full value determination for the particular municipality. That will have differential impacts on the municipalities' shares of education and state revenue sharing funds depending on whether the municipalities have or do not have assessable natural resources in place. Taxability of natural resources in place will also impact the staffing and funding necessary for municipal assessing offices and the State Assessor's Office.

The resource industries have commented that if natural resources in place are taxable, that will have a detrimental impact on economic development within the state. The cost of the property

tax, if one is levied, will have to be factored into the cost of development in a situation where fluctuating market prices and high development costs make long term investment risky. It will not be enough to say that although the natural resource in place is taxable, the local government will not levy a tax, because the next council or assembly could change that policy, particularly since the value of the resource in place will be included in the municipality's full value determination with the resultant impact on state program formula requirements to raise the local contribution and locally generated revenue. In addition, the resource industries have commented that the next worst thing to taxation is instability in taxation policies. Since they have to plan for long term investment, they need to know what to factor into their plans.

At the same time, it should be pointed out that as long as the natural resource in place is not assessable according to standard assessing techniques, it will not go onto the assessment rolls. Furthermore, much of the natural resource land that might be susceptible to property taxation is held by Native corporations that are insulated from taxation by federal law until development occurs. Leases of Native corporation land are not so protected, however. Nor are leases of state or federal land.

Option Four: Total or Partial Exemption from Municipal Property Taxation at the Option of Each Municipality

The discussion of the framework for municipal taxation found at the beginning of this report explained that the present statutory scheme contains provision for local option with regard to property tax exemptions. The local option exemptions are found in AS 29.45.050. It is conceivable, therefore, to enact an optional exemption, either total or partial, for natural resources in place. That decision should not be made, however, without consideration of all of the consequences.

On the one hand, local option is often favored because it allows local governments maximum control. Local option exemptions, however, do not exclude the property exempted from a municipality's full value determination. A local decision to exempt natural resources in place from taxation would still leave them taxable as far as the State Assessor is concerned. An increase in the full value determination would mean an increase in the absolute amount of the local contribution and the locally generated revenue required. If natural resources in place were locally exempted from property taxation, the local contribution and the locally generated revenue would have to be raised from other property tax payers or through sales and/or excise taxes. This, of course, raises the issue of fairness among tax payers. It also raises the issue of cost-effectiveness. Is it cost-effective to create a situation where the State Assessor must assess natural resources in place, while the municipality may optionally exempt resources in place from taxation?

Option Five: Taxation other than Property Taxation

In the Act, the Legislature asked that the study examine options for taxation of natural resources other than the property tax. As discussed above, of the types of tax that can be levied by a local government, only a property tax can be levied against the value of a natural resource in place. As long as it remains in place, the natural resource is part of the property. This section looks at other forms of taxation that local governments might levy against some aspect of natural resource production.

At the time a natural resource is severed or extracted, a local government can levy a severance tax. In fact, two boroughs (the Denali Borough and the Kodiak Island Borough) have already done so since the temporary exemption from property taxation went into effect. These boroughs levy a tax against the value or tonnage of the resource that has been severed or extracted.

The Kodiak Island Borough adopted what it feels is a long term progressive tax policy that levies against the gross production value of natural resources that have been severed or extracted. While this tax currently targets timber and fish harvesting operations, it can accommodate any resource development activity where a value-by-unit can be established. The value of the severed or extracted resource is multiplied by the local property tax mill levy as determined annually by the borough assembly. The borough maintains that this assures consistency and equity of taxation between natural resource property owners and the owners of other property within the borough that is taxable by the property tax method.

The Denali Borough has also adopted a natural resource severance tax. This tax targets coal, limestone or gravel that has been extracted. The tax is based on a flat rate per unit of production. The tax levy for coal and limestone is \$0.05 per ton of gross production. For gravel the tax is \$0.05 per cubic yard of production.

A severance tax is but one form of excise tax. Other forms of excise tax that might be levied include a tax on exploration activities, transportation activities, processing activities, storage activities, and the like. While a severance tax is recommended by the natural resource industries in lieu of a property tax on natural resources in place, it should be pointed out that excise taxes and property taxes are not mutually exclusive and could be levied at the same time.

Under the Alaska Constitution, Title 29, and the Alaska Supreme Court cases, local government authority to tax is very broad. According to a 1986 Attorney General's opinion, interpreting the above authorities in the context of a question about severance taxation, the provisions of Title 29, other than AS 29.45.010, are limitations on local government authority to tax. Following that interpretation, one concludes that there are no statutory or case law limitations on the power of local governments to enact excise taxes. Only property taxes and sales and use taxes are covered by Title 29 and Alaska Supreme Court cases.

X. CONCLUSIONS

The study on the issue of taxation of natural resources in place has been concluded and it is now clear that the Legislature must provide an explicit resolution to this taxation issue during the coming legislative session. The temporary exemption for resources in place expires July 1, 1992. Unless the Legislature totally exempts natural resources in place from local taxation during this session, a state of confusion will ensue for the municipalities, the State Assessor's Office and the resource industries. The study raised the consciousness of these interested parties about the meaning of taxability of natural resources in place and the implications which this taxability holds for all concerned. There is a statewide consensus that the Legislature should adopt an amendment to AS 29.45.030 totally exempting natural resources in place from local property taxation.

**Appendix A:
Property Taxation of Natural Resources
in the States and Provinces**

The Department of Community and Regional Affairs surveyed Alaska, the other forty-nine states, and the Canadian provinces regarding property taxation of natural resources. The survey questionnaire was formulated into technical and policy sections and was intended to identify resource taxation policies and procedures currently in use throughout North America. The questionnaire was mailed to state and provincial property tax officials in the spring of 1991 and responses were received over a several month period. No questionnaires were mailed to local assessors or to tax officials at the city or county level, as we thought state and provincial agencies would have a better overall picture of what is taking place, in terms of resource taxation, within their jurisdictions.

Many responses to the questionnaires were inadequate or simply raised more questions. Also, some states did not respond at all to the questionnaire. Therefore, we often made follow-up contact by phone. It was interesting, although not altogether surprising, that the phone interviews revealed that resource property taxation practice does not always conform to law or stated policy. Officials were occasionally more candid on the phone than they were in completing the questionnaire and admitted that property taxation on natural resources may not always be administered to the letter of the law. The primary reason for this was that natural resource taxation was not a significant issue in their jurisdiction because of limited resources and, therefore, the time and expense to administer such a tax aggressively could not be justified.

Through the use of the questionnaire, we also hoped to discover specific resource taxation problems or successes that may be shared by various taxing jurisdictions. After our review of the questionnaires and as a result of our phone interviews we found that problems which taxing jurisdictions share are usually of a technical nature. It is generally the old story of lack of market data and lack of comparability between subject properties that makes the job difficult for the appraiser. Lack of adequate training in the appraisal of special purpose properties such as mines and quarries is also a common problem among taxing agencies.

The policy similarities between states and provinces are simply that severance taxes and property taxes are the two most common forms of natural resource taxation. They are used, in some form, in nearly every state and province. This is really where the policy similarities end between states and provinces, however, because the extent and manner in which these two forms of taxation are implemented in each taxing jurisdiction varies so much as to make each unique.

