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Laffen/Nauman
5/11/18

SENATE CS FOR CS FOR HOUSE BILL NO. 119(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

**Offered:
Referred:**

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a mandatory exemption from municipal property taxes for certain**
2 **assets of the Alaska Industrial Development and Export Authority; relating to dividends**
3 **from the Alaska Industrial Development and Export Authority; relating to the meanings**
4 **of 'mark-to-market fair value,' 'net income,' 'project or development,' and 'unrestricted**
5 **net income' for purposes of the Alaska Industrial Development and Export Authority;**
6 **extending the expiration date of the authorization to finance and issue bonds through**
7 **the Alaska Industrial Development and Export Authority for a liquefied natural gas**
8 **production system and natural gas distribution system for an Interior energy project;**
9 **relating to land of the Alaska Railroad Corporation; relating to the sale of Alaska**
10 **Railroad Corporation land; relating to the financing and bonding authority of the**
11 **Alaska Railroad Corporation; authorizing the exchange of land between the Alaska**
12 **Railroad Corporation and Eklutna, Inc.; authorizing the transfer of land from the**

Alaska Railroad Corporation to the Municipality of Anchorage; authorizing the transfer of land from the Alaska Railroad Corporation to Usibelli Coal Mine, Inc.; authorizing the transfer of land in the Chena Landings Subdivision from the Alaska Railroad Corporation; authorizing the transfer of land from the Alaska Railroad Corporation to Alaska Tourism Development, LLC; authorizing the transfer of land from the Alaska Railroad Corporation to NeighborWorks Alaska; authorizing the transfer of land from the Alaska Railroad Corporation to 1048 Whitney Road, Anchorage, LLC; authorizing the transfer of land from the Alaska Railroad Corporation to 660 Western Drive, Anchorage, LLC; and providing for an effective date."

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

* Section 1. AS 29.45.030(a) is amended to read:

(a) The following property is exempt from general taxation:

(1) municipal property, including property held by a public corporation of a municipality, state property, property of the University of Alaska, or land that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, except that

(A) a private leasehold, contract, or other interest in the property is taxable to the extent of the interest; however, an interest created by an operating agreement or nonexclusive use agreement between the Alaska Industrial Development and Export Authority and a user of a shipyard or an integrated transportation and port facility, if the shipyard or integrated transportation and port facility is owned by the authority and initially placed in service before January 1, 1999, is taxable only to the extent of, and for the value associated with, those specific improvements used for lodging purposes;

(B) notwithstanding any other provision of law, property acquired by an agency, corporation, or other entity of the state through foreclosure or deed in lieu of foreclosure and retained as an investment of a

1 state entity is taxable; this subparagraph does not apply to federal land granted
2 to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land
3 granted to the university by the state to replace land that had been granted
4 under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the
5 university under AS 14.40.365;

6 (C) an ownership interest of a municipality in real property
7 located outside the municipality acquired after December 31, 1990, is taxable
8 by another municipality; however, a borough may not tax an interest in real
9 property located in the borough and owned by a city in that borough;

10 (2) household furniture and personal effects of members of a
11 household;

12 (3) property used exclusively for nonprofit religious, charitable,
13 cemetery, hospital, or educational purposes;

14 (4) property of a nonbusiness organization composed entirely of
15 persons with 90 days or more of active service in the armed forces of the United States
16 whose conditions of service and separation were other than dishonorable, or the
17 property of an auxiliary of that organization;

18 (5) money on deposit;

19 (6) the real property of certain residents of the state to the extent and
20 subject to the conditions provided in (e) of this section;

21 (7) real property or an interest in real property that is

22 (A) exempt from taxation under 43 U.S.C. 1620(d), as
23 amended or under 43 U.S.C. 1636(d), as amended; or

24 (B) acquired from a municipality in exchange for land that is
25 exempt from taxation under (A) of this paragraph, and is not developed or
26 made subject to a lease;

27 (8) property of a political subdivision, agency, corporation, or other
28 entity of the United States to the extent required by federal law; except that a private
29 leasehold, contract, or other interest in the property is taxable to the extent of that
30 interest unless the property is located on a military base or installation and the
31 property interest is created under 10 U.S.C. 2871 - 2885 (Military Housing

Privatization Initiative), **if** [PROVIDED THAT] the leaseholder enters into an agreement to make a payment in lieu of taxes to the political subdivision that has taxing authority;

(9) natural resources in place including coal, ore bodies, mineral deposits, and other proven and unproven deposits of valuable materials laid down by natural processes, unharvested aquatic plants and animals, and timber;

(10) property not exempt under (3) of this subsection that

(A) is owned by a private, nonprofit college or university that is accredited by a regional or national accrediting agency recognized by the Council for Higher Education Accreditation or the United States Department of Education, or both; and

(B) was subject to a private leasehold, contract, or other private interest on January 1, 2010, except that a holder of a private leasehold, contract, or other interest in the property shall be taxed to the extent of that interest.

