



# Report and Recommendations of the Task Force on Property Assessment

Convention Policy Paper

June 2010



## Task Force on Assessment

The property tax system is the main source of revenue for municipalities in Alberta, and for some time, the Alberta Urban Municipalities Association (AUMA) has been concerned with its current state.

With that in mind the AUMA, in the spring of 2009, oversaw the preparation of a report identifying the issues relating to the assessment and property tax system in Alberta that it felt should be of concern to municipalities. The report, Property Assessment and Taxation Issues, was followed by a further report outlining how these issues could be addressed. These two reports were presented at the 2009 AUMA Convention, and it was then directed that they were to form the basis of the review by this Task Force, which was established in 2010.

Because assessment and taxation are of such great importance to all Albertans and their communities, the individuals and groups noted below were all asked to participate in the Task Force, in order to obtain a broad perspective on these issues.

The following were appointed to the Task Force:



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Bob Hawkesworth, Chairman, Alderman, City of Calgary, Board Member, AUMA



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Craig Copeland, Mayor, City of Cold Lake



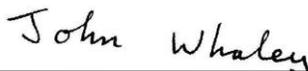
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Ron Casey, Mayor, Town of Canmore



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Ken Graham, Mayor, Town of Innisfail



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John Whaley, Board Member, Alberta Association of Municipal Districts and Counties



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Suzette DeMott, President, Alberta Assessors Association



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Dave Dubauskas, CAO, City of Fort Saskatchewan, Alberta City Managers



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Stan Dilworth, City Assessor, City of Lethbridge



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Kevin Miner, Chief Administrative Officer, Kneehill County, Alberta Rural Municipal Administrators Association



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Geraldine Gervais, Chief Administrative Officer, Town of Hanna, Local Government Administrators Association of Alberta



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Wilhelm Malan, City of Calgary, Cities of Edmonton and Calgary Assessment Departments

The Task Force has reviewed all of the issues outlined in the two reports produced by the AUMA and has identified a number of those issues as well as others on which it has achieved unanimous consent. These issues and the recommendations associated with them are outlined in this report. The other matters set forth in the two reports which have not been addressed by the Task Force are those upon which unanimous consent was not achieved.

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## EXECUTIVE SUMMARY

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The assessment of property has only one purpose; to fairly and equitably distribute the property tax burden, whether it is between properties in a municipality, as in the municipal tax levy, or between municipalities and their taxpayers, as in the provincial education property tax requisition.

In its review of the assessment issues brought forward in the Identification of Assessment Issues document, the Task Force on Assessment has identified three overall themes to the issues. They are:

- The need for openness, transparency and effectiveness of the assessment and taxation system;
- The need to complete the assessment reforms of the mid-1990s in reference to regulated industrial property assessments; and,
- The need for changes in the administration of the assessment and taxation function.

With the above in mind, the Task Force on Assessment recommends that:

- 1) Any Provincial reviews resulting from the recommendations contained in this report include a broad stakeholder consultation process involving municipal input;
- 2) The Province establish a property tax exemption policy which ensures among other things that all property tax exemption to programs (assessment or property tax exemptions) receive a periodic review to ensure that they continue to provide the benefits to the citizens of Alberta that were originally intended;
- 3) The Province review the zero education property tax rate abatement policy for machinery and equipment in order to demonstrate that the intended benefits of the policy still exist for Albertans;
- 4) The Province review the education property tax exemption policy for electric power generation facilities in order to demonstrate that the intended benefits of the policy still exist for Albertans;
- 5) The Province review its tax exemption policies regarding property held by non-profit organizations and, once determined that these policies provide the benefits intended, refine the wording and definitions used in the legislation for better clarity in the intent and consistency in application;
- 6) The Province remove the twenty three percent tax exemption from the assessment process for machinery and equipment and if, after review, it is found to be necessary include it as an exemption from property tax;
- 7) The Province amend the legislation to discontinue the assessment exemption (tax exemption policy in the assessment process) on timber dispositions and

- if, after review, it is found to be necessary include it as an exemption from property tax;
- 8) The Province review and update the definitions for regulated industrial property in the Municipal Government Act and the Matters Relating to Assessment and Taxation Regulation;
  - 9) The Province review, amend and reintroduce the Construction Cost Reporting Guide to include the appropriate costs of construction that would normally be included in determining the market value of the property. If it is determined that a tax exemption policy is required as a result of the changes, the Task Force further recommends that the Province apply the tax exemption policy as an exemption from property tax rather than an exemption from assessment;
  - 10)The Province discontinue the “penetration rate depreciation” policy for telecommunications property as it does not conform to market value assessment principles;
  - 11)The Province review the regulated valuation procedures used for the assessment of machinery and equipment and amend them to bring them into line with market value principles used in the cost approach to value;
  - 12)The Province discontinue the policy of the application of the immediate twenty five percent depreciation policy in the assessment of machinery and equipment because it is a tax exemption policy applied in the assessment system;
  - 13)If, after the Province has addressed all of the issues relating to the valuation of machinery and equipment for assessment purposes and aligned it with market value principles used in the cost approach to value, it is determined that there is a need for a tax exemption policy, that this tax exemption policy should be applied as an exemption from property tax rather than an exemption from assessment;
  - 14)The Province establish a legislated position that would ensure that the administration of the assessment function is held at arm’s length from the policy setting function of the Provincial Government;
  - 15)The Province establish a legislated position that would ensure that the preparation of linear assessments is held at arm’s length from the policy setting function of the Provincial Government;
  - 16)The Province establish an administrative tribunal for the purposes of determining equalized assessments that is held at arm’s length from the policy setting function of the Provincial Government;
  - 17)The Province amend the legislation to ensure that the equalized assessments for all taxable property (including linear property, machinery and equipment, and railway), other than farmland, be based upon market value principles and equalized at a common level and a common year. Further, the Province amend the legislation to entrench the ability of a municipality to file a

complaint about an equalized assessment regardless of what the equalized assessment is used for;

- 18)The Province review the calculation processes for determining education property tax requisitions with a view to including a property tax “circuit breaker” mechanism in the education property tax requisitioning process, in order that residents are not required to pay excessive amounts of education property tax in comparison to owners of similar property in other municipalities;
- 19)The Province establish a policy to stabilize the education property tax between classes of property as a result of market value changes or changes in policy on regulated property;
- 20)The Province supply grants to assist municipalities in the administration of the assessment and taxation function based upon the relationship between the education property tax requisition and the total property tax levied by a municipality;
- 21)The Province introduce assessor training grants to municipalities and private assessment firms in a coordinated approach with the Alberta Assessors’ Association to ensure that there is an adequate candidacy program for assessors;
- 22)The Province introduce extra funding for succession planning and training of specialized regulated industrial assessors;
- 23)The Province only consider requests for further changes to the assessment complaint and appeal system if it will be giving effect to the intent of the legislation and further improve the efficiency of the Assessment Complaint system;
- 24)The condition dates for the assessment of property be reviewed to determine if they should be moved.
- 25)The Province discontinue requiring municipalities to apply the education property tax levy to supplementary assessments,
- 26)The Province provide grants in place of taxes for provincially owned post-secondary institutions and major medical facilities based upon assessments that reflect the actual market value of the property.; and
- 27)The Province provide grants in place of taxes for all properties on which the Crown currently pays a grant based upon assessments, that reflect the actual market value of the properties. Further, the Crown, if it is believed that the local assessor has overstated the market value of the property, file an assessment complaint and appear before the Local Assessment Review Board to make its case in the same fashion as all other property owners.

### **Timeframe for Addressing the Issues**

The Task Force believes that the issues addressed in this paper are of significant importance to the fairness, equity, openness and effectiveness of the assessment



and taxation system for both municipalities and the Provincial Government. With that in mind, the Task Force believes that setting out timelines for the recommendations to be acted upon is also of the utmost importance.

- 1) The Task Force recommends that the Province act upon Recommendations 18 to 27 within the next twelve to eighteen months;
  - 2) The Task Force recommends that the Province act upon Recommendations 2 to 8 and 14 to 17 within the next twelve to thirty months;
- The Task Force recommends that the Province act upon Recommendations 9 to 13 within the next twelve to thirty six months.

## 1 INTRODUCTION

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The property tax system, being the single most significant revenue source for municipalities in this province, and the fairness of the distribution of the property tax burden (the property assessment system) have been a concern of the Alberta Urban Municipalities Association (AUMA) for some time.