One survey question asked if states and provinces levied taxes against natural resources that are "completely undeveloped." The term "completely undeveloped" was not defined in the questionnaire, however, generally the answer that we received on this question was no. Only eight of the states that responded to the questionnaire answered yes to this question and two of those assess undeveloped resources at a flat rate per acre; \$75 per acre in Illinois and \$60 per acre in Indiana. Four of the states that answered yes to this question only assess against mineral rights that have been severed from the fee ownership. Although several other states answered no to this question, they do in fact assess standing forest lands to some degree (generally some set amount on a per acre basis.)

For those states and provinces that stated they did not assess against undeveloped resources, a follow up question asked officials to describe at what point in the production process was taxability triggered. Most stated that taxability was triggered at the point of production or harvest. The terms to describe this point of taxability vary. For example, taxation is triggered in the Yukon Territory "when production starts" in Wyoming resources are taxable "when the mineral reaches the mouth of the mine," and in Michigan, sometimes, the trigger is severance." A general summary and some specific highlights of the survey follow.

General Summary:

- Thirty-one states can legally tax natural resources in place, but only twelve states actually do to varying degrees. Those states are: Arizona, Colorado, Indiana, Kentucky, Michigan, Mississippi, Missouri, South Dakota, Texas, Virginia, West Virginia and Wisconsin. Of the states that currently include in place natural resource value in real property assessments, only a few do so aggressively. This may be due to the lack of expertise at the local and state level to reliably value and defend assessed values for resources. It may also be that where there is little natural resource value, it is not cost effective to undertake the valuation of natural resources that do exist.
- Nineteen states statutorily exempt the in place natural resource value from the assessment of real property.
- The states with the most advanced programs of natural resource assessment are those resource rich states that can generate enough tax revenue to justify the staff to assess resource properties. Arizona and Kentucky are both very active in resource assessment, and both centralize the assessment activity. Assessments are made by state agencies, and tax collection can either take place at the state level with revenues being passed through to local governments, as is the case in Kentucky, or, assessed values can be provided by the state to local governments for local tax collection, which is the current policy in Arizona.
- Taxing agencies in other states that indicated they do assess and tax natural resources apply several different approaches. Many rely on the market data or sales comparison approach to value. Officials stated, however, that actual sales of resource properties are rare, hard to verify, and are often not very comparable to other properties being assessed. This results in a general disregard for assessing this type of property or at least minimizes their value estimates. Many states are aided by mandatory sales disclosure laws which require sales information on all transactions to be provided to assessment officials. Unfortunately sales information is still generally inadequate to result in reliable assessments for resource properties. Alaska does not have any mandatory sales disclosure law at this time.
- The general nature of natural resource taxation in Canada is similar to ours in the United States. Active natural resource developments are subject to federal, provincial and local government taxes mostly in the form of income and severance taxes. In British Columbia minerals are not subject to property tax, and other natural resources, such as water and timber, are taxed at the time of use or harvest.

Specific Highlights:

- Within the area of property taxation there are nearly as many different levels of assessments and applications of millage rates as there are states and provinces.
- Policies for taxation of natural resources also vary from state to state since different states have different types of resources. Taxing jurisdictions adopt taxing policies that best suit their individual needs, kinds of resources, and resource availability. Arizona assesses all recoverable minerals in the ground, Indiana values mineral ownership at \$60 per acre, Michigan exempts ore bodies up to 10 years or until they become part of an operating mine, and Montana values unproductive mining claims as agricultural grazing land.
- Across the country, in states which have elected to levy property taxes against natural resource properties, varying degrees of sophistication exist within agencies responsible for resource assessment. Kentucky has developed an elaborate geographical information system (GIS) for its resource management. They have identified and quantified their natural resources and have developed an assessment scheme that considers current economic and market conditions. The GIS is designed to manipulate resource data to create a three dimensional geographic map of the state which allows for the assessment of each coal seam or mineral deposit of taxable value parcel by parcel. Kentucky was actually forced into developing this assessment system as a result of a state supreme court case. The case determined that state constitutional restrictions did not allow the State Department of Revenue to assess natural resources at levels lower than other types of property. State officials found themselves in the position of being required to assess the resources of the state at full value with very limited resource information. They now have the GIS and a staff of 35 to value natural resources.
- Other states such as Hawaii and Rhode Island have limited mineral deposits and as a result have no specific statutes pertaining to the taxation of these resources and no resource assessment staff. Some states that exempt natural resources from property taxation levy other kinds of taxes on these resources. For example, most states levy some type of excise tax based on the production value of a severed resource or on its production unit (i.e. tax per ton.) In addition, it is common for states to levy income taxes on the resource industry.



SB331

HOUSE COMMITTEE REPORT

(11)

Date Referred: April 8, 1992

FURTHER REFERRALS:

Date of Committee Action: 4/23/92

The FINANCE Committee considered:

SB 331

SENATE BILL NO. 331

EXTEND SPECIAL EDUCATION SERVICE AGENCY

"An Act extending the special education service agency; and providing for an effective date."

RECOMMENDATIONS:

be replaced with _____ the same title

[] have attached amendments(s) a new title

do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: SFC 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) EDUCATION 2/24/92

SIGNING <u>DO</u> PASS	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
<u>EP McLean</u> McLean	<input checked="" type="checkbox"/>	<u>Tamera Barnes</u> Barnes		<input checked="" type="checkbox"/>	
<u>Mike Havone</u> NAVARRE	<input checked="" type="checkbox"/>	<u>Bob Sharp</u> Sharp		<input checked="" type="checkbox"/>	
<u>Mark Young</u> BOYER	<input checked="" type="checkbox"/>				
<u>Tan Brown</u> BROWN	<input checked="" type="checkbox"/>				
<u>Robert Johnson</u> JOHNSON	<input checked="" type="checkbox"/>				
<u>Gene Taylor</u> TAYLOR	<input checked="" type="checkbox"/>				
<u>Reggie Phillips</u> Phillips	<input checked="" type="checkbox"/>				
<u>Ronald J. Larson</u> LARSON	<input checked="" type="checkbox"/>				
<u>Frank Ulmer</u> ULMER	<input checked="" type="checkbox"/>				

Mike Havone EP McLean
CO-CHAIRMAN'S SIGNATURE
NAVARRE McLean

Alaska State Legislature

Sen. Pat Pourchot, Co-Chairman
Sen. Jay Kerttula, Co-Chairman

Sen. Al Adams
Sen. Jim Duncan
Sen. Lyman F. Hoffman
Sen. Dick Shultz
Sen. Rick Uehling



State Capitol
Juneau, Alaska 99801-1182
907-465-3712

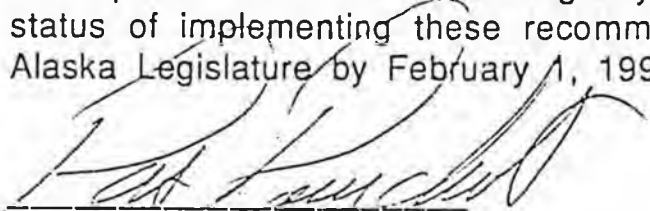
Senate Finance Committee

LETTER OF INTENT TO SB 331

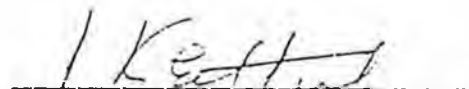
It is the intent of the Legislature that the Department of Education and the Special Education Service Agency implement the recommendations contained in the Division of Legislative Audit report entitled "Department of Education; Special Education Service Agency" dated November 13, -1991 (Audit Control #05-1397-92). The recommendations are:

- 1) The Department of Education and the Special Education Service Agency should work together to develop formal procedures to identify when a school district is no longer eligible to receive Special Education Service Agency services and to provide a proper transition for its students;
- 2) The Special Education Service Agency Board of Directors should amend the agency's by-laws to make the Administrator of Special and Supplemental Services within the Department of Education a permanent member of the Board; and
- 3) The Department of Education and the Special Education Service Agency Board should continue to look at more efficient methods of providing related services to low-incidence handicapped students.

