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Nauman
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CS FOR HOUSE BILL NO. 249(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act removing the minimum and maximum restrictions on the annual base fee for**
2 **the issuance or renewal of an entry permit or an interim-use permit; restricting the use**
3 **of an exploration incentive credit against a royalty payment; requiring the electronic**
4 **submission of a tax return or report with the Department of Revenue; increasing the**
5 **motor fuel tax; increasing the mining license tax; removing an exemption from the**
6 **mining license tax; relating to mining license applications, renewals, and fees; increasing**
7 **certain fisheries business taxes and the fisheries landing tax; relating to refunds of the**
8 **fisheries business tax and fisheries landing tax to local governments; establishing a**
9 **legislative working group to study the tax structure for mining; and providing for an**
10 **effective date."**

11 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

12 *** Section 1.** AS 16.43.160(c) is amended to read:

(c) The annual base fee for issuance or renewal of an entry permit or an interim-use permit [MAY NOT BE LESS THAN \$30 OR MORE THAN \$3,000. THE ANNUAL BASE FEE] must reasonably reflect the different rates of economic return for different fisheries. In addition to the annual base fee established by the commission under this subsection, a nonresident shall pay an annual nonresident surcharge for the issuance or renewal of one or more entry permits or interim-use permits. The commission shall establish the annual nonresident surcharge by regulation [AT AN AMOUNT THAT IS AS CLOSE AS IS PRACTICABLE TO THE MAXIMUM ALLOWED BY LAW].

* **Sec. 2.** AS 27.30.030(a) is amended to read:

(a) In a tax year [OR ROYALTY PAYMENT PERIOD], subject to (c) of this section and the respective limitations of this subsection, the person may apply the credit, the taking of which was approved under AS 27.30.020(2), against [(1)] taxes payable by the person

(1) [(A)] under AS 43.65; application of the credit under this **paragraph** [SUBPARAGRAPH] may not exceed the lesser of

(A) [(i)] 50 percent of the person's tax liability under AS 43.65 for the tax year that is related to production from the mining operation at which the exploration activities occurred, as shown under (b) of this section; or

(B) [(ii)] 50 percent of the person's total tax liability under AS 43.65 for the tax year;

(2) [(B)] under AS 43.20; application of the credit under this **paragraph** [SUBPARAGRAPH] may not exceed the lesser of

(A) [(i)] an amount equal to the amount determined under (1)(A) [(A)(i)] of this **subsection** [PARAGRAPH]; or

(B) [(ii)] 50 percent of the person's total tax liability under AS 43.20 for the tax year [; AND

(2) MINERAL PRODUCTION ROYALTY PAYMENTS PAYABLE BY THE PERSON UNDER AS 38.05.135 - 38.05.160 AND 38.05.212 FOR PRODUCTION FROM THE MINING OPERATION AT WHICH THE EXPLORATION ACTIVITIES OCCURRED; APPLICATION OF THE CREDIT

1 UNDER THIS PARAGRAPH MAY NOT EXCEED 50 PERCENT OF THE
2 PERSON'S MINERAL PRODUCTION ROYALTY PAYMENT LIABILITY FROM
3 THE MINING OPERATION AT WHICH THE EXPLORATION ACTIVITIES
4 OCCURRED].

5 * **Sec. 3.** AS 27.30.030(b) is amended to read:

6 (b) If the person applies the credit against the person's tax liability under
7 (a)(1)(A) or (a)(2)(A) [(a)(1)(A)(i) OR (a)(1)(B)(i)] of this section, the commissioner
8 of revenue shall disallow application of the credit under that provision unless the
9 person files with the person's tax return an accounting of the person's mining operation
10 activities for each mining operation that is included in the tax return and as to which
11 the credit is being applied. The accounting of mining operation activities required by
12 this subsection shall be made

13 (1) on a form prescribed by the Department of Revenue; on the form,
14 the person shall

15 (A) identify the mining operations for which the credit is
16 claimed; and

17 (B) set out the gross income attributable to the mining
18 operations and other information about the mining operations that the
19 Department of Revenue may require;

20 (2) without regard to an exemption to which the person may be entitled
21 under AS 43.65.010(a).

22 * **Sec. 4.** AS 27.30.040 is amended to read:

23 **Sec. 27.30.040. Credit may be carried forward.** Except as its application is
24 limited by AS 27.30.030 and 27.30.050, a portion of a credit that is not applied under
25 AS 27.30.030 during a tax year [OR ROYALTY PAYMENT PERIOD] may be
26 carried forward to and applied during a subsequent tax year [OR ROYALTY
27 PAYMENT PERIOD].