The current review started because of the pressures resulting from growth and the fact that municipalities do not have the resources under the current legislation to deal with these pressures. The AUMA believes that part of the overall issues relating to the lack of municipal resources relates to problems with the current assessment and taxation system in place in Alberta. In addition there are concerns relating to the administration of the assessment and taxation function at the provincial level.

With that in mind, the AUMA established the Task Force on Assessment in early 2010 to review a number of assessment and taxation issues addressed in two reports commissioned by the AUMA in the spring and summer of 2009<sup>1</sup>.

Many of the issues with the assessment and taxation system stem from provincial implementation of tax abatement policies either in the property tax system or in the assessment of property (either as total exemptions from assessment or modification of the valuation process used in the assessment of property).

The Task Force is fully cognizant of the need for provincial economic development initiatives, environmental protection initiatives or the preservation of specific industries in Alberta. However, the Task Force is also aware that there is a need for a balanced approach and these initiatives cannot be implemented at the expense of the other property taxpayers in the Province.

The Task Force makes it very clear that, by making the recommendations contained in this report, it is not recommending new property tax revenues for municipalities or the Province. It believes that this kind of overall recommendation is premature, in that it is too early in the process to determine what tax policies should or should not be in place. The Task Force is asking the Province that all assessment and property policies be reviewed and reconciled through a comprehensive process to determine if changes in tax policy are required.

The Task Force believes that there is also a need for the Province to review the overall administrative structure for the assessment and taxation system at the provincial level. There is clearly a need for the separation of the policy setting responsibility of the elected officials and the administration of those policies from a provincial perspective.

Some 40 issues were identified in the initial report presented to the Alberta Urban Municipalities Association (AUMA) in the spring of 2009. Of those issues the Task Force, through a unanimous consent process, has determined that it would review the issues identified in the following pages. The other issues identified are also important, but the Task Force could not achieve unanimous consent on how to address those issues.

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<sup>1</sup> Property Assessment and Taxation Issues (May 2009) and Addressing the Issues (July 2009).

The issues receiving unanimous consent have been reviewed by the Task Force and can be placed in three categories:

- 1) Assessment and taxation exemptions;
- 2) The assessment and taxation of regulated industrial properties;; and,
- 3) The provincial administration of the assessment and taxation function.

In reviewing the issues related to Alberta's Property Assessment and Taxation system identified for review and discussion, the Task Force adopted the following principles:

- The assessment for all property should be based upon the principles of a true annual market value assessment system (fairness and equity for all);
- All exemptions, whether from assessment or taxation, should be reviewed in an open and transparent manner to ensure that they continue to be appropriate and provide the results for which they were intended (openness and transparency);
- Any exemptions that are continued should become exemptions from taxation, not assessment, in order that they continue to be open and transparent;
- There must be a clear separation between the political assessment policy decision-making process and the administration of the assessment system; and,
- The assessment and taxation legislation must provide clarity, and relative stability for both taxpayers and municipalities.

The Task Force adopted a Charter to guide it in its work. The Charter is included in Appendix 1: Task Force Charter.

The Task Force believes that in order to achieve the overall requirement for openness and transparency in the assessment and taxation system, the provincial review and subsequent discussions regarding the recommendations in this report must be conducted with the Province always having regard to the following Task Force recommendation.

**Recommendation #1:**

*The Task Force recommends that any Provincial reviews resulting from the recommendations contained in this report include a broad stakeholder consultation process involving municipal input.*

Amendments and changes to legislation and regulations relating to municipal governments such as are proposed in this paper must only proceed when those affected, including municipal associations and related professional associations, are consulted and involved from the outset, in a significant and ongoing way.

## **2 ASSESSMENT AND TAXATION EXEMPTIONS**

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There are reasons for properties to be exempt from assessment in very rare and exceptional circumstances, such as Crown owned unpatented wilderness, municipal water and sewer lines, roads and streets, and there are reasons as well for properties to be exempt from taxation such as those uses like churches, which are deemed to be in the interest of the general public.

However it must be realized that an exemption of property from assessment or taxation does not mean that the taxes disappear -- it simply means that the tax burden of that property is shifted to all other properties that continue to be assessed and taxed. As a result, providing tax exemptions for certain properties at the expense of others needs to be undertaken very carefully.

It is nonetheless acknowledged that property tax exemptions or abatements are seen by the Province and municipalities as a tool to promote economic development and environmental sustainability and these types of policies are effective and appropriate tools when implemented in an open, transparent and controlled manner.

In their review of a number of the property tax exemption policies provided by the provincial government through legislation, the Task Force members have expressed concern in three areas:

- There does not appear to be an overall consistency in approach or policy in dealing with property tax exemptions from a provincial perspective;
- Some property tax exemptions that have been provided in the past may not be appropriate now considering the economic and technological realities of today; and,
- Many of the current tax exemptions provided by the Province are made as exemptions from assessment which are not transparent to the citizens of Alberta.

### **2.1 Provincial Property Tax Exemption Policy Review Process**

The Task Force is concerned that, with the introduction of the Municipal Government Act in 1995 and the changes in tax policy since that time, there has not been enough attention placed on this issue.

Provincial property tax exemption programs, whether they are expressed as exemptions from assessment or taxation, can and do have a direct effect on a municipality's ability to provide services to its citizens. The more property tax exemptions provided, particularly if certain municipalities have an abundance of those properties that are exempted, the greater the effect on that municipality's ability to provide the services which its citizens expect and deserve.

However, it is understood that property tax exemption policies are excellent tools that have been and will continue to be used internationally to promote economic development, social wellbeing and environmental sustainability

Property tax exemption policies should be periodically reviewed to ensure that they continue to provide the results that they were originally intended to achieve. The Task Force has noted that many provincial property tax exemption policies have been in place for so long that the intended benefits have been lost over time.

There is a need for openness and transparency in the system so that there can be a verification of the benefit received from the specific abatement policy. The Province needs a fully open and transparent assessment system without exemptions (other than in rare and exceptional circumstances), and fully open and transparent tax exemption policies that clearly outline the economic benefits, financial implications, sustainability and environmental strategies that the Province is intending to achieve.

- Have some or most of the current tax exemption policies outlived their usefulness as such and are they now causing issues?
- Do they need to be reviewed, and dealt with in more appropriate fashion?
- Should a mandated periodic review of provincial property tax exemption policies be implemented to ensure that the policies continue to provide their original intent?
- Should there be a limit on the time frame that any tax exemption program can remain in place without a full review, reinstatement or discontinuance?

The Task Force believes that the answer to the above questions, in all instances, is yes.

### **Recommendation #2:**

*The Task Force recommends that the Province establish a property tax exemption policy which ensures, among other things, that all property tax exemption programs (assessment or property tax exemptions) receive a periodic review to ensure that they continue to provide the benefit to the citizens of Alberta that was originally intended.*

It is suggested that this review could be dealt with in a similar fashion to the Province's current periodic review of regulations. The process should take into account the following in the development of the policy:

- The importance to the Province and its citizens of the sector or property type use receiving the exemption;
- Whether or not the exemption program is succeeding in promoting or preserving what it was intended to do; and,
- The effect that the exemption program has on a municipality's ability to provide the required services to its citizens, and the Province's ability to provide the required resources needed for the education of our youth.

## **2.2 Property Tax Exemptions**

There are three property tax exemption policies that are of a concern to the Task Force. Two of these policies are related to education property tax exemptions for industry and the third deals with the municipal and education property tax

exemption policy related to property held by non-profit organizations. These policies are:

1. The provincial education property tax rate of zero for machinery and equipment;
2. The education property tax exemption for electric power generation facilities; and,
3. The property tax exemption policy for property held by non-profit organizations.

#### *2.2.1 The Provincial Education Property Tax Rate of Zero for Machinery and Equipment*

In the mid 1990's, as part of the effort to provide incentives for industry to invest in the manufacturing and processing sector in Alberta, the Province decided to phase out the education property tax on machinery and equipment over a period of five years. This phase-out was contingent on industry committing to an investment in the manufacturing and processing sector of some Twenty Billion Dollars. The investment was achieved in three years and the education property tax levy on all machinery and equipment in the Province has enjoyed a zero tax rate since that time.

At that time, the Province assured Albertans that the foregone amount of education tax would not be shifted to other taxpayers but would come from the Province's General Revenue Fund. However, the amount of the education tax exemption given to machinery and equipment is in fact annually shifted to all other taxpayers in the province, whether or not it is through the education property tax or the General Revenue Fund.