The Special Education Service Agency shall submit a report on the status of implementing these recommendations to the Eighteenth Alaska Legislature by February 1, 1993.



Senator Pat Pourchot
Co-Chair
Senate Finance Committee



Senator Jalmar Kerttula
Co-Chair
Senate Finance Committee

Adopted by Senate: 3/11/92

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill Version: SB 331
(S) Publish Date: 2-24-92

Revision Date: _____ Department Affected: Education
Title: An Act Extending Special Education BRU: Educational Program Support
Service Agency: _____ Component: Office of Special and Supplemental Services
Sponsor: Senator Zharoff
Requestor: (S) HESS COMPONENT SERIAL NO.

1	6	6
---	---	---

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	-0-					
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared By: [Signature] Phone: 465-2970
Division: EDUCATIONAL PROGRAM SUPPORT Date: 1/16/92
Approved by Commissioner: [Signature] Jerry Covey
Agency: Education Date: 2-2-92

ANALYSIS:

SESA's funding is based on \$85 for each special education student in average daily membership, or the equivalent of 2% of the funds appropriated for special education, whichever is greater. The FY93 count to determine SESA's funds is 18,903 which results in an entitlement of \$1,602,608. An increment of \$87,975 would be required to fully fund SESA in FY93 per AS 14.30.650. If special education enrollment continues to increase annually, as it has done historically, there will be additional fiscal implications.

2072

SENATE BILL NO. 331

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR ZHAROFF

Introduced: 1/13/92
Referred: HES, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act extending the special education service agency; and providing for an effective
2 date."

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

4 * Section 1. AS 44.66.010(a)(14) is amended to read:

5 (14) Special Education Service Agency (AS 14.30.600) - June 30, 1995 [1992];

6 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

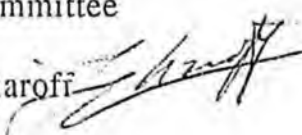
P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Representative Mike Navarre, Co-Chair
Representative Eileen MacLean, Co-Chair
House Finance Committee

FROM: Senator Fred F. Zharoff 

DATE: April 9, 1992

SUBJ: Scheduling of SB 331

This memo is to request the scheduling of SB 331, "An Act extending the Special Education Service Agency; and providing for an effective date." SB 331 moved out of the House HESS Committee with 5 do passes and 2 no recommendations on April 8 and has a further referral to House Finance.

This bill simply extends the Special Education Service Agency (SESA) for another three years and would make the sunset date for the agency June 30, 1995.

The SESA was created in 1986 and, in my opinion, has proven itself to be a valuable tool in the delivery of special education services to school districts throughout the state. This will be the third sunset review and extension consideration since the creation of SESA.

I would also like to request that SESA's executive director, Chris Robinson (phone number 562-7372), be allowed to participate in the hearing via teleconference from Anchorage.

Back-up information is attached. Thank you for your consideration of this request.

Attachments

POSITION PAPER: DEPARTMENT OF EDUCATION

Division Educational Program Support Bill Number SB 331

Bill Title An Act extending the special education service agency; and providing for an effective date.

Sponsor Senator Zharoff

Position Statement: Explain briefly what the bill does, its impacts and Department's position, i.e., a) support, b) do not support, c) neutral or d) oppose.

SB 331 extends the Special Education Service Agency (SESA) through June 30, 1995. This will enable SESA to continue to provide school districts with the outreach services necessary to ensure that low incidence handicapped children receive an appropriate special education program.

The Department of Education supports the continuation of the Special Education Service Agency.

APPROVED:

Director Edwin E. Westlund Division Educational Program Support

Signature *Ed Westlund* Date 2-12-92

Commissioner/Deputy *Jerry Couey*

Signature *Miss Whelan for JC* Date 2/12/92

ALASKA ASSOCIATION OF ADMINISTRATORS

FOR SPECIAL EDUCATION

P.O. BOX 1268

DILLINGHAM, AK. 99576

PHONE 907-842-5287 X 316

The Honorable Fred F. Zhoroff
P.O. Box V
Rm. 121
Capital Bldg.
Juneau, Alaska 99811

Dear Senator Zhoroff:

I am writing this letter as President of the Alaska Association of Administrators of Special Education (AAASE) in support of the continuation of the Special Education Service Agency (SESA). At our Fall conference, our organization voted unanimously to support the continuation of SESA. The administrators of special education are very supportive and appreciative of the scope and quality of services SESA provides to our low incidence handicapped students throughout the State of Alaska. Without these valuable services many of our rural handicapped students would not be able to remain in their home communities.

If you need any additional information regarding this very important Special Education issue please feel free to call my office at 842-5287x316.

Respectfully,

Mark A. Vingoe, Pupil Services Director
Southwest Region School District

President
Alaska Association of Administrators for Special Education

PLEASE MICROFILM TOP PAGE ONLY

DOCUMENTS WHICH HAVE NOT BEEN
FILMED BUT ARE AVAILABLE IN THE
ORIGINAL FILE INCLUDE:

→ Report by SPECIAL EDUCATION SERVICE AGENCY
1991

→ LEGISLATIVE AUDIT DIVISION - AUDIT REPORT 1991
SPECIAL EDUCATION SERVICE AGENCY

SB331

SENATE FINANCE COMMITTEE REPORT

DATE: 2/24/92

FURTHER:

DATE TURNED INTO OFFICE: 03/05/92

The Finance Committee considered

SENATE BILL NO. 331

"An Act extending the special education service agency; and providing for an effective date."

and recommends:

replace with _____ CS _____ (FINANCE)

or adopt previous _____ CS _____ (_____)

attaches amendment(s)

same title
 new title
 technical title change (HB only)

adopts SEN FIN Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes DOE 02/08/92

fiscal notes _____

DO PASS:

[Signature]
[Signature]
[Signature]
[Signature]

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

OTHER RECOMMENDATIONS:

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

FISCAL NOTE

No. 1

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill Version: SB 331

(S) Publish Date: 2-24-92

Revision Date: _____ Department Affected: Education
 Title: An Act Extending Special Education BRU: Educational Program Support
 Service Agency _____ Component: Office of Special and Supplemental Services
 Sponsor: Senator Zharoff
 Requestor: (S) HESS COMPONENT SERIAL NO.