*** Sec. 2.** AS 29.45.030(a), as amended by sec. 1 of this Act, is amended to read:

(a) The following property is exempt from general taxation:

(1) municipal property, including property held by a public corporation of a municipality, state property, property of the University of Alaska, or land that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, except that

(A) a private leasehold, contract, or other interest in the property is taxable to the extent of the interest; [HOWEVER, AN INTEREST CREATED BY AN OPERATING AGREEMENT OR NONEXCLUSIVE USE AGREEMENT BETWEEN THE ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY AND A USER OF A SHIPYARD OR AN INTEGRATED TRANSPORTATION AND PORT FACILITY, IF THE SHIPYARD OR INTEGRATED TRANSPORTATION AND PORT FACILITY IS OWNED BY THE AUTHORITY AND INITIALLY PLACED IN SERVICE BEFORE JANUARY 1, 1999, IS TAXABLE ONLY TO THE EXTENT OF, AND FOR THE VALUE

1 ASSOCIATED WITH, THOSE SPECIFIC IMPROVEMENTS USED FOR
2 LODGING PURPOSES;]

3 (B) notwithstanding any other provision of law, property
4 acquired by an agency, corporation, or other entity of the state through
5 foreclosure or deed in lieu of foreclosure and retained as an investment of a
6 state entity is taxable; this subparagraph does not apply to federal land granted
7 to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land
8 granted to the university by the state to replace land that had been granted
9 under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the
10 university under AS 14.40.365;

11 (C) an ownership interest of a municipality in real property
12 located outside the municipality acquired after December 31, 1990, is taxable
13 by another municipality; however, a borough may not tax an interest in real
14 property located in the borough and owned by a city in that borough;

15 (2) household furniture and personal effects of members of a
16 household;

17 (3) property used exclusively for nonprofit religious, charitable,
18 cemetery, hospital, or educational purposes;

19 (4) property of a nonbusiness organization composed entirely of
20 persons with 90 days or more of active service in the armed forces of the United States
21 whose conditions of service and separation were other than dishonorable, or the
22 property of an auxiliary of that organization;

23 (5) money on deposit;

24 (6) the real property of certain residents of the state to the extent and
25 subject to the conditions provided in (e) of this section;

26 (7) real property or an interest in real property that is

27 (A) exempt from taxation under 43 U.S.C. 1620(d), as
28 amended or under 43 U.S.C. 1636(d), as amended; or

29 (B) acquired from a municipality in exchange for land that is
30 exempt from taxation under (A) of this paragraph, and is not developed or
31 made subject to a lease;

(8) property of a political subdivision, agency, corporation, or other entity of the United States to the extent required by federal law; except that a private leasehold, contract, or other interest in the property is taxable to the extent of that interest unless the property is located on a military base or installation and the property interest is created under 10 U.S.C. 2871 - 2885 (Military Housing Privatization Initiative), if the leaseholder enters into an agreement to make a payment in lieu of taxes to the political subdivision that has taxing authority;

(9) natural resources in place including coal, ore bodies, mineral deposits, and other proven and unproven deposits of valuable materials laid down by natural processes, unharvested aquatic plants and animals, and timber;

(10) property not exempt under (3) of this subsection that

(A) is owned by a private, nonprofit college or university that is accredited by a regional or national accrediting agency recognized by the Council for Higher Education Accreditation or the United States Department of Education, or both; and

(B) was subject to a private leasehold, contract, or other private interest on January 1, 2010, except that a holder of a private leasehold, contract, or other interest in the property shall be taxed to the extent of that interest.

* **Sec. 3.** AS 42.40.285 is amended to read:

Sec. 42.40.285. Legislative approval required. Unless the legislature approves the action by law, the corporation may not

(1) exchange, donate, sell, or otherwise convey its entire interest in land;

(2) issue bonds;

(3) extend railroad lines; this paragraph does not apply to a spur, industrial, team, switching, or side track;

(4) lease land for a period in excess of 95 years unless the corporation reserves the right to terminate the lease if the land is needed for railroad purposes;

(5) apply for or accept a grant of federal land within a municipality; before approving an action under this paragraph, the legislature must determine that

the federal land is required for essential railroad purposes; **except as otherwise provided in AS 42.40.410**, this paragraph does not apply to the application for or acceptance of a grant of federal land associated with

(A) the Anchorage-Wasilla line change project on Elmendorf Air Force Base and Fort Richardson;

(B) the Fairbanks intermodal rail yard expansion project;

(C) a conveyance of rail properties of the Alaska Railroad under the original Alaska Railroad Transfer Act of 1982 as set out in Title VI, P.L. 97-468; in this subparagraph, "rail properties of the Alaska Railroad" has the meaning given in 45 U.S.C. 1202(10).