This policy shifts significant amounts of the education property tax burden away from industry to all other taxpayers. Do the benefits of increased employment and development outweigh the extra responsibility of all other taxpayers to pay this increased share of the education property tax burden? The Task Force is concerned that this question has not been adequately addressed.

#### **Recommendation #3:**

*The Task Force recommends that the Province review the zero education property tax rate abatement policy for machinery and equipment in order to demonstrate that the intended benefits of the policy still exist for Albertans.*

#### *2.2.2 The Provincial Education Property Tax Exemption for Electric Power Generation Facilities*

In the late 1990's, as part of the effort to provide incentives for industry to invest in electric power generation facilities in Alberta, the Province phased out the education property tax portion of the levy on these facilities. This phase-out was completed over two years with the proviso that industry would commit to the construction of an additional sixteen hundred megawatts of generating capacity. This investment was achieved.

It was felt that electric power generation facilities were similar in nature to manufacturing and processing facilities and, since the education tax was phased out on that sector, it was appropriate to do the same for electric power generation.

This policy shifts significant amounts of the education property tax burden away from the electric power generation industry to all other taxpayers. Do the benefits of increased employment and development outweigh the added responsibility of all other taxpayers to pay the increased share of the education property tax burden? The Task Force is concerned that this issue has not been reviewed since the policy was implemented.

#### **Recommendation #4:**

*The Task Force recommends that the Province review the education property tax exemption policy for electric power generation facilities in order to demonstrate that the intended benefits of the policy still exist for Albertans.*

#### *2.2.3 The Lack of Clarity Involving the Property Tax Exemption Policy for Property Held by Non-Profit Organizations*

Section 362 (1) (n) of the Municipal Government Act provides property tax exemptions for certain properties that are held (owned or leased) by non-profit organizations and that meet the requirements and conditions in the *Community Organization Property Tax Exemption Regulation* or "COPTER" (Alta. Reg. 281/1998).

The provisions and the introduction of the COPTER were as a result of the recommendations made by the MLA Non Profit Property Tax Review Committee. The overall view in the provisions was that the local municipality was in the best position to make decisions regarding the appropriateness of exempting property held by non-profit organizations.

As a result the wording in the legislation was intended to be vague to provide municipalities with the necessary latitude. On the face of it, this appears to be positive. However, after applying this legislation over that last number of years, municipalities have experienced increasing difficulty in applying the legislation in a consistent, fair and equitable basis internally within a municipality and between municipalities across the Province.

The vagueness of the definitions in the legislation has led to inconsistency in the application between and within municipalities. Examples of the definitions that require clarification are the meaning of "charitable and benevolent" and how much is a "minor entrance, service or membership fee"? Whether or not a particular property is exempt from property tax, including provincial education property tax, can and does depend upon decisions made regarding the above.

Since the Province also exempts the property from education property tax to the same degree as the municipality, there is also inconsistency in the distribution of the education property tax burden.

Although municipalities appreciate the intent of the legislation to provide latitude to municipalities in providing tax exemptions to these properties, the Task Force

concludes that the approach taken by the province regarding the tax exemption policies is not appropriate and cannot be applied in a consistent, fair and equitable basis across the Province.

### **Recommendation #5:**

*The Task Force recommends that the Province review their tax exemption policies regarding property held by non-profit organizations and, once determined that these policies provide the benefits intended, refine the wording and definitions used in the legislation for better clarity in the intent and consistency in application.*

## **2.3 Exemptions from Assessment**

Exemptions of property from assessment mean that the property is not assessed (valued) and no record of the property is placed on the assessment roll of a municipality. The following question is often asked: “Why go to effort and cost of assessing these properties if you aren’t going to tax them?”

It is clear that it would be a waste of time and resources to assess certain properties if it is clearly known that no tax levy will ever be placed or should ever be placed against them. These situations, however, are and should be exceptional, because when they are exempt from assessment, there is no way to ascertain the effect of the exemption on other taxpayers.

The predominant reason for assessing properties that are exempt from taxation relates to the issue of openness and transparency. So, if a taxpayer is required to pay the taxes for a property that is exempt, he/she should clearly be able to determine that he/she is being asked to contribute extra tax as a result.

In addition, if a property is assessed, there is a record to that effect on the assessment roll and any taxpayer can file a complaint regarding the taxation exemption. If a property is exempt from assessment, there is no mechanism for complaint to be filed.

International standards on property tax policy state that, wherever possible, tax exemptions should be exemptions from taxation, not assessment, in order for taxpayers to clearly understand the system.

The Task Force recommends a review of the following:

- The twenty three per cent assessment exemption for machinery and equipment; and,
- The assessment exemption for timber dispositions.

### *2.3.1 The Twenty Three Per Cent Assessment Exemption for Machinery and Equipment*

This exemption is from assessment, in that twenty three per cent of the regulated value of the property is not recorded on the assessment roll of the municipality. There is no manner in which the average taxpayer can readily determine that it is in

place. This exemption policy was implemented in 1984 as a property tax exemption policy.

**Recommendation #6:**

*The Task Force recommends that the Province remove the twenty three per cent tax exemption policy for machinery and equipment from the assessment process and if, after review, it is found to be necessary, include it as an exemption from property tax.*

This will ensure that the policy is open and transparent, in that all taxpayers can readily determine if the policy is appropriate.

*2.3.2 The Assessment Exemption for Timber Dispositions*

The Municipal Government Act in section 298 (1) (n) provides an exemption from assessment for the following property: “any interest under a timber disposition under the Forests Act and the timber harvest or cut authorized by the disposition”. This property is, generally speaking, Crown owned property under disposition to private industry.

In general, leaseholders of Crown property are assessable and taxable for their interest in the property.

**Recommendation #7:**

*The Task Force recommends that the Province amend the legislation to discontinue the assessment exemption (tax exemption policy applied in the assessment process) on timber dispositions and if, after review, it is found to be necessary, include it as an exemption from property tax.*

This will ensure that the policy is open and transparent, in that, all taxpayers can readily determine if an exemption policy is appropriate.

### 3 THE ASSESSMENT AND TAXATION OF REGULATED INDUSTRIAL PROPERTIES

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The Province of Alberta adopted the annual market value assessment standard for most properties in the mid-1990s. This standard is considered to be the internationally accepted best system for the fair and equitable distribution of the property tax burden<sup>2</sup>.

Although there was extensive review and recommendations made regarding the assessment of regulated industrial properties, the market value reforms were not completed for these properties. As a result of these reforms not being extended to regulated industrial properties, the assessment system cannot be said to be fair and equitable for all properties in the Province.

Regulated industrial properties include the following:

1. "*Linear property*" which includes:
  - Pipelines;
  - oil and gas wells;
  - electric power generation, transmission, and distribution systems;
  - street lighting systems; and,
  - telecommunications systems including cable television.

The assessment of this property province-wide currently on the rolls of municipalities is in excess of Sixty Seven Billion Dollars. This assessment, except for linear electric power generation properties, is currently subject to both municipal and education property tax levies.

2. "*Machinery and Equipment*" relating to the following;
  - manufacturing;
  - processing;
  - non-linear pipeline related;
  - coal and oil sands transportation and excavation;
  - non-linear electric power systems; and,
  - non-linear telecommunications systems.

The assessment of this property province-wide currently on the rolls of municipalities is in excess of Fifty Three Billion Dollars. This assessment is subject to only the municipal tax levy.

3. "*Railway Property*"

The assessment of this property province-wide currently on the rolls of municipalities is some Five hundred and Ninety Five Million Dollars. This assessment is subject to both municipal and education property tax levies.

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<sup>2</sup> Standards for Property Tax Policy – International Association of Assessing Officers (IAA) and the Lincoln Land Institute

### 3.1 The Review of the Assessment and Taxation of Regulated Industrial Property

Since regulated industrial property in total is currently assessed in excess of One Hundred and Twenty Billion Dollars and contributes well in excess of One Billion Dollars in municipal and education property taxes, the issue of these properties not conforming to market value principles does put into question the fairness and equity of the total property tax system.

