

**CS FOR HOUSE BILL NO. 280(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - SECOND SESSION

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the Multistate Tax Compact; relating to apportionment of income to**  
2 **the state; and providing for an effective date."**

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

4 **\* Section 1.** AS 43.19.010 is amended to read:

5 **Sec. 43.19.010. Compact.** The Multistate Tax Compact is hereby enacted into  
6 law and entered into with all jurisdictions legally joining in it, in the form substantially  
7 as follows:

8 **ARTICLE I.**

9 **PURPOSES.**

10 The purposes of this compact are to:

11 1. Facilitate proper determination of state and local tax liability of multistate  
12 taxpayers, including the equitable apportionment of tax bases and settlement of  
13 apportionment disputes.

14 2. Promote uniformity or compatibility in significant components of tax

1 systems.

2 3. Facilitate taxpayer convenience and compliance in the filing of tax returns  
3 and in other phases of tax administration.

4 4. Avoid duplicative taxation.

5 ARTICLE II.

6 DEFINITIONS.

7 As used in this compact:

8 1. "State" means a state of the United States, the District of Columbia, the  
9 Commonwealth of Puerto Rico, or any territory or possession of the United States.

10 2. "Subdivision" means any governmental unit or special district of a state.

11 3. "Taxpayer" means any corporation, partnership, firm, association,  
12 governmental unit or agency or person acting as a business entity in more than one  
13 state.

14 4. "Income tax" means a tax imposed on or measured by net income including  
15 any tax imposed on or measured by an amount arrived at by deducting expenses from  
16 gross income, one or more forms of which expenses are not specifically and directly  
17 related to particular transactions.

18 5. "Capital stock tax" means a tax measured in any way by the capital of a  
19 corporation considered in its entirety.

20 6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on  
21 or measured by the gross volume of business, in terms of gross receipts or in other  
22 terms, and in the determination of which no deduction is allowed which would  
23 constitute the tax an income tax.

24 7. "Sales tax" means a tax imposed with respect to the transfer for a  
25 consideration of ownership, possession or custody of tangible personal property or the  
26 rendering of services measured by the price of the tangible personal property  
27 transferred or services rendered and which is required by state or local law to be  
28 separately stated from the sales price by the seller, or which is customarily separately  
29 stated from the sales price, but does not include a tax imposed exclusively on the sale  
30 of a specifically identified commodity or article or class of commodities or articles.

31 8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is

1 imposed on or with respect to the exercise or enjoyment of any right or power over  
2 tangible personal property incident to the ownership, possession or custody of that  
3 property or the leasing of that property from another including any consumption,  
4 keeping, retention, or other use of tangible personal property and (b) is complementary  
5 to a sales tax.

6 9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax,  
7 use tax, and any other tax which has a multistate impact, except that the provisions of  
8 Articles III, IV and V of this compact shall apply only to the taxes specifically  
9 designated therein and the provisions of Article IX of this compact shall apply only in  
10 respect to determinations pursuant to Article IV.

### 11 ARTICLE III.

#### 12 ELEMENTS OF INCOME TAX LAWS.

#### 13 TAXPAYERS OPTION, STATE AND LOCAL TAXES.

14 1. Any taxpayer subject to an income tax whose income is subject to  
15 apportionment and allocation for tax purposes pursuant to the laws of a party state or  
16 pursuant to the laws of subdivisions in two or more party states may elect to apportion  
17 and allocate the taxpayer's income in the manner provided by the laws of such state or  
18 by the laws of such states and subdivisions without reference to this compact, or may  
19 elect to apportion and allocate in accordance with Article IV. This election for any tax  
20 year may be made in all party states or subdivisions thereof or in any one or more of  
21 the party states or subdivisions thereof without reference to the election made in the  
22 others. For the purposes of this paragraph, taxes imposed by subdivisions shall be  
23 considered separately from state taxes and the apportionment and allocation also may  
24 be applied to the entire tax base. In no instance wherein Article IV is employed for all  
25 subdivisions of a state may the sum of all apportionments and allocations to  
26 subdivisions within a state be greater than the apportionment and allocation that would  
27 be assignable to that state if the apportionment or allocation were being made with  
28 respect to a state income tax.