* **Sec. 4.** AS 42.40.350(a) is amended to read:

(a) The corporation shall receive from the United States and, in its own name, take title to all rail property transferred under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982), **except that the corporation does not have authority over any right, title, or interest in property transferred under this subsection that was not vested in the United States at the time of transfer**. All land that is transferred or acquired by the corporation is designated as follows:

(1) railroad rights-of-way are railroad utility corridors;

(2) land outside railroad utility corridors is rail land.

* **Sec. 5.** AS 42.40.352(b) is amended to read:

(b) Before offering land for sale under this section, the corporation shall

(1) publish public notice of the proposed sale that includes the finding by the board that the land is not necessary for railroad purposes and that the sale is in the best interest of the state;

(2) provide notice to persons having a leasehold interest in the land proposed to be sold and offer the leaseholders the right of first refusal; [AND]

(3) receive legislative approval under AS 42.40.285; **and**

(4) notify by registered mail adjacent landowners of the proposed action.

* **Sec. 6.** AS 42.40.410 is amended to read:

Sec. 42.40.410. Federal land. Except as provided in AS 42.40.285(5), the

corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of federal land available under federal law that will enhance the operations of the corporation if it is available under a federal law other than the Alaska Statehood Act of 1958 (P.L. 85 - 508, 72 Stat. 339), as amended. The corporation may receive in its own name conveyances of all interests in federal land. **In this section, land or interest in land that is not conclusively owned by the United States at the time of transfer is not available and does not satisfy the exception from legislative approval under AS 42.40.285(5)(C).**

* **Sec. 7.** AS 42.40.550 is amended to read:

Sec. 42.40.550. Extension of railroad to Fort Greely. The corporation may acquire a transportation corridor between the existing railroad corridor and Fort Greely, Alaska, and construct a rail line within the corridor to provide rail service to the Fort Greely area and points between. The transportation corridor may be designated for a use identified under AS 42.40.350(b) and other transportation and utility uses. The corporation may also acquire land along the corridor for use as rail land that can be developed for terminal, station, and maintenance facilities, switching yards, and any other purposes associated with the railroad utility corridor. [THE CORPORATION MAY PROVIDE FINANCING FOR THE ACQUISITION, CONSTRUCTION, IMPROVEMENT, MAINTENANCE, EQUIPPING, AND OPERATION OF THE RAIL LINE AND RELATED FACILITIES BETWEEN THE EXISTING RAILROAD CORRIDOR AND FORT GREELY, ALASKA.]

* **Sec. 8.** AS 42.40.695 is amended to read:

Sec. 42.40.695. Public purpose of bonds. Bonds [OF THE CORPORATION ISSUED TO FINANCE FACILITIES DESCRIBED IN AS 42.40.550 AND 42.40.560 AND BONDS] of the corporation issued to finance the acquisition, construction, improvement, maintenance, equipping, and operation of real and personal property, including facilities and equipment, described in AS 42.40.570 are issued by a public corporation and an instrumentality of the state for an essential public and governmental purpose.

* **Sec. 9.** AS 44.88.088(b)(2) is amended to read:

(2) "net income" means the change in net position, or the equivalent

term under generally accepted accounting principles, of the revolving fund, the change in net position of the Alaska Industrial Development and Export Authority sustainable energy transmission and supply development fund (AS 44.88.660), or the change in net position of the Arctic infrastructure development fund (AS 44.88.810) as set out in the audited financial statements of the authority for the base fiscal year, excluding amounts attributable to intergovernmental transfers, capital contributions, grants, [OR IMPAIRMENT] losses on a project or development to the extent [DEVELOPMENT PROJECTS] financed with state or federal grants or appropriations, mark-to-market fair value based accounting entries, and noncash accounting entries related to retirement obligations [UNDER AS 44.88.172];

* **Sec. 10.** AS 44.88.088(b)(3) is amended to read:

(3) "unrestricted net income" means the unrestricted change in net position, or the equivalent term under generally accepted accounting principles, of the revolving fund, the Alaska Industrial Development and Export Authority sustainable energy transmission and supply development fund (AS 44.88.660), or the Arctic infrastructure development fund (AS 44.88.810) as set out in the audited financial statements of the authority for the base fiscal year, excluding amounts attributable to intergovernmental transfers, capital contributions, grants, [OR IMPAIRMENT] losses on a project or development to the extent [DEVELOPMENT PROJECTS] financed with state or federal grants or appropriations, mark-to-market fair value based accounting entries, and noncash accounting entries related to retirement obligations [UNDER AS 44.88.172].