In its review of all of the regulated industrial property assessment issues in the Paper on Assessment Issues, the Task Force has identified the following issues for review and recommendation:

- The definitions of regulated industrial property have remained relatively unchanged since the 1960's;
- The valuation process for regulated industrial property does not conform to market valuation principles in that not all costs of construction are included in the determination of value for assessment purposes. This issue is directly related to the regulated assessment procedure called the "Construction Cost Reporting Guide (CCRG)";
- The depreciation policy for telecommunication properties;
- The valuation of machinery and equipment for assessment purposes; and,
- The minimum and maximum "depreciation" policies for machinery and equipment.

### 3.2 Definitions of Regulated Industrial Properties

Although this issue may not seem to be directly related to the valuation of these properties for assessment purposes, it is an issue because in order to appropriately determine the value of a property for assessment purposes, the assessor must be able to clearly determine what that property is. The current definitions of regulated industrial properties do not provide the clarity required.

This lack of clarity has caused confusion and misinterpretation regarding what is to be assessed, who is responsible for the assessment and what valuation processes are applicable to the property.

For an explanation as to the reasons for why this situation has developed and the difficulties it has caused refer to Appendix 2: Definitions of Regulated Industrial Property.

#### **Recommendation #8:**

*The Task Force recommends that the Province review and update the definitions for regulated industrial property in the Municipal Government Act and the Matters Relating to Assessment and Taxation Regulation.*

This review should take into account the following;



- 1) Clarification and simplification of the definitions wherever possible; and,
- 2) As part of the review and required changes in the definitions, the Province provide clarification of assessment and taxation policy (which new technologies are to be assessed and taxed as real property and by whom (provincial linear section or local municipal assessor)).

For further explanation regarding the definitions of regulated industrial property refer to Appendix 2: Definitions of Regulated Industrial Property.

### **3.3 Review of the Construction Cost Reporting Guide (CCRG)**

Prior to 1995 all property, other than non-farmland which was assessed on the basis of market value, was assessed under a fully regulated system.

All improvements (buildings, structures, linear property, machinery and equipment and railway improvements) were valued using a heavily regulated cost approach to value. This regulated cost approach to value removed certain costs of construction from the valuation process. It was felt that, if these costs were removed for all property, the result would be fairness and equity for all property in the assessment and property tax system. Although that may have been true under a regulated system, it is not fair and equitable under a market value based system because the costs of construction directly affect the market value of property. If the costs of constructing a particular property are higher in one area of the Province than another, all things being equal, the market value is higher.

With the introduction of market value as the standard for the assessment of residential and most non-residential property, the removal of costs of construction from the valuation process for assessment is no longer fair and equitable.

The former regulated approach for regulated industrial properties remained the process used after 1995. Even though it does not conform to market value principles, intense lobbying by industry resulted in the process being reaffirmed, for the most part, with the introduction of the Construction Cost Reporting Guide (CCRG) in 2000.

The CCRG Guide is a regulated process that removes costs of construction from the assessment process for all regulated industrial properties. Many of the costs removed through this process are included in the assessment process for the determination of the market value of a property.

The significance of the removal of these costs varies depending on the regulated industrial property type (low of some five percent to a high of more than thirty percent of the total costs of construction normally included in the cost approach to market value). This policy flows directly through to the taxation system and provides a direct tax break for these property owners

### **Recommendation #9:**

*The Task Force recommends that the Province review, amend and reintroduce the Construction Cost Reporting Guide to include the appropriate costs of construction that would normally be included in determining the market value of the property. If it is determined that a tax exemption policy is required as a result of the changes, the Task Force further recommends that the Province apply the tax exemption policy as an exemption from property tax rather than an exemption from assessment.*

This review and reintroduction should take into account the following:

- That the new guide ensures that all costs of construction that would be included in the determination of the market value of the properties are included in the assessment of regulated industrial property; and,
- That the new guide includes a regulated process that must be followed by taxpayers and assessors in the documentation of the costs of construction to allow for auditing of the process by provincial authorities in a similar fashion to all other audited properties.

### **3.4 Depreciation Policy for Telecommunications Properties**

There is a special depreciation policy for telecommunications properties called the “penetration rate depreciation”. This policy was introduced to compensate telecommunications companies where they constructed infrastructure sufficient to provide services to a projected population and the current population using the services is lower than the identified population.

It has been determined that the application of this policy is contrary to market value principles and is not a reflection of a loss in value of the property. The “penetration rate” adjustment is really a loss in business value not a loss in property value. Since the Alberta property assessment system does not include business value, the policy therefore has no place in the Alberta assessment and taxation system.

### **Recommendation #10:**

*The Task Force recommends that the Province discontinue the “penetration rate depreciation” policy for telecommunications property as it does not conform to market value assessment principles.*

### **3.5 The Valuation of Machinery and Equipment for Assessment Purposes**

The valuation of machinery and equipment for assessment purposes in Alberta does not conform to market value principles. It has always been and continues to be a fully regulated process.

There has been no change to the regulated valuation process as a result to the move to market value based assessment in 1995 and, in fact, there has been no significant update of the valuation process since the early 1980’s and many of the valuation principles have been in place since the 1960’s.

The assessment of machinery and equipment, like the assessment of all regulated industrial property, is based upon the cost approach to value. The cost approach to value is based upon the appraisal principle known as the principle of substitution (one will pay no more for a property than it would cost him/her to build it).

Simply speaking, the cost approach to value involves estimating the cost of constructing a facility and then estimating the loss in value due to its age and utility (depreciation).

Currently the cost of construction is determined in accordance with the Construction Cost Reporting Guide (CCRG) (see section 3.20) or through regulated rates provided by the Province which are also developed using the CCRG. As explained in that section this approach does not conform to market value principles. If the CCRG issue was addressed the valuation of machinery and equipment would still require updating.

Currently the amount of depreciation is determined by using regulated depreciation tables that take into account a regulated age life of the particular industrial property type (for example, oil sands plant) and the specific age of the property. An estimation of the age lives of these properties was implemented in the late 1950's or early 1960's. This was in the early years of the assessment of machinery and equipment in Alberta when it was relatively unknown how long these facilities would last, especially in a northern climate such as Alberta.

The regulated age life expectancies of these properties have been questioned as to their appropriateness. As examples – oil sands plants are expected to have an age life of 15 years and refineries are expected to have an age life of 20 years.

The depreciation tables are based upon what are known as the Iowa "inverted S" family of depreciation curves. These curves have been used across North America in the application of the cost approach to value. Inverted S curves supply very little loss in value during the first years of a property's age life, significant losses in value during the middle years, and little value loss in the later years of a property's age life.

These curves were used for all property assessment prior to 1995 and are more applicable to the valuation of other real estate such as homes and businesses. It has been suggested that the use of these depreciation curves is inappropriate for valuing these properties since in the real world they do not depreciate in this fashion.

The Task Force acknowledges that the Province did update all of the regulated rates used in the assessment of regulated industrial properties and did make some adjustments to the valuation procedures for some properties. Although the regulated rates for oilfield machinery and equipment were updated, the procedures used in the valuation of these properties for assessment purposes have remained unchanged for decades.

**Recommendation #11:**

*The Task Force recommends that the Province review the regulated valuation procedures used for the assessment of machinery and equipment and amend it to bring it into line with market value principles used in the cost approach to value.*

The review and updating of the definition of machinery and equipment (referred to in section 3.10) and the review of the Construction Cost Reporting Guide (referred to in section 3.20) should form the springboard for further reforms to valuation of machinery and equipment for assessment purposes. It should include:

- A full review, updating and expansion of the age life expectations for the different types of facilities;
- The introduction of depreciation curves as a basis for the regulated depreciation tables that are more appropriate in the determination of market value to be used in the assessment process for machinery and equipment; and,
- A full impact study to determine the effect of these changes on industry and municipalities prior to implementation, to determine if property tax abatement policies are required and should be developed and used in the tax exemption process.

### **3.6 The Minimum and Maximum “Depreciation” Policies for Machinery and Equipment.**

These policies do not have any basis in the principles of market value property assessment and appraisal and should not be called “depreciation” (loss in value due to any cause). They are tax policies placed in the assessment process. As a result, they are not open and transparent.

Newly constructed properties are supplied an immediate twenty five percent reduction in value. This twenty five per cent reduction remains in place until the normal amount of depreciation that would be applied is greater than twenty five per cent. At this point the actual depreciation tables are used and appropriate depreciation factors are applied until the depreciation factor is sixty percent (forty percent remaining). At this point, the policy kicks in again. No further depreciation is allowed unless it is proven that further depreciation is warranted.

