



# **Governor's Special Session Omnibus Tax Bill HB 4001**

**Presentation to the House Finance Committee  
May 24, 2016**

# *An Act relating to taxation...*

*"An Act relating to taxation, including establishing an individual income tax; relating to the marijuana tax and bonding requirements for marijuana cultivation facilities; relating to the exploration incentive credit; increasing the motor fuel tax; increasing the taxes on cigarettes and tobacco products; taxing electronic smoking products; adding a definition of 'electronic smoking product' and requiring labeling of an electronic smoking product; increasing the excise tax on alcoholic beverages; relating to exemptions from the mining license tax; removing the minimum and maximum restrictions on the annual base fee for the reissuance or renewal of an entry permit or an interim-use permit; increasing the mining license tax rate; relating to mining license application, renewal, and fees; increasing the fisheries business tax and fishery resource landing tax; relating to refunds to local governments; and providing for an effective date."*

## *An Act relating to taxation...*

**This bill pulls together several bills that failed to pass during the legislative session:**

- HB250 / SB134 (Income Tax)
- HB249 / SB132 (Motor Fuel Tax)
- HB304 / SB133 (Tobacco Tax)
- HB248 / SB131 (Alcohol Tax)
- HB253 / SB137 (Mining Tax)
- HB251 / SB135 (Fish Tax)
- HB337 (Marijuana Tax enforcement, by Rep. LeDoux)

**We have incorporated, where appropriate, changes made to these in committee during the session**

## *An Act relating to taxation...*

**In the descriptions in this presentation, we are using a standard format**

1. What does the bill do?
2. How does it differ from what was heard during the regular session?
3. How much money does it raise?
4. How does it impact Alaskans?

**Also, each of the regular session bills included an electronic filing requirement**

**This was met via the passage of HB375, so has been removed from this legislation**

# *Income Tax (new AS 43.22)*

## **What it Does**

- Creates Individual Income Tax at 6% of Federal Tax Liability
- Similar structure to Alaska's historic income tax, which was repealed in 1980
- The old tax peaked at 16% of Federal liability
- Provides for withholding by employers
- Also taxes out of state income, partnerships, S-corps

## **How it Differs from Regular Session Bill**

- Cleans up language related to taxation of trusts
- Removes fishery crew shares from withholding tax requirements
- Delays effective date to January 2018

# *Income Tax (new AS 43.22)*

## **How Much Does it Raise?**

- \$100 million in FY18, \$205 million in FY19
- After 2019 tied to inflation and income growth

## **How Does it Impact Alaskans?**

- About 20-30% of Alaskans will have no liability
- Very low tax burden on households who make < \$50,000
- Most households will pay substantially less than 1% of income
- State income taxes are deductible from federal income tax, for those who itemize
- 43 states currently have an income tax

# *Motor Fuel Tax (AS 43.40)*

## **What it Does**

- Increases current tax rates
  - Highway Fuel: 8 cents to 16 cents
  - Marine Fuel: 5 cents to 10 cents
  - Aviation Gas: 4.7 cents to 7 cents
  - Jet Fuel: 3.2 cents to 6.5 cents
- Doubles the credit for highway fuel used off-road

## **How it Differs from Regular Session Bill**

- Reduces proposed increases on Aviation and Jet Fuel (from proposed HFIN work draft CS to HB249)
- Does not incorporate 2-year sunset in Transportation Committee Substitute

# ***Motor Fuel Tax (AS 43.40)***

## **How Much Does it Raise?**

- About \$43 million / year
- Roughly doubles current motor fuel collections
- About \$200,000 shared with municipal airports

## **How Does it Impact Alaskans?**

- Current tax rates haven't increased in many years; last increase to the 8c Highway rate was in 1970
- Alaska would still have the lowest tax rate
- A typical person who drives 12,000 miles / year in a vehicle that gets 20 miles / gallon will pay an added \$48



