

29-GH2912\E  
Nauman  
2/17/16

**CS FOR HOUSE BILL NO. 249( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-NINTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

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

**A BILL**

**FOR AN ACT ENTITLED**

**"An Act relating to the motor fuel tax; relating to the duties of the commissioner of revenue; relating to the disposition of revenue from the motor fuel tax; and providing for an effective date."**

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

**\* Section 1.** AS 29.60.800(a) is amended to read:

(a) There is established the harbor facility grant fund consisting of money appropriated to the fund. Each fiscal year, the legislature may appropriate money to the fund from the watercraft fuel tax **fund** [ACCOUNT] (AS 43.40.010(f)) and from the fisheries business tax collected under AS 43.75.015 after payments to municipalities are made under AS 43.75.130. The legislature may make other appropriations to the fund. The legislature may appropriate to the fund income earned on money in the fund.

**\* Sec. 2.** AS 43.40.010(a) is amended to read:

(a) In addition to the surcharge levied under AS 43.40.005,

**(1) if the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the previous calendar year is more than \$85,** there is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that **the tax on**

**(A) [(1) THE TAX ON]** aviation gasoline is four and seven-tenths cents a gallon;

**(B) [(2) THE TAX ON]** motor fuel used in and on watercraft of all descriptions is five cents a gallon;

**(C) [(3) THE TAX ON]** all aviation fuel other than gasoline is three and two-tenths cents a gallon; and

**(D) [(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 **(A) - (C) [(1) - (3)] of this paragraph; or**

**(2) if the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the previous calendar year is less than or equal to \$85, there is levied a tax of 16 cents a gallon on all motor fuel sold or otherwise transferred within the state, except that the tax on**

**(A) aviation gasoline is 10 cents a gallon;**

**(B) motor fuel used in and on watercraft of all descriptions is 10 cents a gallon;**

**(C) all aviation fuel other than gasoline is 10 cents a gallon;**  
**and**

**(D) 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 (A) - (C) of this paragraph [SUBSECTION].**

\* **Sec. 3.** AS 43.40.010(a), as amended by sec. 2 of this Act, is amended to read:

(a) In addition to the surcharge levied under AS 43.40.005, [(1) IF THE AVERAGE PRICE PER BARREL FOR ALASKA NORTH SLOPE CRUDE OIL FOR SALE ON THE UNITED STATES WEST COAST DURING THE PREVIOUS CALENDAR YEAR IS MORE THAN \$85,] there is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that the tax on

**(1)** [(A)] aviation gasoline is four and seven-tenths cents a gallon;

**(2)** [(B)] motor fuel used in and on watercraft of all descriptions is five cents a gallon;

**(3)** [(C)] all aviation fuel other than gasoline is three and two-tenths cents a gallon; and

**(4)** [(D)] 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)** [(A) - (C)] of this **subsection** [PARAGRAPH; OR

(2) IF THE AVERAGE PRICE PER BARREL FOR ALASKA NORTH SLOPE CRUDE OIL FOR SALE ON THE UNITED STATES WEST COAST DURING THE PREVIOUS CALENDAR YEAR IS LESS THAN OR EQUAL TO \$85, THERE IS LEVIED A TAX OF 16 CENTS A GALLON ON ALL MOTOR FUEL SOLD OR OTHERWISE TRANSFERRED WITHIN THE STATE, EXCEPT THAT THE TAX ON

(A) AVIATION GASOLINE IS 10 CENTS A GALLON;

(B) MOTOR FUEL USED IN AND ON WATERCRAFT OF ALL DESCRIPTIONS IS 10 CENTS A GALLON;

(C) ALL AVIATION FUEL OTHER THAN GASOLINE IS 10 CENTS A GALLON; AND

(D) 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 (A) - (C) OF THIS PARAGRAPH].

\* **Sec. 4.** AS 43.40.010(b) is amended to read:

(b) In addition to the surcharge levied under AS 43.40.005,

**(1) if the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the previous calendar year is more than \$85,** there is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that **the tax on**

**(A)** [(1) THE TAX ON] aviation gasoline consumed is four and seven-tenths cents a gallon;

**(B)** [(2) THE TAX ON] motor fuel used in and on watercraft of all descriptions is five cents a gallon;

**(C)** [(3) THE TAX ON] all aviation fuel other than gasoline is three and two-tenths cents a gallon; and

**(D)** [(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 **(A) - (C)** [(1) - (3)] of this **paragraph; or**

(2) if the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the previous calendar year is less than or equal to \$85, there is levied a tax of 16 cents a gallon on all motor fuel sold or otherwise transferred within the state, except that the tax on

(A) aviation gasoline consumed is 10 cents a gallon;

(B) motor fuel used in and on watercraft of all descriptions is 10 cents a gallon;

(C) all aviation fuel other than gasoline is 10 cents a gallon;

and

(D) 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 (A) - (C) of this paragraph [SUBSECTION].

