

**ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE**

May 25, 2016

1:30 p.m.

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Cathy Giessel, Vice Chair
Senator Kevin Meyer
Senator Gary Stevens
Senator Johnny Ellis

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 4001

"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."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB4001

SHORT TITLE: OMNIBUS TAXES & CREDITS; MINING LICENSES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

05/23/16 (S) READ THE FIRST TIME - REFERRALS

05/23/16 (S) L&C, FIN
05/25/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

RANDALL HOFFBECK, Commissioner
Department of Revenue (DOR)
Juneau, Alaska

POSITION STATEMENT: Presented SB 4001.

KEN ALPER, Director
Tax Division
Department of Revenue (DOR)
Juneau, Alaska

POSITION STATEMENT: Presented SB 4001.

ACTION NARRATIVE

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CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Ellis, Giessel, Stevens, Meyer, and Chair Costello.

SB4001-OMNIBUS TAXES & CREDITS; MINING LICENSES

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CHAIR COSTELLO announced the consideration of SB 4001.

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RANDALL HOFFBECK, Commissioner, Department of Revenue (DOR), introduced himself.

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KEN ALPER, Director, Tax Division, Department of Revenue (DOR), introduced himself.

COMMISSIONER HOFFBECK reminded the committee that the governor initially introduced a package of bills that were designed to bring in new revenue, reduce expenses, and use the state's financial assets in order to close the fiscal gap. The new revenues were introduced as individual bills and for the special session they were bundled as an omnibus tax bill. It is one of the components that the governor has identified as essential to close the fiscal gap by 2019. The bill incorporates: income tax (HB 250/SB 134), the motor fuel tax (HB 249/SB 132), tobacco tax

(HB 304/SB 133), alcohol tax (HB 248/SB 131), mining tax (HB 253/SB 137), fish tax (HB 251/SB 135), and marijuana tax enforcement (provisions of HB 337).

SB 4001 incorporates much of the committee work that was done on these bills during the regular session, but not necessarily the provisions in opposition to the governor's position. This committee already heard the income tax, tobacco tax, and alcohol tax bills, although the tobacco tax is based on the House version. Together, these bill will raise about \$350 million in revenue.

COMMISSIONER HOFFBECK reviewed the format of the presentation. There will be two slides for each of the taxes. The first will talk about what the bill does and how it differs from what was heard during the regular session. The second slide will show how much money it raises and how it impacts Alaskans. He noted that the electronic filing provisions are not included due to the passage of HB 375.

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MR. ALPER discussed the proposed **income tax (AS 43.22)**. It creates an individual income tax at 6 percent of the federal tax liability. This is similar to Alaska's historic income tax that was repealed in 1980. The former tax peaked at 16 percent of federal liability. It contains language for withholding by employers, and taxes income earned in Alaska regardless of residence state, as well as income from partnerships and S-corporations.

The current bill removes language related to the taxation of trusts and delays the effective date to January 2018. The intention was to remove fishery crew shares from withholding tax requirements, because they are contract employees that receive 1099s. He noted that this provision was inadvertently omitted from the current draft and should the bill progress they hope the committee would support removing the fisheries withholding language.

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CHAIR COSTELLO noted that Senator Micciche had joined the committee.

MR. ALPER continued to explain that the new income tax will raise about \$100 million in FY2018 and the full \$205 million in FY2019. After 2019, the revenue will be tied to inflation and income growth. About 20 percent to 30 percent of Alaskans will

have no tax liability, which is less than initially anticipated. The permanent fund dividend also helps push people into at least a minimal tax bracket. There will be a very low tax burden on households that earn less than \$50,000 and most households will pay substantially less than 1 percent of income. By absorbing the federal tax code, this becomes a progressive tax at the same rate as the federal code. He highlighted that state income taxes are deductible from federal income tax for those Alaskans who itemize. Currently, 43 states have an income tax, but only 41 tax all income. The other 2 states just tax capital gains. Should the bill pass, Alaska would have the lowest tax rate in the country.