# ***Tobacco Tax (AS 43.50)***

## **What it Does**

- Increases current tax rates
  - Cigarettes: 100 mills / cigarette to 150  
(tax on a standard pack goes from \$2.00 to \$3.00)
  - Other Tobacco Products: 75% of wholesale to 100%
  - Electronic Smoking Products: currently untaxed; adds new definitions and a tax at 75% of wholesale value
- Cleans up definition of “wholesale price”

## **How it Differs from Regular Session Bill**

- Uses House bill as starting point
- Only taxes e-smoking products that contain nicotine; adds a labeling requirement

# ***Tobacco Tax (AS 43.50)***

## **How Much Does it Raise?**

- About \$29 million / year (forecasted to decline)
- Roughly 50% above current collections
- Indeterminate revenue from e-cigarettes
- About \$2 million goes to Tobacco Use Education and Cessation Fund

## **How Does it Impact Alaskans?**

- Makes it more expensive to smoke
- Alaska would go from the 11<sup>th</sup> to the 5<sup>th</sup> highest cigarette tax rate in the US
- Helps offset tobacco related health costs incurred by State
- Adds a tax for the first time to the new “vape” industry

# *Alcohol Tax (AS 43.60)*

## **What it Does**

- Increases current tax rates
  - Distilled Spirits: \$12.80 / gallon to \$25.60
  - Wine: \$2.50 / gallon to \$5.00
  - Beer and Cider: \$1.07 / gallon to \$2.14
  - Craft Brewery: \$0.35 / gallon to \$0.70
- Increases correspond to 10c per “drink” portion, raising the rates from 10c to 20c
- Changes bonding requirement from \$25k to variable

## **How it Differs from Regular Session Bill**

- No changes

# *Alcohol Tax (AS 43.60)*

## **How Much Does it Raise?**

- About \$40 million / year
- Roughly double current collections
- About \$20 million goes to Alcohol and other Drug Abuse Treatment and Prevention Fund
- (This is a Mental Health Budget fund that is supplemented with substantial GF that can be backed out if desired)

## **How Does it Impact Alaskans?**

- Makes it more expensive to drink
- Alaska currently has among the highest alcohol tax rates in the US; this would make us #1 by a substantial margin

# ***Marijuana Tax (AS 43.61)***

## **What it Does**

- Does not change the \$50 / oz rate established by the 2014 initiative
- Requires a surety bond of \$5,000 for taxpayers (the growers)
- Empowers DOR to enforce the tax against a marijuana retailer who is selling product that did not come from a licensed / taxpaying cultivator
- Empowers DOR to enforce a tax penalty on illegal grow operations in excess of the personal use limit

## **How it Differs from Regular Session Bill**

- Incorporates all changes in CSHB337(L&C)

# *Marijuana Tax (AS 43.61)*

## **How Much Does it Raise?**

- Indeterminate revenue from enforcement actions

## **How Does it Impact Alaskans?**

- Intent is to make it advantageous to be a legal licensed / taxed business and disadvantageous to remain in the black market. This will indirectly increase revenue to the state from legal marijuana

# ***Mining License Tax (AS 43.65)***

## **What it Does**

- Increases the current top tax rate on net profits greater than \$100,000 / year from 7% to 9%
- Reduces tax holiday for new mines from 3 ½ years to 2 years
- Prevents the mining Exploration Incentive Credits from being used to reduce royalties, limiting to just the tax
- Adds a \$50 annual license fee (miners are exempted from needing a business license, which is also \$50)

## **How it Differs from Regular Session Bill**

- Original bill sought elimination of tax holiday
- EIC / Royalty change made in House Resources

# ***Mining License Tax (AS 43.65)***

## **How Much Does it Raise?**

- About \$7 million / year
- About \$25,000 from the license fee

## **How Does it Impact Alaskans?**

- In 2014, only 14 taxpayers had over \$100k in taxable profits, meaning they paid at the top bracket
  - There are only about 5 large mines in the state.  
The rest are either placer miners who had a good year, or landowners who collect taxable mining royalties
- The tax increase does not impact “mom and pop” miners at all, other than the \$50 annual license fee