* **Sec. 11.** AS 44.88.088(b) is amended by adding new paragraphs to read:

(4) "mark-to-market fair value" means fixing the value of an investment as its market value as of the financial reporting date;

(5) "project or development" means

(A) an Arctic infrastructure development;

(B) a development project;

(C) a project; or

(D) a qualified energy development.

* **Sec. 12.** The uncoded law of the State of Alaska enacted in sec. 11(f), ch. 26, SLA

2013, is amended to read:

(f) The authorization to issue bonds this section grants expires on **June 30, 2023** [JUNE 30, 2018], if the authority does not issue bonds before that date. Expiration of the authorization to issue bonds does not affect bonds that the authority issues under this section before **July 1, 2023** [JULY 1, 2018].

* **Sec. 13.** AS 42.40.560 and 42.40.630(b) are repealed.

* **Sec. 14.** Sections 1 and 4, ch. 77, SLA 1994, secs. 1 and 5, ch. 71, SLA 2003, and sec. 3, ch. 46, SLA 2004, are repealed.

* **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPROVAL OF THE TRANSFER OF REAL PROPERTY TO EKLUTNA, INC. (a) The Alaska Railroad Corporation is authorized to convey the corporation's interest in the surface estate of approximately 399.2 acres of rail land located in the Alaska Railroad Eagle River Reserve, within Sections 25, 26, and 35, Township 16 North, Range 2 West, Seward Meridian, to Eklutna, Inc., in exchange for the conveyance to the corporation by Eklutna, Inc., of land adjacent to land owned by the corporation in Birchwood.

(b) If the appraised fair market value of the land to be exchanged is unequal, the Alaska Railroad Corporation may accept or pay cash sufficient to equalize the value of assets being exchanged.

(c) The land conveyed by Eklutna, Inc., to the Alaska Railroad Corporation shall be held and managed by the corporation in accordance with AS 42.40.

(d) This section constitutes legislative approval under AS 42.40.285(1) for the Alaska Railroad Corporation to convey its entire interest in the land described in (a) of this section.

* **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPROVAL OF THE TRANSFER OF REAL PROPERTY TO THE MUNICIPALITY OF ANCHORAGE. (a) The Alaska Railroad Corporation is authorized to convey the corporation's interest in the surface estate of approximately 20.2 acres of rail land located in the Alaska Railroad Anchorage Reserve, within Section 7, Township 13 North, Range 3 West, Seward Meridian, and Section 12, Township 13 North, Range 4 West, Seward Meridian, to the Municipality of Anchorage.

(b) In consideration for the conveyance authorized in (a) of this section, the Alaska Railroad Corporation may accept cash equivalent to the fair market value of the land being conveyed.

(c) This section constitutes legislative approval under AS 42.40.285(1) for the Alaska Railroad Corporation to convey its entire interest in the land described in (a) of this section.

* **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPROVAL OF THE TRANSFER OF REAL PROPERTY TO THE USIBELLI COAL MINE, INC. (a) The Alaska Railroad Corporation is authorized to convey the corporation's interest in the surface estate of approximately 464.57 acres of rail land located in the Alaska Railroad Healy Reserve, within Section 18, Township 12 South, Range 7 West, Fairbanks Meridian, described as Blocks 1, 2, 3, 4, 5, and 6, and Tracts B, D, F, G, and H, Tri-Valley Subdivision, recorded as Plat 78-9 in the Nenana Recording District, to Usibelli Coal Mine, Inc.

(b) In consideration for the conveyance authorized in (a) of this section, the Alaska Railroad Corporation may accept cash equivalent to the fair market value, excluding improvements, of the land being conveyed.

(c) This section constitutes legislative approval under AS 42.40.285(1) for the Alaska Railroad Corporation to convey its entire interest in the land described in (a) of this section.

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

APPROVAL OF THE TRANSFER OF REAL PROPERTY IN THE CHENA LANDINGS SUBDIVISION. (a) The Alaska Railroad Corporation is authorized to convey the corporation's interest in the surface estate of approximately 12.597 acres of rail land located in the Chena Landings Subdivision described as Tract 4 and Tract 5, Chena Landings Subdivision, recorded as Plat 2000-31 in the Fairbanks Recording District, to purchasers of individual lots.