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MR. ALPER discussed the proposed **motor fuel tax (AS 43.40)**. It increases the current tax rates as follows: highway fuel increases from 8 cents to 16 cents per gallon; marine fuel increases from 5 cents to 10 cents per gallon; aviation gas increases from 4.7 cents to 7 cents per gallon; jet fuel increases from 3.2 cents to 6.5 cents per gallon; and doubles the credit for highway fuel used off road.

The key difference from the regular session bills is that the aviation and jet fuel numbers conform to CSHB 249(FIN). The current draft does not incorporate the 2-year sunset proposed in the Senate Transportation Committee substitute; the motor fuel tax would be a permanent change.

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CHAIR COSTELLO welcomed Representative Hughes, Representative Wilson, and Senator Hoffman.

MR. ALPER continued to explain that the motor fuel tax will raise about \$43 million per year, which is roughly double the current collections. About \$200,000 would be shared with municipal airports.

The highway tax was increased to 8 cents per gallon in 1970. Alaska would still have the lowest tax rate in the nation after the tax is doubled. He calculated that a person who drives 12,000 miles per year in a vehicle that gets 20 miles to the gallon will pay an additional \$48 in fuel taxes.

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MR. ALPER discussed the proposed **tobacco tax (AS 43.50)**. It increases the existing tax rates. Cigarettes increase from 100 mills to 150 mills. The tax on a standard pack increases from

\$2.00 to \$3.00. The tax rate on other tobacco products increases from 75 percent of wholesale value to 100 percent. Electronic smoking products, which currently are untaxed, will be taxed at 75 percent of wholesale value. The bill adds new definitions for these products and cleans up the definition of "wholesale price."

This differs from the regular session bills in that it uses the House bill as the starting point. The other major change is that e-smoking products are carved out into a separate tax rather than with "other tobacco products." This applies only to those containing nicotine so there is an added labeling requirement to identify those products.

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The tobacco tax is estimated to raise about \$29 million per year, which is roughly 50 percent above the current collections. The revenue from e-cigarettes is indeterminate. About \$2 million will go to the Tobacco Use Education and Cessation Fund.

CHAIR COSTELLO welcomed Representative Olson to the meeting.

MR. ALPER said the tobacco tax will impact Alaskans by making it more expensive to smoke. Alaska would go from the 11th to the 5th highest cigarette tax rate in the U.S. The additional revenue will help offset tobacco related health costs incurred by the state. The bill also taxes the new e-smoking industry.

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MR. ALPER discussed the proposed **alcohol tax (AS 43.60)**. It doubles the current tax rates. Distilled spirits increase from \$12.80/gallon to \$25.60/gallon; wine increases from \$2.50/gallon to \$5.00/gallon; beer and cider increases from \$1.07/gallon to \$2.14/gallon; and craft brewery taxes increase from \$0.35/gallon to \$0.70/gallon. The increases corresponded to the dime a drink portion, raising the rates from 10 cents to 20 cents. The fixed \$25,000 bonding requirement becomes variable, which is less onerous for small taxpayers. These provisions are the same as the bill heard during the regular session.

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The alcohol tax is estimated to raise about \$40 million/year, roughly double the current collections. About \$20 million goes to the Alcohol and Other Drug Abuse Treatment and Prevention Fund. This is a mental health budget fund that is supplemented with substantial general fund money that can be backed out if desired.

This will affect Alaskans by making it more expensive to drink. Alaska already has the first or second highest alcohol tax rate in the nation and this would push Alaska to the highest by a substantial margin. The caveat is that only 33 states tax alcoholic beverages. The other 17 have state-owned liquor stores so the tax rate is built into the retail prices.

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MR. ALPER discussed the proposed **marijuana tax (AS 43.61)**. This piece has not been seen in the Senate. It is from a House bill introduced by Representative LeDoux. It does not change the \$50/ounce excise tax established by the 2014 initiative, although certain of the non-smokable portions of the plant will have a lower tax rate. It requires a surety bond of \$5,000 for taxpayers and empowers DOR to enforce the tax against a marijuana retailer who is selling product that did not come from a licensed, taxpaying cultivator. It also empowers DOR to enforce the tax penalty on illegal grow operations in excess of the personal use limit.