\* **Sec. 5.** AS 43.40.010(b), as amended by sec. 4 of this Act, is amended to read:

(b) In addition to the surcharge levied under AS 43.40.005, [(1) IF THE AVERAGE PRICE PER BARREL FOR ALASKA NORTH SLOPE CRUDE OIL FOR SALE ON THE UNITED STATES WEST COAST DURING THE PREVIOUS CALENDAR YEAR IS MORE THAN \$85,] there is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that the tax on

(1) [(A)] aviation gasoline consumed is four and seven-tenths cents a gallon;

(2) [(B)] motor fuel used in and on watercraft of all descriptions is five cents a gallon;

(3) [(C)] all aviation fuel other than gasoline is three and two-tenths cents a gallon; and

(4) [(D)] 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

1 containing alcohol is required to be sold, transferred, or used in an effort to attain air  
2 quality standards for carbon monoxide as required by federal or state law or  
3 regulation, the tax rate on motor fuel that is blended with alcohol is six cents a gallon  
4 less than the tax on other motor fuel not described in (1) - (3) [(A) - (C)] of this  
5 subsection [PARAGRAPH; OR

6 (2) IF THE AVERAGE PRICE PER BARREL FOR ALASKA  
7 NORTH SLOPE CRUDE OIL FOR SALE ON THE UNITED STATES WEST  
8 COAST DURING THE PREVIOUS CALENDAR YEAR IS LESS THAN OR  
9 EQUAL TO \$85, THERE IS LEVIED A TAX OF 16 CENTS A GALLON ON ALL  
10 MOTOR FUEL SOLD OR OTHERWISE TRANSFERRED WITHIN THE STATE,  
11 EXCEPT THAT THE TAX ON

12 (A) AVIATION GASOLINE CONSUMED IS 10 CENTS A  
13 GALLON;

14 (B) MOTOR FUEL USED IN AND ON WATERCRAFT OF  
15 ALL DESCRIPTIONS IS 10 CENTS A GALLON;

16 (C) ALL AVIATION FUEL OTHER THAN GASOLINE IS  
17 10 CENTS A GALLON; AND

18 (D) MOTOR FUEL THAT IS BLENDED WITH ALCOHOL  
19 IS THE SAME TAX RATE A GALLON AS OTHER MOTOR FUEL;  
20 HOWEVER, IN AN AREA AND DURING THE MONTHS IN WHICH  
21 FUEL CONTAINING ALCOHOL IS REQUIRED TO BE SOLD,  
22 TRANSFERRED, OR USED IN AN EFFORT TO ATTAIN AIR QUALITY  
23 STANDARDS FOR CARBON MONOXIDE AS REQUIRED BY FEDERAL  
24 OR STATE LAW OR REGULATION, THE TAX RATE ON MOTOR FUEL  
25 THAT IS BLENDED WITH ALCOHOL IS SIX CENTS A GALLON LESS  
26 THAN THE TAX ON OTHER MOTOR FUEL NOT DESCRIBED IN (1)(A)  
27 - (C) OF THIS SUBSECTION].

28 \* **Sec. 6.** AS 43.40.010(e) is amended to read:

29 (e) Sixty percent of the proceeds of the revenue from the motor fuel taxes on  
30 aviation fuel, excluding the amount determined to have been spent by the state in its  
31 collection, shall be refunded to a municipality owning and operating or leasing and

operating an airport in the proportion that the revenue was collected at the municipal airport. All other proceeds of the motor fuel taxes on aviation fuel shall be paid into a special aviation fuel tax fund [ACCOUNT] in the state general fund. The legislature may appropriate funds from this fund [ACCOUNT] for direct capital, [OR] operating, or maintenance costs of airport infrastructure [AIRPORTS].

\* **Sec. 7.** AS 43.40.010(f) is amended to read:

(f) The proceeds from the revenue from the tax on motor fuel used in boats and watercraft of all descriptions shall be deposited in a special watercraft fuel tax fund [ACCOUNT] in the general fund. The legislature may appropriate from this fund [ACCOUNT] for direct capital, operating, or maintenance costs of water and harbor infrastructure [FACILITIES].