The immediate twenty five per cent allowance is meant as a tax exemption policy for newly constructed facilities. The maximum depreciation policy is a municipal tax stability policy to ensure that municipalities will continue to receive significant tax revenues as long as these properties are in place and operating.

These “depreciation” policies do not conform to the principles of market value where depreciation is a measurement of the loss in value due to age, utility, functional or economic conditions.

#### **Recommendation #12:**

*The Task Force recommends that the Province discontinue the policy of the application of the immediate twenty five percent depreciation policy in the assessment of machinery and equipment because it is a tax exemption policy applied in the assessment system.*

### 3.7 Property Tax Exemption Policy for Machinery and Equipment

The Province has historically used adjustments in the assessment process for machinery and equipment to provide property tax incentives and relief from property taxation to the industrial sector.

The Task Force believes that this is not the appropriate mechanism to use in an open, transparent, effective and efficient assessment and taxation system.

#### **Recommendation #13:**

*The Task Force recommends that if, after the Province has addressed all of the issues relating to the valuation of machinery and equipment for assessment purposes and aligned it with market value principles used in the cost approach to value, it is determined that there is a need for a tax exemption policy, that this policy be applied as an exemption from property tax rather than an exemption from assessment.*

This approach will ensure that, in the future, the system will be open and transparent and the benefits of any tax abatement policy will be apparent to the citizens of Alberta.

## **4 THE ADMINISTRATION OF THE ASSESSMENT TAXATION FUNCTIONS**

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There are a number of issues identified by the Task Force that relate to the administration of the assessment and property taxation functions from a provincial perspective. These issues include the following:

- 1) The lack of separation between the policy-making function of the provincial elected officials and the administration of the assessment function;
- 2) The equalized assessment system;
- 3) The education property tax system;
- 4) Training of assessors and succession planning;
- 5) The assessment complaint and appeal system;
- 6) The condition dates for the assessment of property;
- 7) The provincial policy of applying education property tax on supplementary assessments; and,
- 8) The lack of provincial grants in place of taxes on post secondary learning institutions and major medical facilities.

### **4.1 The Lack of Separation between Policy Making and the Provincial Administration of the Assessment and Taxation Functions**

Under the current administrative structure for assessment that was adopted in 1995, the Minister of Municipal Affairs is not only responsible, in consultation with his/her colleagues in the Legislature, for setting provincial assessment and taxation policy, he/she is also legislatively responsible for ensuring that these policies are consistently and appropriately applied across the Province. In fact, he/she is directly legislatively responsible for the following:

- The auditing of assessments including inspecting and quashing of assessments in accordance with policies and procedures provided for under Minister Order signed by him/her;
- Providing direction and advice on interpretation of assessment and taxation policy in accordance with policies and procedures set by him/her in consultation with his/her colleagues in the Legislature;
- The determination of linear assessments, in accordance with policies and procedures provided for under Ministerial Order signed by him/her;
- The determination of equalized assessments in accordance with policies and procedures provided for under Ministerial Order signed by him/her; and,
- The determination of education property tax requisitions in accordance with policies and procedures set by him/her in consultation with his/her colleagues in the Legislature.

There is no separation between the functions of policy setting and the administration of the assessment function at the provincial level. The person responsible for setting policy is also the person responsible for ensuring that the policy is followed.

For more information on how the legislation dealt with this issue prior to 1995, refer to Appendix 3: The Assessment Commissioner, the Chief Provincial Assessor, the Alberta Assessment Equalization Board and the Assessment Complaint and Appeal System.

#### *4.1.1 Legislated Administrative Position Separate From Policy Setting*

Prior to 1995, the Minister was responsible for setting policies in consultation with his colleagues in the Legislature, and the responsibility of ensuring that the policies were applied consistently and appropriately across the Province was held by a senior civil servant with extensive knowledge and experience in the assessment and taxation field. For further information regarding the changes in the administration of the assessment function in the Province refer to Appendix 3: Assessment Commissioner, Chief Provincial Assessor and Assessment Equalization Board and the Assessment Complaint and Appeal System.

Currently one of the mandated responsibilities of the Minister is the assessment audit function which includes the authority of inspecting and quashing assessments and requiring them to be completed again. Another responsibility of the Minister is to provide ongoing advice and direction to municipalities and assessors on the proper application of the legislation and procedures.

Assessment and taxation, by their very nature, are controversial and as a result, very political. Because these actions, advice or directions are by their very nature political, these actions seldom occur. An example of this lack of direction is the issue of the assessment of oil sands trucks and shovels. It is clear that the provincial policy would have them assessed and taxed (section 304 (1) (g) of the Municipal Government Act (MGA)). Although the draglines in open pit coal mines are assessed and taxed, the subject municipality is hesitant to assess them due to a conflicting exemption in section 298 (1) (p) of the MGA. Although the municipality has repeatedly asked for clarification of the legislation, no Ministerial direction has been forthcoming.

The Minister cannot be expected to be fully knowledgeable on legislation, rules, policies and procedures regarding assessment and taxation. These duties and responsibilities should be clearly separated from the provincial elected officials.

It should be noted that, at the local municipal level, although the assessor is an employee of the municipality, he/she is shielded by legislation from political interference and there should be similar integrity protections at the provincial level. He/she is required to follow the direction of the legislation which is a reflection of provincial policy without interference from an employer.

There is a definite need for a legislated position at the provincial level that has the authority and legislated mandate to ensure that provincial government policy is followed.

#### **Recommendation #14:**

*The Task Force recommends that the Province establish a legislated position that would ensure that the administration of the assessment function is held at arm's length from the policy setting function of the Provincial Government.*

#### 4.1.2 Designated Linear Assessor

Another issue relating to the lack of separation between the policy making function and administration is the current direct responsibility of the Minister for completing linear assessments. Prior to 1995, the responsibility for the completion of linear assessments was held by the legislated position of Chief Provincial Assessor. For more information regarding this position refer to Appendix 3: Assessment Commissioner, Chief Provincial Assessor, the Assessment Equalization Board and the Assessment Complaint and Appeal System.

Over the last number of years there has also been concern expressed by stakeholders regarding the lack of separation between the policy setting arm of the government and the delivery of linear assessments.

As mentioned above, at the local municipal level, although the assessor is an employee of the municipality, he/she is shielded by legislation from political interference and there should be similar integrity protections at the provincial level

#### **Recommendation #15:**

*The Task Force recommends that the Province establish a legislated position that would ensure that the preparation of linear assessments is held at arm's length from the policy setting function of the Provincial Government.*

#### 4.1.3 The Responsibility for the Preparation of Equalized Assessments

In accordance with the legislation (Municipal Government Act) the Minister of Municipal Affairs is responsible for preparing equalized assessments in accordance with policies and procedures under the authority of a Ministerial Order signed by the same Minister. The Task Force is concerned about the appropriateness of this process.

#### **Recommendation #16:**

*The Task Force recommends that the Province establish an administrative tribunal for the purposes of determining equalized assessments that is held at arm's length from the policy setting function of the Provincial Government.*

This tribunal should include representation from municipalities and other stakeholders who are directly affected by this function.

#### 4.1.4 Legislation Pertaining to the Preparation of Equalized Assessment

The purpose of the equalized assessment system is to provide a fair and equitable basis for grant sharing and cost sharing programs between municipalities. The Task Force has questions as to the fairness of the system when not all taxable properties are assessed on the same basis and the equalized assessment system does not adjust for this variation.

The most significant use of the equalized assessment process is the provincial education property tax requisitioning process. As this process involves in excess of

One billion, Seven Hundred Million Dollars in education property tax, the fair and equitable distribution of the tax burden is of significant concern.

**Recommendation #17:**

*The Task Force recommends that the Province amend the legislation to ensure that the equalized assessments for all taxable property (including linear property, machinery and equipment and railway property), other than farmland, be based on market value principles and equalized at a common level and a common year. The Task Force further recommends that the Province amend legislation to entrench the ability of a municipality to file a complaint about an equalized assessment regardless of what the equalized assessment is used for.*

If there is a requirement to implement a property taxation “circuit breaker” in the process to ensure that municipalities and their citizens are not unduly affected by the use of equalized assessment as a mechanism for the grant sharing or cost sharing program, the taxation “circuit breaker” mechanism should not be achieved through adjustments in the equalized assessment process.