	1	6	6
--	---	---	---

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-					

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	-0-					
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared By: *Devi Patel* Phone: 465-2970
 Division: EDUCATIONAL PROGRAM SUPPORT Date: 1/16/92
 Approved by Commissioner: *Jerry Covey* Jerry Covey
 Agency: Education Date: 2/9/92

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

ANALYSIS:

SESA's funding is based on \$85 for each special education student in average daily membership, or the equivalent of 2% of the funds appropriated for special education, which ever is greater. The FY93 count to determine SESA's funds is 18,903 which results in an entitlement of \$1,602,608. An increment of \$87,975 would be required to fully fund SESA in FY93 per AS 14.30.650. If special education enrollment continues to increase annually, as it has done historically, there will be additional fiscal implications.

Alaska State Legislature

Sen. Pat Pourchot, Co-Chairman
Sen. Jay Kerttula, Co-Chairman

Sen. Al Adams
Sen. Jim Duncan
Sen. Lyman F. Hoffman
Sen. Dick Shultz
Sen. Rick Uehling



State Capitol
Juneau, Alaska 99801-1182
907-465-3712

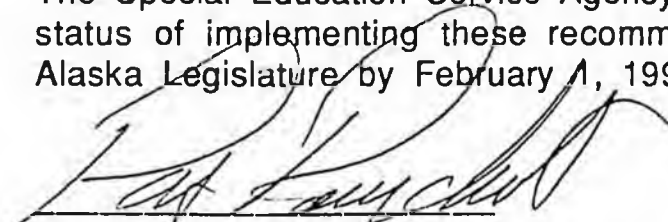
Senate Finance Committee

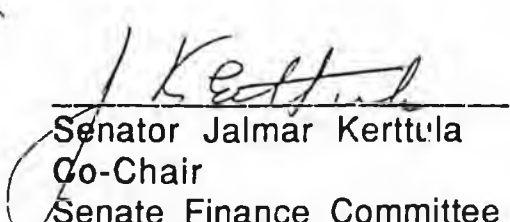
LETTER OF INTENT TO SB 331

It is the intent of the Legislature that the Department of Education and the Special Education Service Agency implement the recommendations contained in the Division of Legislative Audit report entitled "Department of Education; Special Education Service Agency" dated November 13, -1991 (Audit Control #05-1397-92). The recommendations are:

- 1) The Department of Education and the Special Education Service Agency should work together to develop formal procedures to identify when a school district is no longer eligible to receive Special Education Service Agency services and to provide a proper transition for its students;
- 2) The Special Education Service Agency Board of Directors should amend the agency's by-laws to make the Administrator of Special and Supplemental Services within the Department of Education a permanent member of the Board; and
- 3) The Department of Education and the Special Education Service Agency Board should continue to look at more efficient methods of providing related services to low-incidence handicapped students.

The Special Education Service Agency shall submit a report on the status of implementing these recommendations to the Eighteenth Alaska Legislature by February 1, 1993.


Senator Pat Pourchot
Co-Chair
Senate Finance Committee


Senator Jalmar Kerttula
Co-Chair
Senate Finance Committee

NEW BILL IN
COMMITTEE 2-24-92

SENATE BILL NO. 331

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR ZHAROFF

Introduced: 1/13/92
Referred: HES, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act extending the special education service agency; and providing for an effective
2 date."

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

4 * Section 1. AS 44.66.010(a)(14) is amended to read:

5 (14) Special Education Service Agency (AS 14.30.600) - June 30, 1995 [1992];

6 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

POSITION PAPER: DEPARTMENT OF EDUCATION

Division Educational Program Support Bill Number SB 331

Bill Title An Act extending the special education service agency; and providing for an effective date.

Sponsor Senator Zharoff

Position Statement: Explain briefly what the bill does, its impacts and Department's position, i.e., a) support, b) do not support, c) neutral or d) oppose.

SB 331 extends the Special Education Service Agency (SESA) through June 30, 1995. This will enable SESA to continue to provide school districts with the outreach services necessary to ensure that low incidence handicapped children receive an appropriate special education program.

The Department of Education supports the continuation of the Special Education Service Agency.

APPROVED:

Director Edwin E. Westlund Division Educational Program Support

Signature *Ed Westlund* Date 2-12-92

Commissioner/Deputy Jerry Couey

Signature *Mich Whelan for JC* Date 2/12/92



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

RECEIVED FEB 24 1992

TO: Senator Pat Pourchot, Co-Chairman
Senate Finance Committee

FROM: Senator Fred F. Zharoff *Fred Zharoff*

DATE: February 24, 1992

SUBJ: Scheduling of SB 331

This memo is to request the scheduling of SB 331, "An Act extending the Special Education Service Agency; and providing for an effective date." SB 331 moved out of the Senate HESS Committee on Friday, 2/21/92.

This bill simply extends the Special Education Service Agency (SESA) for another three years and would make the sunset date for the agency June 30, 1995.

The SESA was created in 1986 and, in my opinion, has proven itself to be a valuable tool in the delivery of special education services to school districts throughout the state. This will be the third sunset review and extension consideration since the creation of SESA.

I would also like to request that SESA's executive director, Chris Robinson, be allowed to participate in the hearing via teleconference from Anchorage.

Back-up information is attached. Thank you for your consideration of this request.

Attachments

**COMPONENT DESCRIPTION
SCHOOLS FOR THE HANDICAPPED**

SPECIAL EDUCATION SERVICE AGENCY (SESA)

The Special Education Service Agency (SESA) is administered by the Governor's Council for the Handicapped and Gifted. This agency provides outreach services to school districts to serve low-incidence severely disabled students. Under AS 14.30.650 funding, SESA is to be allocated \$85 for each special education student in the state or the equivalent of 2% of funds appropriated for special education for that fiscal year, whichever is greater.

FY 87	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
Actual	Actual	Actual	Actual	Actual	Authorized	Request
1107.0	1144.1	1144.1	1334.1	1347.3	1518.8	1518.8

ALASKA YOUTH INITIATIVE (API)

When it is determined by a school district that an appropriate educational program cannot reasonably be provided locally for a child with disabilities, the district can apply to the Department of Education for assistance. If approved, the Department can provide the district with funds to develop a local program or, if necessary, assist the district with funds to transfer the student to an educational facility outside the district. The general fund authorization of 681.7 for this activity is supplemented by \$100.0 of federal revenue from IDEA, Part B funds.

FY 87	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
Actual	Actual	Actual	Actual	Actual	Authorized	Request
446.1	732.3	832.3	832.3	719.1	719.1	781.7

FY 93

C2	ADDITIONAL EXPLANATION FORM

AGENCY	Department of Education
BRU	EF&SS
COMPONENT	Schools for the Handicapped

Page 1 of 2
Revised Date: _____

000072

SB334

(11)

HOUSE COMMITTEE REPORT

Date Referred: March 25, 1992

FURTHER REFERRALS:

Date of Committee Action: 5/9/92

The FINANCE Committee considered:

SB 334

SENATE BILL NO. 334

FUNDING SOURCE FOR APPROPRIATIONS

"An Act relating to the National Petroleum Reserve - Alaska special revenue fund; 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) REVENUE 2/15/92
DCRA 2/15/92

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Mike Savare <small>NAVARRE</small>	✓	RODNEY CROOK Phillips		✓	
Mark Bay <small>BOYER</small>	X	James H. Barnes <small>BARNES</small>		X	
Tom Brown <small>BROWN</small>	✓				
Richard J. <small>LANGRISH</small>	X				

Mike Savare NAVARRE
 CO-CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 2

Bill Version: SB - 334

(S) Publish Date: 2-5-92

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____
Title: "...Relating to the NPRA Special Revenue Fund."
Sponsor: Senator Adams
Requestor: _____

Department Affected: Community and Regional Affairs
BRU: Local Government Assistance
Component: National Petroleum Reserve Program

COMPONENT SERIAL NO.