\* **Sec. 8.** AS 43.40.010(g) is amended to read:

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e), (f), and (j) of this section, shall be deposited in a special highway fuel tax fund [ACCOUNT] in the state general fund. The legislature may appropriate funds from the fund [IT] for expenditure by the Department of Transportation and Public Facilities directly or as matched with available federal-aid highway money for direct capital, operating, or maintenance costs of highways and highway infrastructure, construction of highway projects and ferries included in the program provided for in AS 19.10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, or surveys [AND OTHER HIGHWAY COSTS INCLUDING SURVEYS, ADMINISTRATION, AND RELATED MATTERS]. All departments of the state government authorized to spend funds collected from taxes imposed by this chapter shall perform, when feasible, all construction or reconstruction projects by contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of transportation and public facilities may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the

work the contracts shall be entered into on a negotiated basis.

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

(h) All motor fuel tax receipts shall be paid into the general fund and distributed to the proper **funds** [ACCOUNTS] in the general fund. Valid motor fuel tax refund claims shall be paid from the highway fuel tax **fund** [ACCOUNT] in the general fund.

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

(j) The proceeds from the tax on motor fuel used in snow vehicles and, unless a tax refund is applied for under AS 43.40.050(a), other internal combustion engines not used in or in conjunction with a motor vehicle licensed to be operated on public ways shall be deposited in a special nonpublic highway use **fund** [ACCOUNT] in the general fund. The legislature may appropriate from this **fund** [ACCOUNT] to the Department of Transportation and Public Facilities for trail staking and shelter **direct capital, operating, or** [CONSTRUCTION AND] maintenance **costs**.

\* **Sec. 11.** AS 43.40.010 is amended by adding new subsections to read:

(m) The following motor fuel is exempt from taxation under this section:

(1) fuel consigned to foreign countries;

(2) fuel sold for use in jet propulsion aircraft operating in flights

(A) to foreign countries; or

(B) that continue from foreign countries, unless exemption of the motor fuel from taxation is disallowed because of the refiner's failure to comply with the provisions of a voluntary agreement under AS 43.40.092 in conjunction with expansion of refinery capacity;

(3) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public;

(4) fuel used by nonprofit power associations or corporations for generating electric energy for resale;

(5) fuel used by charitable institutions;

(6) fuel sold or transferred between qualified dealers;

(7) fuel sold to federal, state, and local government agencies for official use;

(8) fuel used in stationary power plants that generate electrical energy for private residential consumption;

(9) fuel used to heat private or commercial buildings or facilities;

(10) fuel used for other nontaxable purposes as prescribed by regulations adopted by the department;

(11) fuel used in stationary power plants of 100 kilowatts or less that generate electrical power for commercial enterprises not for resale;

(12) residual fuel oil used in and on watercraft if the residual fuel oil is sold or transferred in the state or consumed by a user; in this paragraph, "residual fuel oil" means the heavy refined hydrocarbon known as number 6 fuel oil that is the residue from crude oil after refined petroleum products have been extracted by the refining process and that may be consumed or used only when sufficient heat is provided to the oil to reduce its viscosity rated by kinetic unit and to give it fluid properties sufficient for pumping and combustion;

(13) fuel used in an emergency vehicle, as defined in AS 11.56.825; or

(14) fuel used for student transportation services for which a school district receives funding under AS 14.09.010.

(n) If revenue from the motor fuel tax is expended or appropriated for a purpose other than a purpose described in (e) - (g) or (j) of this section, the commissioner shall give public notice within 10 days after the expenditure or appropriation.

\* **Sec. 12.** AS 43.40.015(c) is amended to read:

(c) A certificate of use obtained under this section must be renewed annually for exemptions listed under **AS 43.40.010(m)** [AS 43.40.100(2)].

\* **Sec. 13.** AS 43.40.015(d) is amended to read:

(d) A certificate of use is not required under this section

(1) for fuel exempted under **AS 43.40.010(m)(3) or (10)** [AS 43.40.100(2)(C) OR (J)]; and

(2) for fuel exempted under **AS 43.40.010(m)(9)** [AS 43.40.100(2)(I)] other than fuel sold or transferred under this exemption to a person who is engaged in construction or mining activity.

1     \* **Sec. 14.** AS 43.40.030(a) is amended to read:

2             (a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to  
3     operate an internal combustion engine is entitled to a motor fuel tax refund of six cents  
4     a gallon if the tax was paid under AS 43.40.010(a)(1) or (b)(1) or 12 cents a gallon  
5     if the tax was paid under AS 43.40.010(a)(2) or (b)(2), and if

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

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

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

11    \* **Sec. 15.** AS 43.40.030(a), as amended by sec. 14 of this Act, is amended to read:

12             (a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to  
13     operate an internal combustion engine is entitled to a motor fuel tax refund of six cents  
14     a gallon [IF THE TAX WAS PAID UNDER AS 43.40.010(a)(1) OR (b)(1) OR 12  
15     CENTS A GALLON IF THE TAX WAS PAID UNDER AS 43.40.010(a)(2) OR  
16     (b)(2), AND] if

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

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

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

22    \* **Sec. 16.** AS 43.40.070(a) is amended to read:

23             (a) Upon approval of a refund claim of the motor fuel tax by the department, a  
24     disbursement shall be made from the highway fuel tax **fund** [ACCOUNT] in the  
25     general fund in favor of the applicant in the amount of the claim.