#### 29 TAXPAYER OPTION, SHORT FORM.

30 2. Each party state or any subdivision thereof which imposes an income tax  
31 shall provide by law that any taxpayer required to file a return, whose only activities

1 within the taxing jurisdiction consist of sales and do not include owning or renting real  
 2 estate or tangible personal property, and whose dollar volume of gross sales made  
 3 during the tax year within the state or subdivision, as the case may be, is not in excess  
 4 of \$100,000 may elect to report and pay any tax due on the basis of a percentage of  
 5 such volume, and shall adopt rates which shall produce a tax which reasonably  
 6 approximates the tax otherwise due. The Multistate Tax Commission, not more than  
 7 once in five years, may adjust the \$100,000 figure in order to reflect such changes as  
 8 may occur in the real value of the dollar, and such adjusted figure, upon adoption by  
 9 the commission, shall replace the \$100,000 figure specifically provided herein. Each  
 10 party state and subdivision thereof may make the same election available to taxpayers  
 11 additional to those specified in this paragraph.

#### 12 COVERAGE.

13 3. Nothing in this Article relates to the reporting or payment of any tax other  
 14 than an income tax.

#### 15 ARTICLE IV.

#### 16 DIVISION OF INCOME.

17 1. As used in this Article, unless the context otherwise requires:

18 (a) **"Apportionable income" means:**

19 **(i) all income that is apportionable under the Constitution of the**  
 20 **United States and is not allocated under the laws of this state, including:**

21 **(A)** ["BUSINESS INCOME" MEANS] income arising from  
 22 transactions and activity in the regular course of the taxpayer's trade or  
 23 business; and

24 **(B)** [INCLUDES] income **arising** from tangible and intangible  
 25 property if the acquisition, management, **employment, development, or**  
 26 [AND] disposition of the property **is or was related to the operation**  
 27 [CONSTITUTE INTEGRAL PARTS] of the taxpayer's [REGULAR] trade or  
 28 business; **and**

29 **(ii) any income that would be allocable to this state under the**  
 30 **Constitution of the United States, but that is apportioned rather than allocated**  
 31 **pursuant to the laws of this state** [OPERATIONS].

1 (b) "Commercial domicile" means the principal place from which the trade or  
2 business of the taxpayer is directed or managed.

3 (c) "Compensation" means wages, salaries, commissions and any other form  
4 of remuneration paid to employees for personal services.

5 (d) "Financial organization" means any bank, trust company, savings bank,  
6 industrial bank, land bank, safe deposit company, private banker, savings and loan  
7 association, credit union, cooperative bank, small loan company, sales finance  
8 company, investment company, or any type of insurance company.

9 (e) "**Non-apportionable** [NONBUSINESS] income" means all income other  
10 than **apportionable** [BUSINESS] income.

11 (f) "Public utility" means any business entity (1) which owns or operates any  
12 plant, equipment, property, franchise, or license for the transmission of  
13 communications, transportation of goods or persons, except by pipe line, or the  
14 production, transmission, sale, delivery, or furnishing of electricity, water or steam;  
15 and (2) whose rates of charges for goods or services have been established or  
16 approved by a federal, state or local government or governmental agency.

17 (g) "sales" means all gross receipts of the taxpayer **that are** not allocated  
18 under paragraphs of this Article, **and that are received from transactions and**  
19 **activity in the regular course of the taxpayer's trade or business; except that sales**  
20 **of a taxpayer from hedging transactions and from the maturity, redemption,**  
21 **exchange, loan, or other disposition of cash or securities, shall be excluded.**

22 (h) "State" means any state of the United States, the District of Columbia, the  
23 Commonwealth of Puerto Rico, any territory or possession of the United States, and  
24 any foreign country or political subdivision thereof.