# *Fisheries Business Tax (AS 43.75) and Fisheries Landing Tax (AS 43.77)*

## **What it Does**

- Increases the current tax rates by one percentage point (currently these are between 3% and 5%)
- The entire tax increase is exempted from municipal revenue sharing (the rest is shared 50/50)
- Removes the \$3,000 “cap” on annual CFEC entry permit fees
- Developing fisheries are exempted from the increase

## **How it Differs from Regular Session Bill**

- Original bill increased rate for one developing fishery category
- Entry permit fee change was added in committee

# *Fisheries Business Tax (AS 43.75) and Fisheries Landing Tax (AS 43.77)*

## **How Much Does it Raise?**

- About \$18 million / year from the tax change, plus
- About \$2 million / year from the CFEC fee change

## **How Does it Impact Alaskans?**

- The price of fish is generally set by the commodity market, and likely won't absorb this increase
- This tax, although paid by processors, is typically backed out of payments made to harvesters. So in effect, the fisherman pays this tax

# *Sectional Analysis*

**Sec. 1.** Removes CFEC fee cap; part of fish tax

**Sec. 2.** Requires bond as condition of issuing a marijuana cultivation license

**Sec. 3-6** Conforming language so that mining exploration incentive credits cannot be used against mining royalties

**Sec. 7.** Adds a new chapter 22 in AS 43 for an individual income tax

43.22.010      Imposes an income tax on both resident and nonresident individuals. The tax is six percent of a resident's federal tax liability. The tax for a nonresident is six percent of the portion of federal tax liability that is from a source in the state.

43.22.020      Provides a credit to residents for taxes paid to another state based on income earned in that other state.

## *Sectional Analysis (Continued)*

43.22.030 Provides for annual returns to the Department of Revenue with taxes due on the date the federal tax return is due. The taxpayer must provide a copy of their IRS return. The department is authorized to pay refunds of overpaid taxes.

43.22.040 Defines sources of income within Alaska that are subject to the tax.

43.22.050 Provides for withholding from wages and salaries by employers, with those withheld taxes periodically remitted to the state.

42.22.060 Authorizes DOR to administer the tax.

42.22.190 Adds definitions for specific terms used in this section.

**Sec. 8-9.** Increases motor fuel tax rates for the four fuel types

**Sec. 10.** Increases the motor fuel tax credit for off-road use

## *Sectional Analysis (Continued)*

- Sec. 11.** Conforming language to add electronic smoking products to the current statute allowing the department to share information with municipalities (tobacco).
- Sec. 12.** Conforming language to reference the new definition of “electronic smoking product” in Section 23 (tobacco).
- Sec. 13.** Increases the “additional tax levy” on each cigarette from 62 mills to 112 mills (tobacco).
- Sec. 14.** Increases the tax on tobacco products other than cigarettes from 75% of the wholesale price to 100% of the wholesale price.
- Sec. 15.** Adds a tax on electronic smoking products at 75% of the wholesale price (tobacco).
- Sec. 16.** Conforming language to add electronic smoking products to an existing statute referencing federal tax exemptions (tobacco).

## *Sectional Analysis (Continued)*

- Sec. 17.** Conforming language to add electronic smoking products to the license requirement (tobacco).
- Sec. 18.** Conforming language to add electronic smoking products to the monthly tax return (tobacco).
- Sec. 19.** Conforming language to add electronic smoking products to the procedures for issuing tax credits and refunds (tobacco).
- Sec. 20.** Conforming language to add electronic smoking products to the requirement to keep complete and accurate records to support the tax return (tobacco).
- .Sec. 21.** Adds language to clarify that a cessation product, tobacco dependence product or modified risk tobacco product are excluded from the definition of a tobacco product for purposes of taxation.

