<u>HB 58 – Simplified Comparative Sectional v.A</u>

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

Sec. 1 Coal Royalty
Shortens the time a royalty is fixed to 10 years.

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

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

Sec. 2 Coal In-kind
Allows the coal lessee to give the state royalty-in-kind rather than cash to fuel the State coal fired power plant. At least every 10 years the Commissioner of DNR will update the in kind rental amount to reflect inflation. *(New section)*

Sec. 3 Mining Rentals
A holder of a mining claim, lease, leasehold location, prospecting site is required to pay:

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

Sec. 4 Adjustment of Rental Rate for mines before 2012
Applies the revision of rental rates every 10 years using the January – June 1989 base CPI only to mining property first located before January 1, 2012.

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

Sec. 6 Net Smelter Return Production Royalty
Exploration incentive tax credits can be applied to the royalty. *(Current statute)*

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

Sec. 7 Defines Net Smelter Return
"net smelter return" - the value that the mining company receives from the sale of ore after it has been smelted or refined. That value could be based on:

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

Sec. 8 Gross Value at Point of Production
Establishes "Gross Value at Pont of Production" as the value of the mineral immediately after it is removed from the mine excluding income received from extraction or processing mine waste previously taxed.

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

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

If the Department thinks the price the company received is not adequate they shall substitute the fair market value of the resource.
In order to determine the Gross Value at Point of Production the cost of transportation is deducted.

The cost of transportation = the actual cost unless:

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

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

Definitions of affiliated and destination value.
(New section)

Sec. 9 Application for Mining License
The application period for a mining license tax is before May 1 or 30 days after mining begins, whichever is later. *(Currently the application for renewal of mining license is due before May of each year)*

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

Sec. 10 Mining License Tax Deferral
A mining company can defer their mining license tax payments for their first 3 ½ years of production. However, they are required to pay the amount deferred (without interest) in equal payments over the next 10 years. Sand and gravel do not have the option to defer mining license taxes. *(Currently mining companies, excluding sand and gravel, have an exemption for the first 31/2 years)*

Sec. 11 Certification
DNR certifies the date production begins at the mine. *(No substantive changes)*

Sec. 12 Mining License Tax Rates
The mining license tax is based on the company's net income minus allowable depletion plus royalty received in connection with mining property in the state of Alaska.

PROPOSED MINING LICENSE TAX RATES

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

CURRENT MINING LICENSE TAX RATES

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

Sec. 13 Taxing Multiple Mines
If one company has more than one mining operation taxes are based on aggregate income. If an organization leases a mine to a company the organization will pay taxes on the royalties received as if it were the mining company. *(Updates language to confirm with current drafting style, no substantive changes)*

Sec. 14 Depletion
Deletes existing depletion statute and allows only cost depletion. *(Current statue allows a company in any given year to choose between percent and cost depletion.)*

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

Sec. 21 Repeals
Repeals AS 38.05.211(b) establishing 1989 as the base year for rentals; repeals AS. 38.05.211(e), the reduced rental allowance and MTRSC reference because the act adopts a new rental structure; repeals AS. 43.65.030, the reference to the application date for renewing mining licenses because it is covered in this act; repeals AS 43.65.060(6), definition of production because it is covered in this act. *(These statutes are no longer relevant)*

Sec. 22 Applicability
Applies this legislation to all leases entered into or renegotiated after December 31, 2011.

Sec. 23 Effective Date
This legislation takes effect January 1, 2012.