25 (i) "This state" means the state in which the relevant tax return is filed or, in  
26 the case of application of this Article to the apportionment and allocation of income  
27 for local tax purposes, the subdivision or local taxing district in which the relevant tax  
28 return is filed.

29 2. Any taxpayer having income from business activity which is taxable both  
30 within and outside this state, other than activity as a financial organization or public  
31 utility or the rendering of purely personal services by an individual, shall allocate and

1 apportion net income as provided in this Article. If a taxpayer has income from  
2 business activity as a public utility but derives the greater percentage of income from  
3 activities subject to this Article, the taxpayer may elect to allocate and apportion the  
4 taxpayer's entire net income as provided in this Article.

5 3. For purposes of allocation and apportionment of income under this Article, a  
6 taxpayer is taxable in another state if (1) in that state the taxpayer is subject to a net  
7 income tax, a franchise tax measured by net income, a franchise tax for the privilege  
8 of doing business, or a corporate stock tax, or (2) that state has jurisdiction to subject  
9 the taxpayer to a net income tax regardless of whether, in fact, the state does or does  
10 not.

11 4. Rents and royalties from real or tangible personal property, capital gains,  
12 interest, dividends or patent or copyright royalties, to the extent that they constitute  
13 **nonapportionable** [NONBUSINESS] income, shall be allocated as provided in  
14 paragraphs 5 through 8 of this Article.

15 5.(a) Net rents and royalties from real property located in this state are  
16 allocable to this state.

17 (b) Net rents and royalties from tangible personal property are allocable to this  
18 state: (1) if and to the extent that the property is utilized in this state, or (2) in their  
19 entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not  
20 organized under the laws of or taxable in the state in which the property is utilized.

21 (c) The extent of utilization of tangible personal property in a state is  
22 determined by multiplying the rents and royalties by a fraction, the numerator of  
23 which is the number of days of physical location of the property in the state during the  
24 rental or royalty period in the taxable year and the denominator of which is the number  
25 of days of physical location of the property everywhere during all rental or royalty  
26 periods in the taxable year. If the physical location of the property during the rental or  
27 royalty period is unknown or unascertainable by the taxpayer, tangible personal  
28 property is utilized in the state in which the property was located at the time the rental  
29 or royalty payer obtained possession.

30 6.(a) Capital gains and losses from sales of real property located in this state  
31 are allocable to this state.

1 (b) Capital gains and losses from sales of tangible personal property are  
2 allocable to this state if (1) the property had a situs in this state at the time of the sale,  
3 or (2) the taxpayer's commercial domicile is in this state and the taxpayer is not  
4 taxable in the state in which the property had a situs.

5 (c) Capital gains and losses from sales of intangible personal property are  
6 allocable to this state if the taxpayer's commercial domicile is in this state.

7 7. Interest and dividends are allocable to this state if the taxpayer's commercial  
8 domicile is in this state.

9 8.(a) Patent and copyright royalties are allocable to this state: (1) if and to the  
10 extent that the patent or copyright is utilized by the payer in this state, or (2) if and to  
11 the extent that the patent or copyright is utilized by the payer in a state in which the  
12 taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

13 (b) A patent is utilized in a state to the extent that it is employed in production,  
14 fabrication, manufacturing, or other processing in the state or to the extent that a  
15 patented product is produced in the state. If the basis of receipts from patent royalties  
16 does not permit allocation to states or if the accounting procedures do not reflect states  
17 of utilization, the patent is utilized in the state in which the taxpayer's commercial  
18 domicile is located.

19 (c) A copyright is utilized in a state to the extent that printing or other  
20 publication originates in the state. If the basis of receipts from copyright royalties does  
21 not permit allocation to states or if the accounting procedures do not reflect states of  
22 utilization, the copyright is utilized in the state in which the taxpayer's commercial  
23 domicile is located.