1	2	1	4
---	---	---	---

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: No current year impact.

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson
Division: Administrative Services Division

Phone: 465-4708
Date: 1/16/92

Approved by Commissioner: Remond Henderson for
Agency: Department of Community and Regional Affairs

Date: 1/16/92

FISCAL NOTE

No. 1

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill Version: SR-334

Revision Date: 1/28/92

Department Aff (S) Publish Date: 2-5-92

Title: An act relating to the National Petroleum Reserve - Alaska special revenue fund.

BRU: Operatic Revenue

Component: Treasury Management

Sponsor: Senator Adams

Requestor: Senator Adams

Component Serial No.

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

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						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND/Unrestricted						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

estimate of current year impact: None

ANALYSIS:

Prepared by: Brian C. Andrews *[Signature]*

Phone: 465-2350

Division: Treasury *[Signature]*

Date: January 28, 1992

Approved by Commissioner: *[Signature]*

Agency: Revenue

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

Rev 12/91

SENATE BILL NO. 334

IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR ADAMS

Introduced: 1/13/92
Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the National Petroleum Reserve - Alaska special revenue fund; and
2 providing for an effective date."

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

4 * Section 1. PURPOSE. The purpose of this Act is to

5 (1) identify the funding source for appropriations from the National Petroleum Reserve - Alaska
6 special revenue fund; and

7 (2) ratify past administrative practices of the Department of Revenue and the Department of
8 Community and Regional Affairs relating to identification of the fund receipts that are the funding source
9 for appropriations from the special revenue fund.

10 * Sec. 2. AS 37.05.530 is amended by adding a new subsection to read:

11 (h) Notwithstanding other provisions of law and unless expressly provided by the
12 legislature in the appropriation item making the appropriation, an appropriation from the National
13 Petroleum Reserve - Alaska special revenue fund shall, for the purposes of determining the
14 funding sources for the appropriation be treated as though the appropriation takes effect in the

1 fiscal year in which the appropriation passes the legislature. The authorization to expend funds
2 appropriated from the fund shall take effect as otherwise provided by law.

3 * Sec. 3. This Act is retroactive to May 31, 1986.

4 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature

Senator Al Adams

WHILE IN SESSION
State Capitol
Juneau, Alaska 99801-1182
(907) 465-3707
Fax 463-4867

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

Official Business

March 26, 1992

TO: Representative Navarre, Co-Chair
Representative MacLean, Co-Chair
House Finance Committee

FROM: Senator Al Adams *AA*

RE: Scheduling of SB 334

This memo is to request a hearing on SB 334, relating to the NPR-A special revenue fund.

SB 334 addresses one issue, and that is the funding source for appropriations from the NPR-A special revenue fund. This bill ratifies the past administrative actions of both the Department of Revenue and the Department of Community and Regional Affairs.

I am enclosing the following information for the members files:

- copy of SB 334
- fiscal notes from Departments of Revenue and Community and Regional Affairs
- NPR-A special revenue fund statute
- NPR-A Impact Mitigation Program Report to the Legislature-
January 1992
- legal opinion--Div. of Legal Services, Leg. Affairs
- legal opinion--AG's Office

STATE OF ALASKA
DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

150 THIRD STREET
JUNEAU, ALASKA 99801-1291
PHONE: (907) 465-4700

949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

January 31, 1992

POSITION PAPER

RE: Senate Bill 334

SPONSOR: Senator Adams

Program Effects of Bill

There are no programatic effects on the department.

Comments

Under existing law the language may be interpreted in two ways regarding the appropriation of deposits.

Appropriations can be made based upon the amount of receipts in the fiscal year the appropriation is made or the amount of receipts in the budget year for which the appropriation is made.

This bill will clarify the statute and will conform law with the past practice of appropriating funds on the basis of the deposits made in the fiscal year of the appropriation.

This department supports this legislation.

Edgar Blatchford

Edgar Blatchford, Commissioner



STATE OF ALASKA

Legislative Affairs Agency

A
REPORT TO THE
SEVENTEENTH STATE LEGISLATURE

Examining Court Decisions
And Opinions of the
Attorney General
Construing Alaska Statutes

Prepared by the
LEGISLATIVE AFFAIRS AGENCY
Pouch Y, State Capitol
Juneau, Alaska 99811

OCTOBER

1991

APPROPRIATIONS FROM THE NATIONAL PETROLEUM RESERVE - ALASKA SPECIAL REVENUE FUND.

In response to an inquiry from a Deputy Commissioner of Revenue, the Attorney General considered the question of whether the revenue source for P.L. 96-514 grants (impact grants relating to oil development) is the federal revenue received in the fiscal year in which the appropriation takes effect or the fiscal year in which the appropriation is made. Op. Atty. Gen. (September 6, 1990) (Question #4 in that opinion.)

The Assistant Attorney General who answered the question suggested that there were good legal arguments for both results. He noted that money is not normally considered appropriated until the appropriation takes effect and that the lapse language of AS 37.05.530 tends to support the view that budget-year money is the source of the appropriation, not prior-year money. However, he also noted with respect to this special fund that the Department of Revenue has a long-standing practice of using receipts in the year the appropriation is made to fund the appropriation, even though the appropriation does not take effect until the next fiscal year. This practice has resulted in less lapsing of money from the special fund to other funds at the end of various fiscal years. The Assistant Attorney General advised the Department that this practice was supportable under the perceived ambiguity of AS 37.05.530 even though it was not the usual practice with respect to other appropriations.

We do not agree that AS 37.05.530 is ambiguous about appropriations from the special fund. There is no language in the statute to suggest that appropriations from this fund should relate to prior-year money rather than money available in the year the appropriation takes effect. Furthermore, the department's practice clearly subverts the explicit statutory language that money be lapsed from the special revenue fund to other funds at the end of each fiscal year.

We suggest legislative review of this issue.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

JUN 5 1991

LEGISLATIVE AUDIT

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

June 5, 1991

SUBJECT: Lapse of money in the National Petroleum Reserve - Alaska special revenue fund (Work Order No. 7-LS1412)

TO: Randy S. Welker
Legislative Auditor

FROM: George Utermohle *GU*
Legislative Counsel

You have asked what is the funding source for appropriations made from the National Petroleum Reserve - Alaska special revenue fund for purposes of implementing the lapse provisions of AS 37.05.530(g).^{1/}

The National Petroleum Reserve - Alaska special revenue fund was established to hold oil and gas leasing revenues from the National Petroleum Reserve - Alaska that the federal government shares with the state under 42 U.S.C. 6508. Money received by the state under 42 U.S.C. 6508 is to be used for construction, maintenance, and operation of essential public facilities, planning, and other necessary provisions of public service. In using the money, the state must give priority to the needs of municipalities "directly or severely impacted by development of oil and gas" in the National Petroleum Reserve - Alaska. Municipalities affected by federal leasing activities in the petroleum reserve may apply for grants from the Department of Community and Regional Affairs. Grants to impacted municipalities are funded by appropriations from the special revenue fund. The unappropriated balance of the special revenue fund at the end of each fiscal year lapses under AS 37.05.530(g).