28 * **Sec. 5.** AS 27.30.050 is amended to read:

29 **Sec. 27.30.050. Limit on application of credit.** An exploration incentive
30 credit for a mining operation may not exceed \$20,000,000 and must be applied within
31 15 tax years [OR ROYALTY PAYMENT PERIODS] after the taking of the credit is

approved under AS 27.30.020(2), but the tax years [OR ROYALTY PAYMENT PERIODS] in which the credit is applied need not be

(1) the tax year [OR ROYALTY PAYMENT PERIOD] in which the person first incurs liability for payment of tax [OR ROYALTY] based on the person's activity that is the basis of the claim of the exploration incentive credit; or

(2) consecutive periods.

* **Sec. 6.** AS 43.05 is amended by adding a new section to read:

Sec. 43.05.045. Electronic submission of return or report. (a) Unless an exemption or waiver is granted under (b) of this section, a taxpayer required to submit a return or report for a tax levied under this title or for any other tax administered by the department shall submit the return or report electronically in a format prescribed by the department. Failure to comply with this section may result in a civil penalty under AS 43.05.220(f). If a law under this title requires a report or return or a portion of a report or return to be in writing, an electronically filed report or return satisfies this section. A taxpayer shall submit attachments to a report or return required under this title electronically.

(b) To request an exemption to (a) of this section, a taxpayer shall submit to the department evidence satisfactory to the department that the taxpayer does not have the capability to submit the return or report electronically. An application for an exemption must be submitted before a return or report is due. An exemption granted under this subsection is valid for five years after the first tax filing due date after the exemption is granted. When an exemption under this subsection expires, the taxpayer may apply for another exemption. An exemption granted under this subsection applies to any return or report submitted to the department.

* **Sec. 7.** AS 43.05.220 is amended by adding a new subsection to read:

(f) Unless the department determines that failure to comply with AS 43.05.045 is due to a reasonable cause, the department shall assess a civil penalty of \$25 or one percent of the total tax before any payment, whichever is greater, against a taxpayer who fails to submit electronically a return or report under AS 43.05.045.

* **Sec. 8.** AS 43.31.111 is amended to read:

Sec. 43.31.111. Notice of death or tax return. The executor, within two

months after the decedent's death, or within a like period after qualifying as executor, shall submit a report [GIVE WRITTEN NOTICE] of the death to the department on the form prepared and published by the department known as the preliminary notice and report. If a federal estate tax return is required by the applicable federal revenue Act, a copy of the preliminary notice filed with the federal government may be filed with the department in place of the preliminary notice and report.

* **Sec. 9.** AS 43.40.010(a) is amended to read:

(a) In addition to the surcharge levied under AS 43.40.005, there is levied a tax of 16 [EIGHT] cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is seven [FOUR AND SEVEN-TENTHS] cents a gallon;

(2) the tax on motor fuel used in and on watercraft of all descriptions is 10 [FIVE] cents a gallon;

(3) the tax on all aviation fuel other than gasoline is 6.5 [THREE AND TWO-TENTHS] cents a gallon; and

(4) the tax rate on motor fuel that is blended with alcohol is the same tax rate a gallon as other motor fuel; however, in an area and during the months in which fuel containing alcohol is required to be sold, transferred, or used in an effort to attain air quality standards for carbon monoxide as required by federal or state law or regulation, the tax rate on motor fuel that is blended with alcohol is six cents a gallon less than the tax on other motor fuel not described in (1) - (3) of this subsection.

* **Sec. 10.** AS 43.40.010(b) is amended to read:

(b) In addition to the surcharge levied under AS 43.40.005, there is levied a tax of 16 [EIGHT] cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is seven [FOUR AND SEVEN-TENTHS] cents a gallon;

(2) the tax on motor fuel used in and on watercraft of all descriptions is 10 [FIVE] cents a gallon;

(3) the tax on all aviation fuel other than gasoline is 6.5 [THREE AND TWO-TENTHS] cents a gallon; and

(4) the tax rate on motor fuel that is blended with alcohol is the same tax rate a gallon as other motor fuel; however, in an area and during the months in which fuel containing alcohol is required to be sold, transferred, or used in an effort to attain air quality standards for carbon monoxide as required by federal or state law or regulation, the tax rate on motor fuel that is blended with alcohol is six cents a gallon less than the tax on other motor fuel not described in (1) - (3) of this subsection.

* **Sec. 11.** AS 43.40.030(a) is amended to read:

(a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to operate an internal combustion engine is entitled to a motor fuel tax refund of 12 [SIX] cents a gallon if

(1) the tax on the motor fuel has been paid;

(2) the motor fuel is not aviation fuel, or motor fuel used in or on watercraft; and

(3) the internal combustion engine is not used in or in conjunction with a motor vehicle licensed to be operated on public ways.