## *Sectional Analysis (Continued)*

- Sec. 22.** Clarifies the definition of "wholesale price" of a tobacco product or electronic smoking product as the gross invoice price including all federal excise taxes, less any trade discounts or other reductions.
- Sec. 23.** Adds the definition of "electronic smoking product" (tobacco).
- Sec. 24.** Changes the per-gallon tax rates for the three major categories of alcoholic beverages: malt beverages and ciders from \$1.07 to \$2.14; wine and other beverages with less than 21% alcohol content from \$2.50 to \$5.00; and beverages with greater than 21% alcohol content (generally distilled spirits) from \$12.80 to \$25.60.
- Sec. 25.** Changes the per-gallon tax rate for the first 60,000 barrels sold in the state from small craft breweries that meet the federal definition of a small brewer, from \$0.35 to \$0.70 (alcohol).
- Sec. 26.** Changes the surety bond requirement from \$25,000 to an amount determined by the department (alcohol).

## *Sectional Analysis (Continued)*

- Sec. 27.** Clarifies requirements for monthly filing of marijuana taxes.
- Sec. 28.** Adds \$50 / oz tax penalty for marijuana possession in excess of the amount of plants legally authorized. Establishes a bonding requirement for marijuana cultivators. Establishes liability for a marijuana retailer or manufacturer to pay the \$50 / oz excise tax if they have product for which the taxes have not been paid.
- Sec. 29.** Reduces the 3 ½ year tax exemption for new mining operations after production begins to 2 years.
- Sec. 30.** Increases the highest tax rate from 7% to 9% for net mining taxable income in excess of \$100,000. The other tax rates remain the same. For net income over \$100,000 the tax is \$4,000 plus 9% of the amount in excess of \$100,000.
- Sec. 31.** Establishes a mining license fee of \$50 per year, a license renewal fee of \$50 per year, and changes the due date for applications and renewals from May 1 to January 1.



## *Sectional Analysis (Continued)*

- Sec. 32.** Increases three different tax rates within the Fisheries Business Tax by one percent. The current rates range from three to five percent.
- Sec. 33.** Increases tax rate within the Fisheries Business Tax for direct marketers from 3 to 4 percent. Rate remains at 1 percent for developing fish species sold by direct marketers.
- Sec. 34.** Conforms with electronic filing. Deletes the requirement for fisheries taxpayers to submit their returns to the department in Juneau.
- Sec. 35.** Establishes that the revenue from the one percent fisheries tax increase is deposited in the general fund. The remaining revenue shall be shared with municipalities per the currently existing formula.
- Sec. 36.** Increases tax rate within the Fisheries Landing Tax for fish species other than developing fish species from 3 to 4 percent. Rate remains at 1 percent for developing fish species.

## *Sectional Analysis (Continued)*

- Sec. 37-38.** Establishes that the revenue from the one percent fisheries tax increase is deposited in the general fund. The remaining revenue shall be shared with municipalities per the current formula.
- Sec. 39.** Amends uncoded language to include the increase to the mill rate increase for cigarettes (tobacco).
- Sec. 40.** Repeals statutes related to a former tax credit for political contributions that existed under Alaska's prior individual income tax which was repealed in 1980.
- Sec. 41.** Applicability language related to the effective dates of multiple tax changes in the bill.
- Sec. 42.** Applicability language related to the bonding requirement before the issuance of marijuana cultivation licenses
- Sec. 43.** Transition language related to the use of mining exploration credits against mining royalties.

## *Sectional Analysis (Continued)*

- Sec. 44.** Transition language related to the authorization to write regulations. The authority extends to DOR, DNR, Fish & Game, CFEC, and the Marijuana Control Board (multiple).
- Sec. 45.** Allows marijuana regulations to be retroactive to the day marijuana became legal under the initiative, February 24, 2015.
- Sec. 46-47.** Makes marijuana statute changes retroactive to 2/24/15.
- Sec. 48.** Delayed effective date of January 1, 2018 for income tax.
- Sec. 49.** Immediate effective date for regulatory sections (multiple).
- Sec. 50.** Effective Date of July 1, 2016 for the rest of the bill sections (multiple).



# Thank You!

## Contact Information

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