The bill incorporates all the provisions in CSHB 377(L&C).

The marijuana tax will raise an indeterminate amount and will generate an indeterminate amount from enforcement actions. The intent is to make it advantageous to be taxed, legal, and regulated and disadvantageous to operate in the black market. This will indirectly increase revenue to the state from legal marijuana sales.

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MR. ALPER discussed the proposed **mining license tax (AS 43.65)**. It increases the current top tax rate on net profits greater than \$100,000/year from 7 percent to 9 percent. The tax holiday for new mines is reduced from 3.5 years to 2 years. The bill prevents the mining exploration incentive credits from being used to reduce royalties. The credits may only be used against the tax. A \$50 annual license fee is also added for miners.

The regular session bill sought to eliminate the tax holiday entirely. This bill reduces it from 3.5 years to 2 years. The exploration incentive credit was an amendment from the House Resources Committee and is incorporated in the current bill. The estimated revenue is about \$7 million/year, \$25,000 of which will come from the license fees.

This tax will impact a small number of taxpayers. In 2014, only 14 taxpayers had over \$100,000 in taxable profits, meaning they paid at the top bracket. The 5 large mines in Alaska would pay about 99 percent of this tax increase. 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, other than the \$50 annual license fee.

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MR. ALPER discussed the proposed **fisheries business tax (AS 43.75) and fisheries landing tax (AS 43.77)**. It increases by one percentage point the current tax rates that are between 3 percent and 5 percent. The key is that the entire 1 percent increment is state general funds. There is robust revenue sharing language in the existing fish statutes that say half goes to the municipality where the fish is landed and processed. The first 1 percent of tax goes entirely to the state and the remaining amount continues to be shared 50/50. The bill also removes the \$3,000 "cap" on the annual Commercial Fisheries Entry Commission (CFEC) entry permit fees. That increases the fees for certain large and valuable fisheries. There are about 200 taxpayers, mostly nonresident, who would be paying additional entry fees under this provision. Developing fisheries are exempted from the increase.

The regular session bills increased the rate for one developing fishery category and the current bill exempts all developing fisheries. The current bill also adopts the entry permit fee change that was added in the House Finance Committee.

This portion of the bill is estimated to raise \$20 million/year; \$18 million/year comes from the change in the raw fish and landing tax rates and about \$2 million/year is from the CFEC fee change.

The price of fish is generally set by the commodity market so there is no way for the market to absorb the fisheries tax increase. That means that the processors will pay the tax and to the extent possible, they will pass it on to the fisherman whose fish they purchase. The fisherman indirectly pays the tax, whereas the Tax Division identifies the processor as the taxpayer.

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MR. ALPER reviewed the following sectional analysis for SB 4001: [Original punctuation provided.]

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.

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.

43.22.060 Authorizes DOR to administer the tax.

43.22.190 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

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).

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.

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).

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.

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.

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 uncodified 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.

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).

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CHAIR COSTELLO commented that despite the comprehensive nature of this tax bill, it only addresses 5 percent of the \$4 billion deficit. "Why bother?" she asked.

COMMISSIONER HOFFBECK replied the governor's plan has a lot of small pieces that add up to a substantial amount in the end. This piece would address about \$350 million in revenue and fits with the notion of spreading the burden as many ways as possible. He relayed that the largest piece is the Permanent Fund Protection Act.

CHAIR COSTELLO asked if Alaskans can expect taxes to skyrocket if SB 4001 passes and the Permanent Fund Protection Act does not.

COMMISSIONER HOFFBECK replied the governor's plan does not rely on taxes alone to balance the budget. But Alaska does have to devise a systematic way of using its substantial savings and the income it generates to fund government services. The historic 85 percent to 90 percent of revenue from oil and gas is now 25 percent to 30 percent, so the Permanent Fund Protection Act and the earnings are needed as a substantial piece moving forward.

CHAIR COSTELLO asked if the governor can guarantee that income taxes won't go up if his tax plan passes.