* **Sec. 12.** AS 43.60.020(a) is amended to read:

(a) Each brewer, distiller, bottler, jobber, wholesaler, manufacturer, or other consignor shall submit [SEND] a report [STATEMENT BY AIRMAIL, POSTAGE PREPAID,] to the department on or before the last day of each calendar month. The report [STATEMENT] must contain an account of the alcoholic beverages sold or consigned to buyers or consignees in the state during the preceding month, setting out

(1) the total number of gallons, including fractional gallons sold or consigned;

(2) the names and Alaska address of each buyer and consignee; and

(3) the gallonage of each kind of beverage sold or consigned to the respective buyers or consignees.

* **Sec. 13.** AS 43.65.010(a) is amended to read:

(a) A person prosecuting or attempting to prosecute, or engaging in the business of mining in the state shall obtain a license from the department. All new mining operations are exempt from the tax levied by this chapter for three [AND ONE-HALF] years after production begins.

(b) Instead of the taxes levied by (a) of this section, a person who processes a developing commercial fish species is liable for and shall pay a tax equal to

(1) **four** [ONE] percent of the value of the developing commercial fish species processed by a shore-based fisheries business during the year; and

(2) **four** [THREE] percent of the value of the developing commercial fish species processed by a floating fisheries business during the year.

* **Sec. 19.** AS 43.75.015(d) is amended to read:

(d) Instead of the taxes levied under (a) or (b) of this section, a person who processes a fishery resource under a direct marketing fisheries business license is liable for and shall pay a tax equal to

(1) **four** [ONE] percent of the value of the developing commercial fish species processed during the year; and

(2) **four** [THREE] percent of the value of a commercial fish species not subject to (1) of this subsection.

* **Sec. 20.** AS 43.75.030(b) is amended to read:

(b) The return shall be made on **a** [THE BASIS OF THE] calendar year **basis and submitted** to the department [AT JUNEAU] before April 1 after the close of the calendar year.

* **Sec. 21.** AS 43.75.130(a) is amended to read:

(a) **The amount of tax revenue equal to one percent of the value of each fishery taxed under this chapter shall be deposited into the general fund.** Except as provided in (d) of this section, **and not including the revenue equal to one percent of the value of each fishery taxed under this chapter and deposited in the general fund under this subsection.** the commissioner shall pay

(1) to each unified municipality and to each city located in the unorganized borough, 50 percent of the amount of tax revenue collected in the municipality from taxes levied under this chapter;

(2) to each city located within a borough, 25 percent of the amount of tax revenue collected in the city from taxes levied under this chapter; and

(3) to each borough

(A) 50 percent of the amount of tax revenue collected in the

1 area of the borough outside cities from taxes levied under this chapter; and

2 (B) 25 percent of the amount of tax revenue collected in cities
3 located within the borough from taxes levied under this chapter.

4 * **Sec. 22.** AS 43.77.010 is amended to read:

5 **Sec. 43.77.010. Landing tax.** A person who engages or attempts to engage in a
6 floating fisheries business in the state and who owns a fishery resource that is not
7 subject to AS 43.75 but that is brought into the jurisdiction of, and first landed in, this
8 state is liable for and shall pay a landing tax on the value of the fishery resource. The
9 amount of the landing tax is

10 (1) for a developing commercial fish species, as defined under
11 AS 43.75.290, **four** [ONE] percent of the value of the fishery resource at the place of
12 landing;

13 (2) for a fish species other than a developing commercial fish species,
14 **four** [THREE] percent of the value of the fishery resource at the place of the landing.

15 * **Sec. 23.** AS 43.77.060(a) is amended to read:

16 (a) **The amount of tax revenue equal to one percent of the value of each**
17 **fishery taxed under this chapter shall be deposited into the general fund.** Subject
18 to appropriation by the legislature and except as provided in (b) of this section, **and**
19 **not including the revenue equal to one percent of the value of each fishery taxed**
20 **under this chapter and deposited in the general fund under this subsection,** the
21 commissioner shall pay to each

22 (1) unified municipality and to each city located in the unorganized
23 borough, 50 percent of the amount of tax revenue collected from taxes levied under
24 this chapter on the fishery resource landed in the municipality and accounted for under
25 AS 43.77.050(b);

26 (2) city located within a borough, 25 percent of the amount of the tax
27 revenue collected from taxes levied under this chapter on fishery resources landed in
28 the city and accounted for under AS 43.77.050(b); and

29 (3) borough

30 (A) 50 percent of the amount of the tax revenue collected from
31 taxes levied under this chapter on fishery resources landed in the area of the

borough outside cities and accounted for under AS 43.77.050(b); and

(B) 25 percent of the amount of the tax revenue collected from taxes levied under this chapter on fishery resources landed in cities located within the borough and accounted for under AS 43.77.050(b).