(b) Lots authorized to be conveyed under (a) of this section must be sold at fair market value based on an appraisal or competitive bid process and subject to the terms of a purchase agreement including earnest money deposit.

(c) In consideration for the conveyances authorized in (a) of this section, the Alaska

1 Railroad Corporation may accept cash equivalent to the fair market value of the land being
2 conveyed.

3 (d) This section constitutes legislative approval under AS 42.40.285(1) for the Alaska
4 Railroad Corporation to convey its entire interest in the land described in (a) of this section.

5 * **Sec. 19.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 APPROVAL OF THE TRANSFER OF REAL PROPERTY TO ALASKA TOURISM
8 DEVELOPMENT, LLC. (a) The Alaska Railroad Corporation is authorized to convey the
9 corporation's interest in the surface estate of approximately 29.52 acres of rail land located in
10 the Alaska Railroad Healy Reserve near Otto Lake, recorded as Plat No. 96-10 in the Nenana
11 Recording District, to Alaska Tourism Development, LLC.

12 (b) In consideration for the conveyance authorized in (a) of this section, the Alaska
13 Railroad Corporation may accept cash equivalent to the fair market value of the land being
14 conveyed.

15 (c) This section constitutes legislative approval under AS 42.40.285(1) for the Alaska
16 Railroad Corporation to convey its entire interest in the land described in (a) of this section.

17 * **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 APPROVAL OF THE TRANSFER OF REAL PROPERTY TO NEIGHBORWORKS
20 ALASKA. (a) The Alaska Railroad Corporation is authorized to convey the corporation's
21 interest in the surface estate of approximately 11.3 acres of rail land located in the Alaska
22 Railroad Anchorage Terminal Reserve, within Section 8, Township 13 North, Range 3 West,
23 Seward Meridian, to NeighborWorks Alaska.

24 (b) In consideration for the conveyance authorized in (a) of this section, the Alaska
25 Railroad Corporation may accept cash equivalent to the fair market value of the land being
26 conveyed.

27 (c) This section constitutes legislative approval under AS 42.40.285(1) for the Alaska
28 Railroad Corporation to convey its entire interest in the land described in (a) of this section.

29 * **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 APPROVAL OF THE TRANSFER OF REAL PROPERTY TO 1048 WHITNEY

1 ROAD, ANCHORAGE, LLC. (a) The Alaska Railroad Corporation is authorized to convey
2 the corporation's interest in the surface estate of approximately 4.95 acres of rail land located
3 in the Alaska Railroad Anchorage Terminal Reserve, within Sections 8 and 17, Township 13
4 North, Range 3 West, Seward Meridian, to 1048 Whitney Road, Anchorage, LLC.

5 (b) In consideration for the conveyance authorized in (a) of this section, the Alaska
6 Railroad Corporation may accept cash equivalent to the fair market value of the land being
7 conveyed.

8 (c) This section constitutes legislative approval under AS 42.40.285(1) for the Alaska
9 Railroad Corporation to convey its entire interest in the land described in (a) of this section.

10 * **Sec. 22.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 APPROVAL OF THE TRANSFER OF REAL PROPERTY TO 660 WESTERN
13 DRIVE, ANCHORAGE, LLC. (a) The Alaska Railroad Corporation is authorized to convey
14 the corporation's interest in the surface estate of approximately 48.91 acres of rail land located
15 in the Alaska Railroad Anchorage Terminal Reserve, within Section 7, Township 13 North,
16 Range 3 West, Seward Meridian, to 660 Western Drive, Anchorage, LLC.

17 (b) In consideration for the conveyance authorized in (a) of this section, the Alaska
18 Railroad Corporation may accept cash equivalent to the fair market value of the land being
19 conveyed.

20 (c) This section constitutes legislative approval under AS 42.40.285(1) for the Alaska
21 Railroad Corporation to convey its entire interest in the land described in (a) of this section.

22 * **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 REPORTING REQUIREMENT. Annually, beginning in 2019 and ending in 2021, not
25 later than March 1 of each regular legislative session, the Alaska Railroad Corporation shall
26 present to the Resources Committees of the legislature and the Finance Committees of the
27 legislature a report on its activities under secs. 3 - 22 of this Act. The Alaska Railroad
28 Corporation may satisfy the reporting requirement under this section by appearing in person
29 before the Resources Committees of the legislature and the Finance Committees of the
30 legislature.

31 * **Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 RETROACTIVITY. Section 1 of this Act is retroactive to November 30, 2017.

3 * **Sec. 25.** Sections 1 and 3 - 24 of this Act take effect immediately under AS 01.10.070(c).

4 * **Sec. 26.** Section 2 of this Act takes effect November 30, 2027.