COMMISSIONER HOFFBECK explained that the income tax was the last piece in the governor's overall plan; the 6 percent tax rate was

established to generate the \$200 million that was needed to bring the plan into balance. There is no plan to immediately start ratcheting up the rate but there can be no guarantee that the tax won't change in 5, 10, or 15 years. Every legislative session is different and every legislature faces different fiscal situations.

CHAIR COSTELLO said what the likelihood is that SB 4001 will pass with each of the proposed tax pieces intact.

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COMMISSIONER HOFFBECK said the idea of an omnibus tax bill was thoroughly debated before the individual tax bills were introduced during the regular session. The consensus was that it would be easier for people to work with the pieces individually so that's what they did. But what happened was that the taxes got scattered as they were referred to different committees and moved at different rates. That made some legislators reluctant to support a bill when they weren't sure about the status of the others. For the Special Session, the decision was to bundle them in a single package so people could deal with them as a whole, or break them out if they choose to do so.

CHAIR COSTELLO asked if he's found one legislator who would support the bill as currently written.

COMMISSIONER HOFFBECK replied nobody is committing to anything at this point, but he believes they'll eventually see that a revenue package has to be part of the long-term solution.

CHAIR COSTELLO asked if he could identify a few of the taxes that have support.

COMMISSIONER HOFFBECK replied there was mixed response to the taxes. The motor fuel tax seemed to have more support in the Regular Session, there seemed to be some support for the tobacco tax, and the marijuana tax also moved forward. The taxes that didn't move very fast were the income tax and the alcohol tax. Both the mining tax and fish tax moved out of the first committee of referral, but with a lot of debate.

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SENATOR GIESSEL observed that the income tax is projected to raise \$100 million in FY2018 and \$205 in FY2019 and the fiscal note asks for \$500 thousand to implement the tax the first year and more the next year. She asked what he anticipates the actual income will be.

MR. ALPER clarified that \$500 thousand is half of one percent of \$100 million, which is 1/200th of the money coming in. That request is for the FY2017 capital budget and they wouldn't see the \$100 million income until FY2018. The \$500 thousand is an estimate for a contractor to develop an implementation plan for an income tax because there isn't in-house expertise. He related that an earlier version of the fiscal note for the income tax bill asked for a \$14 million capital appropriation. The staffing plan at its full implementation was for about 60 new state employees with an annual cost of \$7-8 million per year. He explained that those figures were based on a preliminary analysis of other states and discussions with the existing tax-handling software vender. The delayed effective date will provide an opportunity to find what the actual costs will be and based on those findings they'll make another request in 2017. The current fiscal note asks for a one-time \$500 thousand and one employee, which is just 4 percent of the initial estimate.

SENATOR GIESSEL commented it's an indeterminate fiscal note for an income tax and it will take an indeterminate number of state employees to implement the tax.

MR. ALPER agreed that's a fair statement.

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SENATOR MEYER expressed the desire to see some modeling and questioned what the bill would do to individuals and the fragile economies in communities across the state.

COMMISSIONER HOFFBECK said DOR doesn't have a lot of that type of modeling, but ISER did do a study on the impact of the broad-based taxes such as the income tax and sales tax. He committed in a future hearing to provide what they have and make a statement about what they think the outcome will be. He said the motor fuel tax increase probably won't have a large impact on the individual taxpayer, but it will be more an issue for airlines or the trucking industry. Both the airlines and trucking industry sent letters of support but trucking has pulled back recently, probably because the other taxes weren't moving. He believes a lot of groups recognize that there is a need for stability, but DOR doesn't have the data to say what the direct economic impact will be on an individual business.

SENATOR MEYER said that's the problem with the omnibus bill. He recalled that the presentation Dr. Knapp gave indicated that a sales tax was preferable to an income tax, assuming there were

certain exemptions. He also recalled that Dr. Knapp said doing nothing would hurt the economy but doing everything would be even more damaging.

CHAIR COSTELLO recalled Dr. Knapp said doing nothing is equally as bad as doing everything at the same time.

SENATOR MEYER asked if the administration had considered an omnibus tax credit bill that would include oil and gas, mining, and fish.