AS 37.05.530(g) states:

(g) Amounts received by the state under 42 U.S.C. 6508 and not appropriated for grants to municipalities under (d) of this section lapse at the end of each fiscal year as follows:

^{1/} The National Petroleum Reserve - Alaska special revenue fund was originally established in temporary law by ch. 94, SLA 1984. The special revenue fund was substantially rewritten by secs. 2 and 3, ch. 53, SLA 1986 and is currently codified in statute as AS 37.05.530.

- (1) 50 percent to the principal of the Alaska permanent fund;
- (2) .5 percent to the public school fund (AS 37.14.110); and
- (3) the remainder to the general fund for use by the state for the following facilities and services:
 - (A) planning;
 - (B) construction, maintenance, and operation of essential public facilities; and
 - (C) other necessary public services.

AS 37.05.530(g) clearly states that money remaining in the special revenue fund at the end of the fiscal year that has not been appropriated for grants to municipalities lapses into the permanent fund, public school fund, and general fund in the proportions set out. However, there is disagreement over how to determine what has been appropriated from the fund. The Department of Law finds that subsection (g) is ambiguous in regard to identifying what has been appropriated from the special revenue fund. 1990 Inf. Op. Att'y Gen., 3-4 (Sept. 6; 663-90-0175). As the result of the ambiguity, the Department of Law believes that the Department of Revenue may consider money to be appropriated from the special revenue fund in the fiscal year in which the appropriation is enacted, whether or not the appropriation takes effect during that fiscal year. Evidently, this approach has been followed by the Department of Revenue since the special revenue fund was enacted in 1984. In effect, this approach allows the Department of Revenue to reduce the amount of money that lapses under subsection (g) by attributing appropriations for subsequent fiscal years to the fiscal year in which the appropriation is enacted and to shift the funding source for the appropriations from the receipts of the special revenue fund in the fiscal year in which the appropriation takes effect to the receipts of the fund during the fiscal year in which the appropriation is enacted.

AS 37.05.530(g) was enacted in 1986 and took effect on May 31, 1986. Secs. 3 and 4, ch. 53, SLA 1986. Prior to May 31, 1986 money in the special revenue fund did not lapse. It did not make any difference what fiscal year an appropriation took effect because the unappropriated balance of the special revenue fund was carried forward from fiscal year to fiscal year. Money remained in the special revenue fund until it was appropriated out of the fund. After May 31, 1986, the unappropriated balance of the special revenue fund lapses at the end of each fiscal year.

The complete restructuring of the special revenue fund (including the addition of the lapse provision in subsection (g)) in 1986 indicates that the legislature intended to change the manner in which money was appropriated from and lapsed from the special revenue fund. Subsection (g) eliminated the ability to carry forward a surplus in the special revenue fund. After fiscal year 1985, appropriations from the special revenue fund are to be funded from annual receipts of the fund and not from the prior years' surplus, unless the legislature provides otherwise in the act making the appropriation. Any surplus in the special revenue fund is to lapse into other funds.

The approach followed by the Department of Revenue significantly undermines the intent of the legislature that surplus funds in the special revenue fund should lapse into the permanent fund, public school fund, and general fund by reducing the possibility that a surplus would occur.

The Department of Law finds some textual support for the position of the Department of Revenue in the first sentence of AS 37.05.530(d) which reads:

It is the intent of the legislature that each year all of the money in the National Petroleum Reserve - Alaska special revenue fund be made available for appropriation by the legislature to municipalities that demonstrate under (c) of this section present impact, or the need to determine or plan for future impact, from oil and gas development under 42 U.S.C. 6508.

The Department of Law focuses on the legislature's intent that each year all of the money in the special revenue fund be available for appropriation by the legislature to conclude that all of the money in the fund at the time that the legislature makes an appropriation from the fund should be used to fund that appropriation without regard to when the appropriation is to take effect.

The first sentence of subsection (d) is equivocal at best and must be read together with the remainder of that subsection, which goes on to state:

It is the intent of the legislature that an initial appropriation be made to the Department of Community and Regional Affairs to cover anticipated impact grants, and that additional funds be made available through supplemental appropriations if the impact is greater than anticipated and the legislature considers the additional grants proposed by the department to be meritorious.

Taken as a whole, subsection (d) provides that all of the money in the special revenue fund during a fiscal year be available for appropriation by the legislature to impacted municipalities, that the legislature appropriate money to cover anticipated grants to impacted municipalities, and that if additional grants are necessary then the legislature should make supplemental appropriations to fund these additional grants rather than wait till the next fiscal year to fund them.^{2/} Through this mechanism

^{2/} Subsection (d) was completely rewritten in 1986 (sec. 2, ch. 53, SLA 1986) when the legislature changed the priority for use of the federal revenue sharing receipts so that the needs of the impacted communities be satisfied from the special revenue fund before obligations to the permanent fund and the public school fund are taken into consideration. The legislature changed the priority for use of those funds in response to a state superior court decision (Barrow v. State, No. 1JU-85-2634 Civ.

the legislature seeks to give priority to the use of fiscal year receipts of the special revenue fund for grants to municipalities impacted by federal oil and gas exploration programs while providing that any surplus money remaining in the fund at the end of the fiscal year shall lapse into the permanent fund, public school fund, and general fund. Subsection (d) intends that the legislature make supplemental appropriations to prevent lapsing of surplus money in the fund. Subsection (d) does not authorize either the suspension of the lapse provision in subsection (g) or the carrying forward of surplus money in order to fund appropriations that take effect during subsequent fiscal years. Such a deviation from the usual procedure of funding appropriations out of current fiscal year receipts, as envisioned by subsection (g), must be based on a clearer authority than that contained in subsection (d).

As a general rule an appropriation is not legally effective until the act of the legislature making the appropriation takes effect. An appropriation is generally funded from current year receipts, i.e. money received by the state during the fiscal year in which the appropriation becomes effective. If an appropriation is to be funded from a source other than current year receipts, the legislature specifically identifies the source of money by specifying an appropriate effective date or a specific funding source for the appropriation. Subsection (g) does not explicitly provide that appropriations from the special revenue fund are to be funded from the receipts of the fund in the year in which the appropriation is enacted. Without substantive indication that the legislature intended to change the funding source for appropriations from the special revenue fund from current year receipts to prior year receipts, it must be presumed that the legislature meant to continue funding these appropriations from the receipts of the fund in the year in which the appropriation takes effect.