26    \* **Sec. 17.** AS 43.40.100(2) is amended to read:

27             (2) "motor fuel" means fuel used in an engine for the propulsion of a  
28     motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a  
29     stationary engine, machine, or mechanical contrivance that is run by an internal  
30     combustion motor; ["MOTOR FUEL" DOES NOT INCLUDE

31                         (A) FUEL CONSIGNED TO FOREIGN COUNTRIES;

1 (B) FUEL SOLD FOR USE IN JET PROPULSION  
2 AIRCRAFT OPERATING IN FLIGHTS

3 (i) TO FOREIGN COUNTRIES; OR

4 (ii) THAT CONTINUE FROM FOREIGN  
5 COUNTRIES, UNLESS EXEMPTION OF THE MOTOR FUEL  
6 FROM TAXATION IS DISALLOWED BECAUSE OF THE  
7 REFINER'S FAILURE TO COMPLY WITH THE PROVISIONS OF  
8 A VOLUNTARY AGREEMENT UNDER AS 43.40.092 IN  
9 CONJUNCTION WITH EXPANSION OF REFINERY CAPACITY;

10 (C) FUEL USED IN STATIONARY POWER PLANTS  
11 OPERATING AS PUBLIC UTILITY PLANTS AND GENERATING  
12 ELECTRICAL ENERGY FOR SALE TO THE GENERAL PUBLIC;

13 (D) FUEL USED BY NONPROFIT POWER  
14 ASSOCIATIONS OR CORPORATIONS FOR GENERATING ELECTRIC  
15 ENERGY FOR RESALE;

16 (E) FUEL USED BY CHARITABLE INSTITUTIONS;

17 (F) FUEL SOLD OR TRANSFERRED BETWEEN  
18 QUALIFIED DEALERS;

19 (G) FUEL SOLD TO FEDERAL, STATE, AND LOCAL  
20 GOVERNMENT AGENCIES FOR OFFICIAL USE;

21 (H) FUEL USED IN STATIONARY POWER PLANTS  
22 THAT GENERATE ELECTRICAL ENERGY FOR PRIVATE  
23 RESIDENTIAL CONSUMPTION;

24 (I) FUEL USED TO HEAT PRIVATE OR COMMERCIAL  
25 BUILDINGS OR FACILITIES;

26 (J) FUEL USED FOR OTHER NONTAXABLE PURPOSES  
27 AS PRESCRIBED BY REGULATIONS ADOPTED BY THE  
28 DEPARTMENT;

29 (K) FUEL USED IN STATIONARY POWER PLANTS OF  
30 100 KILOWATTS OR LESS THAT GENERATE ELECTRICAL POWER  
31 FOR COMMERCIAL ENTERPRISES NOT FOR RESALE; OR

(L) RESIDUAL FUEL OIL USED IN AND ON WATERCRAFT IF THE RESIDUAL FUEL OIL IS SOLD OR TRANSFERRED IN THE STATE OR CONSUMED BY A USER; FOR PURPOSES OF THIS SUBPARAGRAPH, "RESIDUAL FUEL OIL" MEANS THE HEAVY REFINED HYDROCARBON KNOWN AS NUMBER 6 FUEL OIL THAT IS THE RESIDUE FROM CRUDE OIL AFTER REFINED PETROLEUM PRODUCTS HAVE BEEN EXTRACTED BY THE REFINING PROCESS AND THAT MAY BE CONSUMED OR USED ONLY WHEN SUFFICIENT HEAT IS PROVIDED TO THE OIL TO REDUCE ITS VISCOSITY RATED BY KINETIC UNIT AND TO GIVE IT FLUID PROPERTIES SUFFICIENT FOR PUMPING AND COMBUSTION;]

\* **Sec. 18.** The uncoded law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 43.40.030(a), as amended by sec. 15 of this Act, applies to a motor fuel tax refund on motor fuel used, transferred, or sold on or after the effective date of sec. 15 of this Act.

\* **Sec. 19.** 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 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. 20.** Section 19 of this Act takes effect immediately under AS 01.10.070(c).

\* **Sec. 21.** Sections 3, 5, and 15 of this Act take effect July 1, 2018.

\* **Sec. 22.** Except as provided in secs. 20 and 21 of this Act, this Act takes effect July 1, 2016.