COMMISSIONER HOFFBECK acknowledged they didn't discuss an omnibus tax credit bill. The governor did seriously consider a sales tax, but the income tax seemed to be a better balance against the reduction in the size of the permanent fund dividend because of the progressive/regressive nature of the two taxes. The income tax also captures income from S-corporations and outside income.

He agreed that Dr. Knapp said that doing everything in one year might be more than the economy could handle, but he also said people need to know what the plan is to finish the job. That takes the uncertainty out of the equation and that's what business owners want and need to make investment decisions. "Even if all of this wasn't put into play immediately, people need to know what the ultimate solution is so they can adjust accordingly," he said.

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MR. ALPER added that all the taxes, with the exception of the income tax, are changes to an existing process so there is no need for additional staff. He said that implementing an income tax is a large new process and implementing a sales tax would be as well. He advised that the least efficient would be to implement both a small sales tax and a small income tax, because it would require two new bureaucracies instead of one.

SENATOR MEYER asked why fishing crew shares aren't subject to the withholding tax requirements.

MR. ALPER explained that fishing crew captains don't do the other forms of withholding and therefore shouldn't be required to do the Alaska income tax withholding. The crew members would still have to pay the tax, just not in advance.

COMMISSIONER HOFFBECK added that the reason is that fishing crews are essentially contract employees, not salaried employees.

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SENATOR MEYER asked if the consumer would ultimately pay the fish tax.

MR. ALPER said fish is a commodity so the processor can't necessarily get that markup, but will recoup the money by reducing the price paid to the fisherman.

CHAIR COSTELLO pointed out that changing the tax rate from 4 percent to 5 percent is actually a 25 percent increase, not a 1 percent increase.

MR. ALPER relayed that the governor made the same observation and slide 16 of the PowerPoint describes a 1 percentage point increase.

SENATOR STEVENS questioned why the old rationale to share landing tax revenues with communities to offset their costs to support the fisheries industry doesn't still apply.

MR. ALPER explained that the goal of this part of the package was to raise an additional \$15-\$20 million from the commercial fishing industry to make it neutral to the state. If that revenue were to be split 50/50 with municipalities, a 2 percentage increase in the tax rate would be needed.

SENATOR STEVENS said he didn't like the answer but understands the explanation.

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SENATOR GIESSEL noted that the Senate Resources Committee did not receive the modeling it requested during the hearing on the mining tax bill. She asked what the effect would be on a new mine to move from the current 3.5 year tax holiday to a 2 year tax holiday.

MR. ALPER replied DOR doesn't have modeling but the tax holiday isn't the big piece of the benefit. The larger component of recouping costs is through the depletion allowance, which is similar to depreciation. Through this mechanism, development costs are capitalized and applied against the profit over multiple years. He added that DOR couldn't find any history

showing where the 3.5 year tax holiday came from and they heard that not much gets paid in the early years anyway.

He noted that the mining bill did move from the House Resources Committee with a 3 year tax holiday. The current bill splits the difference.

SENATOR GIESSEL talked about the 14 taxpayers in the mining industry that had over \$100,000 in taxable profits in 2014 and questioned what effect the changes in the mining tax would have on a producing mine like Fort Knox.

MR. ALPER replied he can't speak to an individual taxpayer, but the largest 5 mines in the state each made far more than \$100,000 in taxable profit in 2014. The total profit for those 14 taxpayers was more than \$200 million. Realistically, he said, a company's profits will move up and down much faster related to the price of gold than the 2 percentage point tax increase from 7 percent to 9 percent.

SENATOR GIESSEL surmised that DOR hadn't calculated how this might impact the Donlin Mine that hasn't started up yet.

MR. ALPER replied Donlin isn't in the pipeline so it's not part of the fiscal note. He opined that Alaska's mining tax statutes need an overhaul.

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SENATOR GIESSEL offered to share the research paper on mining, tourism, and commercial fishing that demonstrates that the state generates far more revenue from the mining industry than it spends to regulate it. She also pointed out that the increases in hunting, fishing, and trapping licenses will bring in more than the proposed mining tax. Those increases will bring in an additional \$9 million and leverage about \$25 million of federal money.