*4.1.5 The Education Property Tax System*

The education property tax burden of some One Billion, Seven Hundred Million Dollars can only be shared fairly and equitably if the equalized assessment system is fair and equitable. The equalized assessment system can only be fair and equitable if the local municipal assessment system is fair and equitable.

Even if the local municipal assessment system is fair and equitable and all assessments were equalized appropriately in a fair and equitable manner, there are limitations within the property assessment system to fairly and equitably distribute the education tax burden.

In effect what occurs is that although the ad valorem (according to value) system works well in distributing the tax burden within the municipality, it does not necessarily distribute it fairly when it is applied on a province-wide basis. What is occurring in some municipalities is that due to extreme demand for properties, the market value has increased dramatically in comparison to physically similar properties in other jurisdictions.

Due to the manner in which the education property tax requisition is currently calculated, the education property tax requisition for these municipalities, and subsequently the taxes for their citizens, have increased dramatically in comparison to their neighbors in other municipalities with physically similar properties. There is a limit to the use of the ad valorem system and there is a need for a mechanism to ensure that some residents of the Province are not required to pay an inappropriate share of the education property tax burden.

For the purposes of the education property tax requisitioning process, the Province has attempted to implement property tax “circuit breakers” to address this issue in two ways. First, there is legislation that allows the Cabinet under the authority of an Order-in-Council to set different equalized education property tax rates for municipalities in the national parks.

Secondly, the Province has implemented the *Equalized Assessment Variance Regulation* (a Ministerial Order signed by the Minister) which is another example of a tax exemption policy applied in the assessment system that attempts to stabilize the education property tax requisitions. It involves a capping and averaging process that limits significant increases in a municipality's requisition as a result of rapid increases in the market value of properties within its borders.

One of the issues with the capping and averaging process is that by softening the increases for some municipalities, other municipalities that do have increases in the market value of their properties have increases in their education tax requisition. In addition, this system does not provide a "circuit breaker" mechanism to limit a taxpayer having to pay excessive amounts of education property tax in comparison to owners of similar properties in other municipalities.

**Recommendation #18:**

*The Task Force recommends that the Province review the calculation processes for determining education property tax requisitions with a view to including a property tax "circuit breaker" mechanism in the education property tax requisitioning process in order that residents are not required to pay excessive amounts of education property tax in comparison to owners of similar properties in other municipalities.*

*4.1.6 Education Property Tax Requisitioning Process*

The Province applies a different education property tax rate to residential property than it does to non-residential property to determine the amount of the education property tax requisition for each municipality. The Province, since this process was introduced in the mid 1990s, has historically kept the ratio between these rates static at approximately 1.5 to 1, non-residential to residential.

With the significant increases in market value of residential property in comparison to non-residential property and the fact that the valuation of regulated industrial property has not kept pace with these increases, there has been a dramatic shift in education taxes from non-residential property to residential property. The following total provincial requisition figures illustrate this shift.

<u>Year</u>	<u>Residential</u>	<u>% of Total</u>	<u>Non-Residential</u>	<u>% of Total</u>
1994	629,634,244	32%	1,333,971,503	68%
1996*	663,728,473	33%	1,331,504,820	67%
2010	1,105,317,260	62%	667,416,619	38%

\*First year of the phase-out of the education property tax levy on machinery and equipment.

The Task Force notes that most municipalities in the Province have implemented a policy to limit the shifting between property classes due to dramatic differences in market value changes between classes on an annual basis.

### **Recommendation #19:**

*The Task Force recommends that the Province establish a policy to stabilize the education property tax between classes of property as a result of market value changes or changes in policy on regulated policy.*

## **4.2 Provincial Responsibility for the Assessment and Taxation Process**

The Province should become a full partner in the administration of the assessment and tax collection system by providing funds to assist municipalities in the annual assessment function.

The Province collects a significant amount of revenue for education from the municipal property assessment and taxation system and it should shoulder a fair share of the costs. The Task Force also notes that, in the past (prior to 1995), the Province supplied grants to assist municipalities with the cost of the administration of the assessment system.

The Province invoices municipalities for the costs of preparing linear assessments and the Task Force believes that it is appropriate that municipalities should be compensated in a similar fashion.

### **Recommendation #20:**

*The Task Force recommends that the Province supply grants to assist municipalities in the administration of the assessment and taxation function based upon the relationship between the education property tax requisition and the total property tax levied by a municipality.*

## **4.3 Training of Assessors and Succession Planning**

Assessors who graduate from post secondary institutions are not immediately ready for assuming the responsibilities of an assessor in a municipality. They are unable to assume these duties until they are able to meet the provisions of the *Qualifications of Assessor Regulation (Alta. Reg. 54/1999)*. As a result, assessors need a number of years of on the job training and extra studies in order to qualify to be an assessor within the meaning of the *Municipal Government Act*.

Another issue related to the training of assessors is the specialized knowledge and experience required in the assessment of major industrial facilities. Currently there are very few individuals left in the assessment field in Alberta that have the knowledge and experience needed to complete these valuations.

There has also been concern expressed by the assessment community relating to the consistency of the assessment of these facilities between municipalities. Until recently, the Province did not have a program in place to audit the assessments on these facilities. These facilities are difficult to value and result in very large valuations with high tax incidence.

The Province has a vested interest in the training and succession planning for assessors and, as a result, should become a full partner in the process.

**Recommendation #21:**

*The Task Force recommends that the Province introduce assessor training grants to municipalities and private assessment firms in a coordinated approach with the Alberta Assessors' Association to ensure that there is an adequate candidacy program for assessors.*

**Recommendation #22:**

*The Task Force recommends that the Province introduce extra funding for succession planning and training of specialized regulated industrial assessors.*

In an effort to ensure that proper training and succession planning is successful, the Task Force believes that the Municipal Associations should play a supporting role to the Alberta Assessors' Association in the training and succession planning of assessors.

#### **4.4 The Assessment Complaint and Appeal System**

Amendments to the Municipal Government Act and Regulations to deal with the issues related to the former two-level system of assessment complaints and appeals have been passed.

To date, the changes brought about have already yielded positive results and work well for the stakeholders who participate in working together to resolve issues, resulting in drastically reduced complaints filed.

**Recommendation #23:**

*The Task Force recommends that the Province only consider requests for further changes to the assessment complaint and appeal system if it will be giving effect to the intent of the legislation, and further improve the efficiency of the Assessment Complaint system.*

#### **4.5 The Condition Dates for the Assessment of Property**

Three dates, in the year before taxes are imposed, are used in calculating the assessed value of property in Alberta. The first, called the valuation date, is July 01. Assessors estimate the market value of all assessable properties based upon their local real estate market conditions on that valuation date.

The different legislated dates for recording improvement characteristics and the physical condition of property, informally called condition dates, are the other two dates of special significance. Assessors must calculate the assessed value of non-linear property based on their characteristics and condition on December 31. Linear property assessments must be based on the physical condition of any improvements

and the characteristics of the property as of October 31 of the year prior to the year in which taxes are imposed.

The December 31 condition date for non-linear property is problematic for taxpayers and those who serve them. Property owners find it difficult to understand how and why assessors use different dates to calculate an assessed value. Municipalities, especially urban ones, find it increasingly difficult to meet their legislated obligations and complete the annual assessment cycle within a given calendar year.

**Recommendation #24:**

*The Task Force recommends that the condition dates for the assessment of property be reviewed to determine if they should be moved.*

**4.6 The Provincial Policy of Applying Education Property Tax on Supplementary Assessments**

Supplementary assessments are prepared to capture growth in assessment because of new construction within the taxation year. The application of supplementary assessment and taxation is a discretionary authority of municipalities in Alberta. It is applied by a municipality in order to add revenue from the property assessment and taxation system.

If a municipality wishes to apply supplementary assessment and taxation, it is required to pass a supplementary assessment bylaw annually.

A municipality, in accordance with legislation, must apply the same education property tax levy to supplementary assessments that it applied to the regular assessments.

As this extra education tax revenue only comes from those individuals in municipalities where supplementary assessments are authorized by the municipal bylaw, these individuals are subsidizing other taxpayers only because their municipality passed the bylaw.

**Recommendation #25:**

*The Task Force recommends that the Province discontinue requiring municipalities to apply the education property tax levy to supplementary assessments.*

**4.7 Grants In Place of Taxes on Post Secondary Institutions and Major Medical Facilities**

Many urban centers around the Province have post-secondary learning institutions and medical facilities within their boundaries that are exempt from taxation. Just because these properties are exempt from taxation doesn't mean the taxes disappear - they are simply transferred to the rest of the taxable properties in the municipality.