Thus, as the Department of Law states in its memorandum (*id.* at 3), the language of AS 37.05.530 does favor the conclusion that appropriations from the special revenue fund are to be funded from the money received by the fund in the fiscal year in which the appropriation takes effect. Though this conclusion is subject to reasonable debate, as the department suggests (*id.*), the strength of the position of the Department of Revenue for using prior year revenues to fund an appropriation from the special revenue fund (unless the legislature specifically provides for such funding) is much weaker than the memorandum from the Department of Law implies. In the absence of a clear statement from the legislature, contained in the appropriation itself or in AS 37.05.530, an appropriation from the special revenue fund should be funded out of receipts of the fund in the fiscal year in which it takes effect. And, as a consequence, the amount of money lapsed from the special revenue

^{2/}(...continued)

(Alaska Super., March 18, 1986)) which held that the former scheme for distribution of the funds was not consistent with the intent of federal law (42 U.S.C. 6508).

fund at the end of each fiscal year is the difference between the amount received by the state as federal revenue sharing from National Petroleum Reserve - Alaska and deposited into the fund^{3/} and the amount of appropriations from the fund that take effect during the fiscal year or otherwise clearly identified by the legislature as being funded from the receipts of the fund during that fiscal year.^{4/}

If the Department of Revenue intends to continue using prior year receipts to fund appropriations from the special revenue fund, the department should either seek an amendment to AS 37.05.530 that would clearly authorize such a practice or include the necessary language in appropriations from the fund. The latter alternative would seem to be the preferred alternative because it would allow the legislature to consider each request to use prior year receipts of the special revenue fund on a case-by-case basis.

If I may be of further assistance, please advise.

GU:mi
91-112.mai

^{3/} In addition to federal revenue sharing receipts, the fund may also contain money that has lapsed from prior legislative appropriations and departmental grants to municipalities impacted by federal leasing activities in the National Petroleum Reserve - Alaska. The money that has lapsed back into the special revenue fund will at the end of the fiscal year be subject to further lapse under the provisions of AS 37.05.530(g).

^{4/} This memorandum does not address the issues that would be raised by multi-year appropriations from the special revenue fund. A multi-year appropriation is an appropriation that cannot be funded by one year's receipts of the special revenue fund or that is intended to be funded out of the fund over a series of fiscal years. A cursory review of the appropriations from the special revenue fund, indicates that there have been no multi-year appropriations from the special revenue fund during the period from 1986 to the present.

MEMORANDUM

State of Alaska
Department of Law

TO: Milton B. Barker
Deputy Commissioner
Department of Revenue

DATE: September 6, 1990
FILE NO.: 663-90-0175
TEL. NO.: 465-3600
SUBJECT: Closing books on NPRA
Special Revenue Fund

GTK
FROM: G. Thomas Koester
Assistant Attorney General
Natural Resources Section - Juneau

You asked a number of questions relating to the National Petroleum Reserve-Alaska ("NPRA") Special Revenue Fund created in AS 37.05.530.

Much of the background to your request is set out in 1986 Inf. Op. Att'y Gen. (Aug. 8; 663-87-0003) and 1987 Inf. Op. Att'y Gen. (June 22; 663-87-0003), copies of which are attached, and will not be repeated here. In brief, P.L. 96-514 (the relevant portion of which is codified at 42 U.S.C.A. § 6508 (1983)) provides that Alaska is to receive 50 percent of federal NPRA oil and gas leasing revenues, and requires that the state "shall give priority" to political subdivisions impacted by that leasing when allocating the money received. The state initially deposited 50 percent of all NPRA receipts in the Alaska Permanent Fund, somewhat less than one-half of one percent in the Public School Fund, and the balance in the General Fund, which then was spent pursuant to legislative appropriation.

In Barrow v. State, No. 1JU-85-2634 Civ. (Alaska Super., March 18, 1986), the court ruled that P.L. 96-514 requires the state to establish a process for considering NPRA leasing impacts on political subdivisions before the state uses shared NPRA revenues for any other purpose, including deposit in the Alaska Permanent Fund and the Public School Fund. In response, the legislature enacted AS 37.05.530 in chapter 53, SLA 1986, which provides a procedure for considering impact grant applications by political subdivisions prior to state use of NPRA receipts. Shared NPRA receipts are first deposited in the NPRA Special Revenue Fund. AS 37.05.530(a). Municipalities impacted by NPRA leasing then apply for grants under regulations adopted by the Department of Community and Regional Affairs ("DCRA"). AS 37.05.530(c); 19 AAC 50.010---.090. Grants may be funded by the legislature through an appropriation from the fund to DCRA. AS 37.05.530(c). Any unappropriated balance lapses at the end of the fiscal year as follows: 50 percent to the Alaska Permanent Fund, one-half percent to the Public School Fund, and the remainder to the General Fund. AS 37.05.530(g).

The implementation of AS 37.05.530 is what gave rise to your questions.

Question 1: When an excess amount is lapsed from a fund, may it be administratively adjusted, or must a legislative appropriation be secured to correct the imbalance? If the latter, must otherwise valid appropriations be restricted pending legislative action? If so, how are the appropriations to be restricted to be selected?

Answer: As we understand it, "an excess amount is lapsed from a fund" when an amount which exceeds the amount in the fund is erroneously debited from that fund and credited elsewhere. If this understanding is correct, the lapsing of an excess amount should be considered an allocation error which may be administratively adjusted. See 1987 Inf. Op. Att'y Gen. (June 22; 663-87-0003) at 5-7. While that informal opinion was limited to the specific circumstances presented there, we believe the procedure set out in it may appropriately be employed here to enable the executive branch to correct an administrative allocation error without legislative involvement.

Question 2: AS 37.05.530 provides that funds remaining after appropriations are made to political subdivisions are to lapse in specified percentages to the Alaska Permanent Fund and the Public School Fund. When those two funds' cumulative entitlements exceed the amount being lapsed, how should the lapsed funds be apportioned between the two funds?

Answer: AS 37.05.530 specifies the percentage allocations to the two funds whenever funds lapse from the NPRSA Special Revenue Fund. Even if the total amount lapsed is insufficient to satisfy both funds' entitlements, the statutory percentages still govern the allocations to the two funds.

As you point out in your June 7, 1990 memorandum to me, however, this question is moot in light of our earlier advice in 1987 Inf. Op. Att'y Gen. at 5-7 (June 22; 663-87-0003) that shortfalls in the entitlements of the Alaska Permanent Fund and the Public School Fund may be made up administratively from the general fund. We again caution, as we did then (at 6-7), that, "[i]n our view, the safest approach, both legally and politically, is to seek explicit legislative authority (through an appropriation) when dealing with state funds." For the reasons set out in that 1987 memorandum, however, that is not required.

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Department of Revenue
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Question 3: How should a discrepancy between an amount appropriated from the NPRA Special Revenue Fund and the amount listed at the back of the appropriation bill for the funding source be resolved?

Answer: To the extent that the amount listed at the end of the appropriation bill may exceed the amount appropriated, there is no particular problem since the excess can simply be reported as available from that funding source in future revenue summaries. To the extent the amount listed at the end of the appropriation bill may be less than the amount appropriated, however, any shortfall which might otherwise result should be made up from other funds available in the indicated funding source even if that exceeds the specific amount listed for that source. The rationale for this approach is that the legislature presumably intended the funding source amounts to match the amounts appropriated. (To the extent the amount appropriated exceeds the amount actually available in the designated funding source, however, the appropriation normally will have to be reduced to the funds available. See the answers to Questions 6 and 7 below.)