SENATOR STEVENS asked how much revenue will be generated from people who work in Alaska and live out of state. He also asked if Alaska receives money from offshore fisheries.

MR. ALPER replied the state shares with municipalities several million dollars in landing taxes and Dutch Harbor is by far the largest line item. That indicates that a lot of the offshore fishery is passing through that port. Addressing out-of-state income, he estimated that about 10 percent to 15 percent of the high income employees in fisheries and oil companies are

nonresidents. There are also Alaskans that earn income both in Alaska and elsewhere so a lot of the work related to administering the income tax will be about the fine point of differentiating instate from out-of-state income.

COMMISSIONER HOFFBECK added that fish that are caught within Alaska's economic zone will be taxed, even if they're landed in Seattle.

SENATOR STEVENS asked if Alaska income tax would be due when the fish is caught in this economic zone and landed in Seattle.

COMMISSIONER HOFFBECK replied that would be addressed in regulations, but he suspects that income earned within Alaska's economic zone would be taxed.

SENATOR STEVENS asked about partnerships and S-corporations.

MR. ALPER explained that a nonresident that owns a partnership that earns income in Alaska would owe an increment to Alaska, based on their federal tax liability. S-corporations are exempted from the Alaska corporate income tax because the profit is passed through in a Schedule K distribution to the owner and the owner pays the tax on their personal income tax. The key is the nexus of the income.

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COMMISSIONER HOFFBECK clarified that Exxon, BP and ConocoPhillips are publicly traded C corporations that pay Alaska income tax; companies that are not publicly traded are exempt from Alaska corporate income tax.

SENATOR STEVENS calculated that 10 percent to 15 percent of \$100 million in FY2018 and \$205 million in FY2019 amounts to \$10-30 million.

MR. ALPER agreed with the calculation.

CHAIR COSTELLO asked if he is aware that the federal government is considering not allowing state income tax to be written off. If that is the case and SB 4001 were to pass, Alaska would be the only state with an income tax that is a percentage of the federal tax liability, she said.

MR. ALPER replied he isn't aware of that consideration. Most states tax use a percentage of gross income, which for this bill would be about 1 percent of adjusted gross income.

Implementation would be different, however. The decision to go with a percentage of federal tax liability considered 1) existing law, even though it needs modernizing, and 2) it is less complicated. He acknowledged that it would be more comparable to other states to go to a tax based on adjusted gross income.

CHAIR COSTELLO asked him to comment on the concern about tying the tax to the federal rate, and the increase if that were to occur.

MR. ALPER agreed it's a valid concern and added that he wouldn't be surprised to see it structured differently should this fail to pass.

CHAIR COSTELLO asked if the administration would be willing to look at capturing the foregone revenue from tax exemptions before looking at a new revenue sources.

MR. ALPER said absolutely; the administration would like very much to clean up the tax code, especially on the corporate income tax side.

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SENATOR MEYER asked if he said that 15 percent of the income tax that would be collected is from out-of-state workers.

MR. ALPER answered yes; the total wage income of Alaskans is about \$22 billion and about \$3 billion of that is earned by nonresident workers.

SENATOR MEYER asked if he said that about 90 percent of work to collect an income tax is related to out-of-state workers.

MR. ALPER replied it's those workers and Alaskans that derive income from out-of-state sources that wouldn't be taxed in Alaska.

SENATOR MEYER asked if the fiscal note on the income tax estimated that 50 new employees would be needed.

MR. ALPER replied the request was for 52 full time employees and 16 part time.

SENATOR MEYER cited the feedback that questions hiring 60 state employees to take money away from Alaskans when another group of employees is giving it back via the permanent fund dividend.

MR. ALPER replied the only answer is that it provides some degree of balance; reducing everyone's dividend equally is regressive and the progressive income tax balances that somewhat.

SENATOR MEYER said he appreciates that but both the income tax and the dividend require a huge bureaucracy.

CHAIR COSTELLO requested any long term economic modeling that is available. She suggested the public submit their comments to her office and she would distribute them to the committee members and the administration.

[SB 4001 was held in committee.]

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There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 3:10.