The municipalities in which these facilities are located are, nevertheless, required to supply municipal services to those properties. As these facilities supply services for all Albertans, regardless of their location, taxpayers in urban centers should not have to shoulder the extra tax burden alone.

**Recommendation #26:**

*The Task Force recommends that the Province provide grants in place of taxes for provincially owned post-secondary institutions and major medical facilities, based upon assessments that reflect the actual market value of the properties.*

**4.8 Provincial Property Subject to Grants in Place of Taxes**

Provincially owned property is exempt from taxes in accordance with the Municipal Government Act (MGA). Section 366 of the MGA, however, provides that a municipality may apply to the Crown for a grant if there is a property in the municipality that the Crown has an interest in. This section also provides that the Crown may pay to the municipality a grant not exceeding the amount that would be recoverable by the municipality if the property that the Crown has interest in were not exempt from taxation.

Municipalities have expressed concerns that the Province is, in some instances, underestimating the market value of Crown owned property for the purposes of calculating the grant in place of taxes. It is felt that the Crown should be required to file an assessment complaint and appear before the Assessment Review Board to make its case in the same fashion as all other property owners.

**Recommendation # 27:**

*The Task Force recommends that the Province provide grants in place of taxes for all properties on which the Crown currently pays a grant based upon assessments that reflect the actual market value of the properties. The Task Force further recommends that the Crown, if it is believed that the local assessor has overstated the market value of the property, file an assessment complaint and appear before the Local Assessment Review Board to make its case in the same fashion as all other property owners.*

## APPENDIX 1: THE TASK FORCE CHARTER

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**AUMA**  
**Task Force on Assessment**  
**Task Force Charter**  
January – April 2010

**Purpose:**

We are committed to bring representative voices, experience and leadership from all aspects of assessment into the room, working collaboratively to find the best response for AUMA to the current research and recommendations.

**Task Force Core Values and Principles:**

- ✦ Clear, concise, plain language spoken and reported.
- ✦ Respect for diverse opinion and representation coupled with desire for outcomes that serve all well.
- ✦ Balance of accountability to the member organizations represented on the task force.
- ✦ Open minds, see the other view.
- ✦ Industrial strength listening.
- ✦ Equal voice – full participation.
- ✦ Leave personal agendas at the door –challenge ideas not people.
- ✦ Be open to compromise.
- ✦ Decisions based on fairness, facts, equity and consequences.
- ✦ Have fun.
- ✦ Look for the innovative.

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**Protocols:**

- ✦ Set up an effective communication process for Task Force members.
- ✦ Meet in both cities.
- ✦ Set and meet time line.
- ✦ Use effective process facilitative tools where possible, for dialogue, focus and time pressures.
- ✦ Work to consensus.
- ✦ Take full advantage of expertise in the room.
- ✦ Do the homework...study the material, be prepared and connect with colleagues on the home turf for guidance, confidence and flexibility in upcoming positions.

**Key Issues and Challenges:**

- ✦ Transparency of the Process.
- ✦ Inequities...Regulated Assessments versus Market Value
- ✦ Public Education
- ✦ Certainty – Stability

- ✦ True Market Value Principles.
- ✦ Assessor support, renewal and training.
- ✦ Improving Administrative-Policy protocol and balance.
- ✦ Balance of political, bureaucratic and business views with a large view to serve Alberta.
- ✦ Clarity of Legislation.
- ✦ Moving from special interest to Alberta interest.
- ✦ Balancing the rural – urban view with a broad Alberta view.
- ✦ Connecting the assessment process to the assessment community.
- ✦ Condition date for assessment
- ✦ Updating of provisions relating to non-profits

## APPENDIX 2: DEFINITIONS OF REGULATED INDUSTRIAL PROPERTY

### Reasons for the Review and Updating of the Definitions of Regulated Industrial Property

The legislated definitions for these properties have remained relatively unchanged since they were introduced in the *Municipal Taxation Act, the Electric Power and Pipeline Assessment Act and the Municipalities and Provincial Properties Valuation Act* in the 1960's

These Acts were repealed with the coming into force of the *Municipal Government Act* in 1995. Some of the properties were assessable under one of the previous Acts and exempt under the other

The definitions in the former Acts were included in the New Act and there is confusion as to what definitions certain properties fall under. An example of this would be that there are 3 completely different definitions for machinery and equipment in the legislation.

Significant assessment and taxation policy changes have been made by government since these definitions were drafted. Some of these policy changes created large differences in taxes depending upon the interpretation of the legislated definitions.

This has created complaints, appeals and expense for municipalities and tax payers. An example of this is that there are concrete silos in the province falling under the definition of machinery and equipment and assessed accordingly (not subject to the education property tax levy). These properties have been the subject of costly assessment complaints and appeals at the local and provincial assessment tribunals and also Court of Queens Bench.

Significant technological changes have occurred in these industries since these definitions were drafted. New properties have been introduced that were not contemplated when the definitions were drafted. This is especially prevalent in the areas of telecommunications and to a lesser extent in all other regulated industrial property.

It is not certain whether the province intends that some of these properties be assessed and taxed. Examples of these types of properties are automated teller machines, automated payment machines, scanning machines, electronic billing systems, all of which are integral parts of telecommunication systems.

The definitions for regulated industrial property should be subject to regular reviews and amendments to the legislation.

Linear property covers a large group of properties that, generally speaking, are looked on as systems that can and do cross multiple municipal boundaries. This is in fact one of the major reasons for them being centrally assessed, currently by the Provincial Government.

The following are linear property systems that are defined as systems in the legislation and do cross multiple municipal boundaries:

- Electric power systems, including generation, transmission and distribution systems,
- Telecommunications systems, including cable television, and
- Street lighting systems.

These systems are defined in a manner that includes all the property in the system, such as electric power transmission and distribution substations, as linear property and they are assessed and taxed as such. Other linear property is not defined in that way. Pipelines, for example, are not assessed as a system. For the most part, only the pipe is linear. The pumping or compressor stations are assessed as machinery and equipment by the local municipal assessor under significantly different rules and procedures.

As pipelines are subject to the education tax levy, as are electric power transmission and distribution systems and telecommunication systems, why are pumping and compressor stations not subject to the education tax levy and assessed by the linear assessor.

Oil, gas and related wells, including most of the surface equipment is assessed as linear under the definition of pipelines (the wording is a pipe in a well). Some of the surface equipment at a well site is assessed as linear by the provincial linear assessor and some is assessed by the local municipal assessor as machinery and equipment using completely different rules and procedures.

Again the linear property is subject to education property tax and the machinery and equipment is not. This has caused significant confusion between the two assessment jurisdictions that leads to situations where property can be not assessed or doubly assessed and has been the subject of many complaints and appeals through the tribunal processes.

There are three definitions of machinery and equipment in the legislation with differing rules and procedures applicable to each. In addition, the definition is so broad that, in reality, the majority of what is now defined as machinery and equipment would be assessed as buildings and structures if it were not for the current definition of machinery and equipment.

A definition of railway property was included in the legislation as a result of the coming into force of the MGA in 1995; however, the change has really only added confusion to the issue resulting in inconsistency in assessment of these properties across the province.

## **APPENDIX 3: THE ASSESSMENT COMMISSIONER, THE CHIEF PROVINCIAL ASSESSOR, THE ASSESSMENT EQUALIZATION BOARD AND THE ASSESSMENT COMPLAINT AND APPEAL SYSTEM**

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### **1 ADMINISTRATIVE STRUCTURE PRIOR TO 1995**

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**Minister** – Was responsible, in consultation with his colleagues, for setting assessment and taxation policy.

#### **Assessment Service Delivery Structure**

Municipalities had the choice of:

- 1) Hiring their own in house staff,
- 2) Contracting an assessment firm, or
- 3) Contracting staff of Alberta Municipal Affairs (Assessment Operations Branch)

NOTE: Linear Assessment was completed by Chief Provincial Assessor (CPA). In addition CPA had experts in the heavy industrial assessment field that municipalities could contract.

**Assessment Commissioner** - (senior civil servant with extensive experience in assessment)

Responsible for the administration of the assessment function and ensuring provincial assessment policy is applied consistently across the province.