Question 4: What revenues are the funding source for P.L. 96-514 grants -- those received in the fiscal year that the appropriation is effective or those received in the year the appropriation is enacted? If the latter, are the lapse provisions to apply to amounts appropriated but not yet effective at the end of a fiscal year?

Answer: Legal arguments can be made to support either result. In support of the position that the funding source for P.L. 96-514 grants are those revenues received in the fiscal year in which the appropriation is effective -- i.e., "budget year receipts" -- we note that the statutory language suggests this result. AS 37.05.530(g) provides for the lapse of any amounts remaining in the NPRA Special Revenue Fund at the end of the fiscal year which are "not appropriated". Monies are not normally considered appropriated until the appropriation becomes effective. If an appropriation from the NPRA Special Revenue Fund is effective on the first day of a fiscal year (see, e.g., the appropriation for the Barrow Group Home in chapter 96, SLA 1985, which became effective July 1, 1985), no monies from the prior fiscal year would be available to fund it. In addition, this is the manner in which appropriations generally are funded: the legislature in one fiscal year makes appropriations authorizing the expenditure of the revenues received in the following fiscal year.

Supporting the conclusion that revenues received in the fiscal year the appropriation is enacted -- i.e., "prior year

receipts" -- should fund P.L. 96-514 grants is the fact that this is the manner in which the NPRA special revenue fund statute has been administered since it was enacted. This contemporaneous administrative interpretation of the statute is a useful guide in determining the legislature's intent. Textual support for this result can be found in AS 37.05.530(d), which provides in pertinent part that "[i]t is the intent of the legislature that each year all of the money in the National Petroleum Reserve -- Alaska special revenue fund be made available for appropriation by the legislature" to impacted municipalities. This suggests that the appropriations for P.L. 96-514 grants are to be funded by money already received by the state and held in the NPRA Special Revenue Fund at the time the legislature makes the appropriation, and not money which might be received thereafter.

While the statute therefore is ambiguous because it is subject to differing interpretations, we believe the current administrative practice of interpreting it as calling for prior year receipts to fund P.L. 96-514 grants is a permissible interpretation. (Should a statutory amendment be desired to resolve this ambiguity, we would be happy to work with you to develop appropriate language. A simpler approach might be to simply have the appropriations for P.L. 96-514 grants take effect on June 30 of the year in which they are enacted.)

Question 5: Are appropriations from the NPRA fund which are not P.L. 96-514 grants to be netted from the state's NPRA receipts in determining the entitlements of the Permanent Fund and Public School Fund?

Answer: No. The only funds that should be netted from the state's NPRA receipts in determining the entitlements of the Permanent Fund and the Public School Fund are those that qualify as grants under P.L. 96-514.

Question 6: Do P.L. 96-514 appropriations in excess of available NPRA funds reduce entitlements of the Permanent Fund and Public School Fund from the NPRA Fund in subsequent fiscal years?

Answer: As we understand it, this question addresses the situation where a legislative appropriation from the NPRA Special Revenue Fund for P.L. 96-514 grants exceeds the amount available in that fund. If that understanding is correct, such an appropriation normally would not reduce the entitlements of the Alaska Permanent Fund and the Public School Fund in subsequent fiscal years because the legislature normally provides in appropriation bills that appropriations that exceed available revenues are

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reduced accordingly. See, e.g., sec. 4, ch. 154, SLA 1988. This would be consistent with the legislature's intent that the NPRA Special Revenue Fund end each fiscal year with a zero balance, neither positive nor negative.

Question 7: Does an appropriation in excess of available fund balances result in a reduction in the appropriation -- at least in the case of a reappropriation as suggested in the enclosed memo of October 30, 1989 -- or merely require a restriction, possibly temporary, on expenditures pursuant to the appropriation?

Answer: A reappropriation situation is different from the situation where one is concerned with balances lapsing from the NPRA Special Revenue Fund. In a reappropriation situation, the legislature has made a specific appropriation for a specific purpose and, thereafter, reappropriated some of those already-appropriated monies for a different purpose. Under that narrow circumstance, a reappropriation in excess of the amount remaining available in the original appropriation must be reduced to the amount available because no additional funds would be available in the absence of additional legislative action. It would then be the legislature's prerogative either to leave the level of reappropriation at the amount available or, by an additional appropriation, increase it to the amount originally intended in the reappropriation.

The same result is normally reached with respect to general NPRA Special Revenue Fund monies, but for a different reason. NPRA shared revenues are credited directly to the NPRA Special Revenue Fund upon receipt. Thereafter, they either are appropriated from that fund by the legislature or, if not appropriated, lapse by operation of law. Where the legislature appropriates more than the balance available in the fund, it might be argued that NPRA receipts in a subsequent year should be used to make up the difference as long as the appropriation remains valid under AS 37.25.010 for one-year appropriations and under AS 37.25.020 for capital project appropriations. In your words, this would "merely require a restriction, possibly temporary, on expenditures pursuant to the appropriation." As noted in the response to question 6 above, however, the legislature normally includes a provision in appropriation bills that appropriations that exceed available revenues are reduced accordingly. See, e.g., sec. 4, ch. 154, SLA 1988. As also noted in the response to question 6 above, this would be consistent with the legislature's intent that the NPRA Special Revenue Fund end each fiscal year with a zero balance, neither positive nor negative.

Milton B. Barker, Deputy Commissioner
Department of Revenue
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We hope this answers your questions. If we can be of further assistance, please contact us at your convenience.

GTK:tg

cc: Alison Elgee, Director
Division of Budget Review
Office of Management and Budget
Office of the Governor

Frank Baxter, Commissioner
Department of Administration

Mark S. Hickey, Commissioner
Department of Transportation and Public Facilities

David G. Hoffman, Commissioner
Department of Community and Regional Affairs

SB334

SENATE FINANCE COMMITTEE REPORT

DATE: 1/13/92

FURTHER:

Date of 5-Day Notice: 01/29/92
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 2/5/92

Finance Committee considered **SENATE BILL NO. 334**

"An Act relating to the National Petroleum Reserve - Alaska special revenue fund; and providing for an effective date."

and recommends:

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

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

~~DOE 0 1/28/92~~

~~DEA 0 1/16/92~~

fiscal notes _____

appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

DO PASS:

Jim Duncan
Al Adams
[Signature]
[Signature]
[Signature]

OTHER RECOMMENDATIONS:

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

2. *[Signature]* *De Pass*
Co-Chair: Signature/Recommendation

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 334

Revision Date: _____
 Title: "...Relating to the NPRA Special Revenue Fund."
 Sponsor: Senator Adams
 Requestor: _____

Department Affected: Community and Regional Affairs
 BRU: Local Government Assistance
 Component: National Petroleum Reserve Program

COMPONENT SERIAL NO.

1	2	1	4
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EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: No current year impact.

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson
 Division: Administrative Services Division

Phone: 465-4708
 Date: 1/16/92

Approved by Commissioner: Remond Henderson for
 Agency: Department of Community and Regional Affairs

Date: 1/16/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).
 Rev 10/7/91