* **Sec. 24.** AS 43.77.060(b) is amended to read:

(b) **The amount of tax revenue equal to one percent of the value of each fishery taxed under this chapter shall be deposited into the general fund.**

Notwithstanding the provisions of (a)(2) and (a)(3)(B) of this section, and subject to appropriation by the legislature, **and not including the revenue equal to one percent of the value of each fishery taxed under this chapter and deposited in the general fund under this subsection,** the commissioner shall pay to each

(1) city that is located in a borough incorporated after January 1, 1994, the following percentages of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the city and accounted for under AS 43.77.050(b):

(A) 45 percent of the tax revenue collected during the calendar year in which the borough is incorporated;

(B) 40 percent of the tax revenue collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 35 percent of the tax revenue collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 30 percent of the tax revenue collected during the third calendar year after the calendar year in which the borough is incorporated; and

(2) borough that is incorporated after January 1, 1994, the following percentages of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the cities located within the borough and accounted for under AS 43.77.050(b):

(A) five percent of the tax revenue collected during the calendar year in which the borough is incorporated;

(B) 10 percent of the tax revenue collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 15 percent of the tax revenue collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 20 percent of the tax revenue collected during the third calendar year after the calendar year in which the borough is incorporated.

* **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE WORKING GROUP. (a) A legislative working group is established to

(1) review the state's fiscal regime for mining taxation, including state mining license taxes, royalties, rents, and corporate income tax with consideration of federal and municipal taxation;

(2) develop terms for a comprehensive reform of the mining tax regime; and

(3) recommend changes to the legislature for consideration during the First Regular Session of the Thirtieth Alaska State Legislature.

(b) The working group consists of

(1) two co-chairs, one of whom is a member of the house appointed by the speaker of the house of representatives, and one of whom is a member of the senate appointed by the president of the senate; and

(2) members appointed by the co-chairs; members must be legislators and must include members of the majority and minority caucuses.

(c) The co-chairs of the working group may form an advisory group to the working group, composed of members who are not legislators and who have expertise and skills to assist in the review and development of a new plan for the tax structure and rates on mining licenses. The members of an advisory group may include commissioners or employees of state departments, members of the mining industry or trade associations, and economists.

* **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) AS 16.43.160(c), as amended by sec. 1 of this Act, applies to the issuance or renewal of an entry permit or interim-use permit after the effective date of sec. 1 of this Act.

(b) The changes to the applicability of the exploration incentive credit made in

AS 27.30.030(a), as amended by sec. 2 of this Act, AS 27.30.030(b), as amended by sec. 3 of this Act, AS 27.30.040, as amended by sec. 4 of this Act, and AS 27.30.050, as amended by sec. 5 of this Act, apply to a royalty payment period beginning on or after the effective date of sec. 2 of this Act.

(c) AS 43.40.010(a), as amended by sec. 9 of this Act, applies to motor fuel sold or transferred in the state on or after the effective date of sec. 9 of this Act.

(d) AS 43.40.010(b), as amended by sec. 10 of this Act, applies to motor fuel consumed by a user on or after the effective date of sec. 10 of this Act.

(e) AS 43.40.030(a), as amended by sec. 11 of this Act, applies to a motor fuel tax refund on motor fuel used on or after the effective date of sec. 11 of this Act.

(f) AS 43.65.010(a), as amended by sec. 13 of this Act, applies to a mining operation that begins production on or after the effective date of sec. 13 of this Act.

(g) AS 43.65.010(c), as amended by sec. 14 of this Act, applies to net income of a taxpayer from property in the state during a taxable year that begins on or after the effective date of sec. 14 of this Act.

(h) AS 43.75.015(a), as amended by sec. 17 of this Act, AS 43.75.015(b), as amended by sec. 18 of this Act, and AS 43.75.015(d), as amended by sec. 19 of this Act, apply to a fisheries resource processed on or after the effective date of secs. 17 - 19 of this Act.

(i) AS 43.77.010, as amended by sec. 22 of this Act, apply to a fisheries resource landed in the state on or after the effective date of sec. 22 of this Act.

*** Sec. 27.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITIONAL PROVISION: REGULATIONS. The Department of Revenue may adopt regulations necessary to implement the changes made by secs. 2 - 26 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

*** Sec. 28.** Section 27 of this Act takes effect immediately under AS 01.10.070(c).

*** Sec. 29.** Except as provided in sec. 28 of this Act, this Act takes effect July 1, 2016.