- The Assessment Commissioner provided advice and direction regarding provincial policy in the form of Assessment Commissioner's Bulletins. These bulletins were recognized by the Tribunals and Courts as law (being the direction and policy of the government).
- The Assessment Commissioner also assumed the responsibility to ensure that municipalities had a constant supply of fully trained assessors.
- The Assessment Commissioner was responsible for Assessment Inspection (audit). This was a legislated position with mandated responsibilities including advisory to the Minister and recommendations for regulatory and legislative amendments regarding assessment.
- The Assessment Commissioner had the authority to quash assessments, make changes, do assessment inspections and provide clarification of policies, and procedures that were accepted as law by the courts.
- The Assessment Commissioner had staff who supplied assessment advisory service and assessment policy development.

**Chief Provincial Assessor** (Linear Assessor)

This position was also a legislated position (appointed assessors for all municipalities other than cities)

### **Assessment Equalization Board (Administrative Tribunal)**

- Members
- Chairman (senior civil servant with extensive experience in assessment-appointed under the authority of statute)
  - Secretary (senior civil servant with extensive experience in assessment – appointed under the authority of statute)
  - Representative of the Alberta Urban Municipalities Association
  - Representative of the Alberta Association of Municipal Districts and Counties
  - Representative of the Alberta Association of Summer Villages, and
  - Representative from Alberta Education.

This administrative tribunal was responsible for the preparation of equalized assessments.

Municipalities could file a complaint with the Alberta Assessment Appeal Board regarding an equalized assessment.

### **Alberta Assessment Appeal Board (Quasi-Judicial Tribunal)**

- Members
- Chairman (senior civil servant with extensive experience in assessment – appointed under the authority of statute)
  - Full time Members (extensive experience in assessment)

Members were full time employees of the Province.

## 2 1988 TO 1992 – MUNICIPAL STATUTES REVIEW COMMITTEE

The Municipal Statutes Review Committee (MSRC) was established by the Province to review all areas of the legislation involving municipalities. One of the main issues under review was the fully regulated, administratively heavy assessment system that had been under significant pressure through the court system.

The MSRC recommendations after extensive review and consultation with municipalities, industry, taxpayer associations and the general public included the following:

Three White Papers were drafted and released for public consultation in 1992.

- 1) White Paper on the Municipal Government Act – Included the provisions for property taxation
- 2) White Paper on the Property Assessment Act – Included the provisions for the assessment of property (annual market value standard and update of regulated assessment to conform to market value principles) and also included provisions for the establishment of the Alberta Assessment Appeal Commission which included full time expert members.

NOTE: noted in the background material that there must be a complete separation of the assessment and taxation functions.

- 3) White Paper on the Municipal Assessment Corporation Act – Included provisions for the establishment of a single province-wide assessment authority to introduce and maintain annual market value assessment.

**Note #1:** The positions of Assessment Commissioner and Chief Provincial Assessor were to move to the CEO and member of the Board of Directors of the Corporation.

**Note #2:** It was expected that there would be no need for a separate audit function as it would be an internal quality control function within the corporation.

**Note #3:** It was also expected that there would be no need for an equalized assessment function as all assessments were to be rendered on the basis of market value or market value principles (regulated) and completed by one organization using one CAMA system.

### 3 ADMINISTRATIVE STRUCTURE POST 1995 – RESULT OF GOVERNMENT DOWNSIZING AND THE INTRODUCTION OF THE MUNICIPAL GOVERNMENT ACT

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**Minister** – Continues to be responsible, in consultation with his colleagues, for setting assessment and taxation policy.

NOTE: Annual Assessments based upon market value were adopted in legislation with the introduction of the Municipal Government Act in 1995.

#### **Assessment Service Delivery Structure**

The assessment delivery mechanism was privatized. Municipalities were required to acquire assessment services from the market place.

The Municipal Statutes Review Committee Recommendation Was Not Implemented. The full responsibility for property assessment was transferred to municipalities. The Province introduced the regulated requirement that the assessor for a municipality must meet specific qualifications. The responsibility for the training of assessors was also transferred to municipalities.

#### **Assessment Commissioner**

The Legislated Position of Assessment Commissioner was abolished with the introduction of the Municipal Government Act. The responsibilities of the former position were transferred to the Minister of Municipal Affairs.

The duties of the former Assessment Commissioner that were transferred included:

- Advisory and Policy Development - the Minister is now directly responsible for supplying advice and clarification of policies and procedures that are set by the Minister and his colleagues under legislation or by the Minister under Ministerial Order.

Advice provided by staff of the Assessment Services Branch has no legislative sanction unless signed by the Minister. As a result very little clarification of policies and procedures has been circulated.

- Assessment Audit Function – the Minister is now directly responsible to ensure that municipal assessments meet the regulated quality standards for assessment that are set by the Minister under Ministerial Order.

This responsibility was formerly under the position of Assessment Commissioner and was added to the Minister's responsibility as a result of the Province's decision not to adopt the assessment authority model. It was decided that since assessment would be done by municipalities instead of the corporation a provincial audit function was required.

The Minister is now directly responsible for ensuring that municipalities meet the quality standards that are set by the Minister under the Minister's Guidelines that are approved under ministerial order signed by the Minister.

The responsibility for inspecting and quashing assessments that do not meet the provincial standards and the responsibility for requiring that they be completed again have been transferred from the Assessment Commissioner to the Minister. This change places the Minister in a difficult position due to the fact that these decisions become political rather than process driven.

The former provincial government responsibility for assessor training was transferred to municipalities.

### **Chief Provincial Assessor**

The legislated position of Chief Provincial Assessor was abolished with the introduction of the Municipal Government Act. The responsibilities of the former position were transferred to the Minister of Municipal Affairs.

The duties of the former Chief Provincial Assessor that were transferred to the Minister were:

- Linear Assessment - the Minister is now directly responsible for the preparation of linear property assessment using the rules and procedures that the Minister has set under the Ministers Guidelines under the authority of a ministerial order signed by the Minister.

Government supply of heavy industrial expertise for municipalities phased out and municipalities are now required to acquire expertise from contracting firms. There are no more than about a half dozen individuals left in the province with the required knowledge and expertise to complete this function. These individuals are all nearing retirement age.

### **Assessment Equalization**

The Alberta Assessment Equalization Board was abolished with the introduction of the Municipal Government Act. The responsibilities of that administrative tribunal were transferred to the Minister of Municipal Affairs.

The former duties of the Alberta Assessment Equalization Board that were transferred to the Minister were:

- Equalized Assessments – the Minister is now directly responsible for the preparation of equalized assessments under the rules and procedures that the Minister has set under Ministerial Order signed by the Minister.

The Municipal Statutes Review Committee recommendations envisioned a single provincial assessment authority preparing assessments for all of the municipalities in the province. As a result, they did not foresee a requirement for equalized assessments since all assessments would be rendered at the same level and completed by one organization.

However, as a result of the privatization of the assessment delivery function, assessments would now be completed by some 355 separate municipalities. It was decided that indeed there was a need for equalized assessment.

The responsibility for determining equalized assessment was added to the responsibilities of the Minister and a regulated process under Ministerial Order was implemented.

Municipalities have the right to file a complaint to the Municipal Government Board regarding their equalized assessment. This is similar to what was allowed in legislation prior to 1995.

The most important current use of equalized assessments in the Province of Alberta is for the fair and equitable distribution of the education property tax burden. If the Minister varies a municipality's equalized assessment for the purposes of determining the education property tax requisition under the authority of the *Equalized Assessment Variance Regulation*, made under the authority of a ministerial order signed by the Minister, municipalities have no right to file a complaint.

### **Municipal Government Board**

The Alberta Assessment Appeal Board Act was abolished with the introduction of the Municipal Government Act. The approach recommended by the Municipal Statutes Review Committee (The Alberta Assessment Appeal Commission) was not implemented. It should be noted that this proposed legislation envisioned the employment of full time experienced members.

The Province amalgamated three former boards, the Alberta Planning Board, the Alberta Local Authorities Board and the Alberta Assessment Appeal Board under the new Municipal Government Board. In addition, The Municipal Government Board members are not full time members and are not required to have experience in assessment.

Recent amendments to the Municipal Government Act under Bill 23 has limited the Municipal Government Boards jurisdiction to hearing only complaints of linear property assessment and equalized assessments that have not been varied by the Minister under the *Equalized Assessment Variance Regulation*.