

# Fiscal Note

State of Alaska  
2018 Legislative Session

Bill Version:	HB 281
Fiscal Note Number:	1
(H) Publish Date:	1/16/2018

Identifier: DOA-OAH-12-14-17  
 Title: EMPLOYMENT TAX  
 Sponsor: RLS BY REQUEST OF THE GOVERNOR  
 Requester: Governor

Department: Department of Administration  
 Appropriation: Centralized Administrative Services  
 Allocation: Office of Administrative Hearings  
 OMB Component Number: 2771

### Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019	Included in	Out-Year Cost Estimates					
	Appropriation Requested	Governor's FY2019 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services	19.2		69.1	92.2	92.2	19.2		
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>19.2</b>	<b>0.0</b>	<b>69.1</b>	<b>92.2</b>	<b>92.2</b>	<b>19.2</b>		<b>0.0</b>

### Fund Source (Operating Only)

1007 I/A Rcpts (Other)	19.2		69.1	92.2	92.2	19.2	
<b>Total</b>	<b>19.2</b>	<b>0.0</b>	<b>69.1</b>	<b>92.2</b>	<b>92.2</b>	<b>19.2</b>	<b>0.0</b>

### Positions

Full-time							
Part-time							
Temporary							

### Change in Revenues

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Estimated SUPPLEMENTAL (FY2018) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2019) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

### ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
 If yes, by what date are the regulations to be adopted, amended or repealed?

### Why this fiscal note differs from previous version/comments:

Not applicable, initial version.

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Division:	Office of Administrative Hearings	Date:	12/14/2017 02:30 PM
Approved By:	Leslie Ridle, Commissioner	Date:	12/14/17
Agency:	Department of Administration		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2018 LEGISLATIVE SESSION

## Analysis

**Bill Analysis**

This bill establishes a payroll tax on wages and self-employment income earned in Alaska. It applies equally to residents and nonresidents. The tax rate is 1.5 percent, with the amount of tax capped at double the permanent fund dividend distributed in the previous calendar year. If the dividend is less than \$1,100, the cap is \$2,200, i.e., the cap never falls lower than \$2,200. There is an inflation index that adjusts this minimum cap annually. The tax will be withheld by employers and remitted to the state by the employer. Self-employed individuals would report and pay directly to the state. The tax is effective for calendar years 2019 and 2020, as well as half of 2021.

The Department of Revenue is given broad powers to administer the tax, including the creation of a regulatory structure to govern withholding, payment, and refunds and to determine such matters as what business income is from a source within the state. Portions of the Internal Revenue Code are adopted by reference.

A taxpayer aggrieved by the Department of Revenue's action in fixing the amount of tax owed or a penalty, or in revoking a seller's permit, may request an informal conference. A taxpayer may appeal an informal conference decision to the Office of Administrative Hearings (OAH).

**Implementation Cost**

OAH functions as the state equivalent of the United States Tax Court, presently handling appeals relating to corporate income tax, oil and gas production tax, fish tax, and a variety of other taxes. OAH will have jurisdiction over appeals from final Department of Revenue informal conference decisions on disputes relating to the new sales and use tax.

OAH ordinarily judges the appeals load from a new tax by inquiring about experience with similar taxes in other jurisdictions. This has not been possible in the present case. OAH believes this tax would generate a certain volume of relatively small and simple appeals. The size of the appeal load has been judged, in part, by the number of appeals officers the Department of Revenue projects to hire, which OAH understands to be a total of two beginning in FY 2020. OAH estimates that appeals from the decisions of these two full-time officers would generate work equivalent to substantially less than one full-time equivalent OAH tax judge, as set out in more detail below.

A new tax, or a change in an existing tax, however, generally triggers a spike in the volume of appeals. For this tax, the number of nonfilers, and the number of estimated tax returns prepared by the Department, could be expected to be relatively high for the first two to three years of the tax, resulting in a large volume of appeals. These cases may move fairly quickly, beginning as early as the last months of calendar 2019. Appeals by both individuals and businesses should taper as taxpayers become more accustomed to their obligations. Projected annual costs above reflect this anticipated workload, reaching a peak of approximately four tenths of full-time work for one tax-qualified administrative law judge. OAH believes the work would taper beginning in FY 2023, both because taxpayers will become more accustomed to the tax and because the sunset of the tax will shut off the inflow of new tax disputes. Some appeals of prior year taxes will persist beyond the sunset of the tax.

OAH work is funded by a federally-approved uniform billing rate, whereby agencies whose decisions are appealed pay the cost of judge time, including an allocated portion of overhead. The projected interagency receipts are calculated using this formula and will be billed to the Department of Revenue. In all years within the time horizon of this fiscal note, OAH projects that a significant portion of the appeal work will be performed by experienced tax-qualified administrative law judges procured by contract, or that the increased use of in-house tax-qualified capacity for the higher volume of tax appeals will require OAH to hire experienced administrative law judges by contract to perform displaced work in non-tax categories.