24 9. All apportionable [BUSINESS] income shall be apportioned to this state by  
25 multiplying the income by a fraction, the numerator of which is the property factor  
26 plus the payroll factor plus the sales factor, and the denominator of which is three.

27 10. The property factor is a fraction, the numerator of which is the average  
28 value of the taxpayer's real and tangible personal property owned or rented and used in  
29 this state during the tax period and the denominator of which is the average value of  
30 all the taxpayer's real and tangible personal property owned or rented and used during  
31 the tax period.

1           11. Property owned by the taxpayer is valued at its original cost. Property  
2           rented by the taxpayer is valued at eight times the net annual rental rate. Net annual  
3           rental rate is the annual rental rate paid by the taxpayer less any annual rental rate  
4           received by the taxpayer from subrentals.

5           12. The average value of property shall be determined by averaging the values  
6           at the beginning and ending of the tax period but the tax administrator may require the  
7           averaging of monthly values during the tax period if reasonably required to reflect  
8           properly the average value of the taxpayer's property.

9           13. The payroll factor is a fraction, the numerator of which is the total amount  
10          paid in this state during the tax period by the taxpayer for compensation and the  
11          denominator of which is the total compensation paid everywhere during the tax period.

12          14. Compensation is paid in this state if:

13          (a) the individual's service is performed entirely within the state;

14          (b) the individual's service is performed both inside and outside the state, but  
15          the service performed outside the state is incidental to the individual's service within  
16          this state; or

17          (c) some of the service is performed in the state and (1) the base of operations  
18          or, if there is no base of operations, the place from which the service is directed or  
19          controlled is in the state, or (2) the base of operations or the place from which the  
20          service is directed or controlled is not in any state in which some part of the service is  
21          performed, but the individual's residence is in this state.

22          15. The sales factor is a fraction, the numerator of which is the total sales of  
23          the taxpayer in this state during the tax period, and the denominator of which is the  
24          total sales of the taxpayer everywhere during the tax period.

25          16. Sales of tangible personal property are in this state if:

26          (a) the property is delivered or shipped to a purchaser, other than the United  
27          States Government, within this state regardless of the f.o.b. point or other conditions  
28          of the sale; or

29          (b) the property is shipped from an office, store, warehouse, factory, or other  
30          place of storage in this state and (1) the purchaser is the United States Government or  
31          (2) the taxpayer is not taxable in the state of the purchaser.

1           17.(a) Sales, other than sales **described in Section 16** [OF TANGIBLE  
2 PERSONAL PROPERTY], are in this state if **the taxpayer's market for the sales is**  
3 **in this state. The taxpayer's market for sales is in this state:**

4                   **(1) in the case of sale, rental, lease, or license of real property, if**  
5 **and to the extent the property is located in this state;**

6                   **(2) in the case of rental, lease, or license of tangible personal**  
7 **property, if and to the extent the property is located in this state;**

8                   **(3) in the case of sale of a service, if and to the extent the service is**  
9 **delivered to a location in this state; and**

10                   **(4) in the case of intangible property,**

11                           **(i) that is rented, leased, or licensed, if and to the extent the**  
12 **property is used in this state, provided that intangible property utilized in**  
13 **marketing a good or service to a consumer is "used in this state" if that**  
14 **good or service is purchased by a consumer who is in this state; and**

15                           **(ii) that is sold, if and to the extent the property is used in**  
16 **this state, provided that:**

17                                   **(A) a contract right, government license, or similar**  
18 **intangible property that authorizes the holder to conduct a**  
19 **business activity in a specific geographic area is "used in this state"**  
20 **if the geographic area includes all or part of this state;**

21                                   **(B) sales from intangible property sales that are**  
22 **contingent on the productivity, use, or disposition of the intangible**  
23 **property shall be treated as a sale of the rental, lease, or licensing**  
24 **of such intangible property under subsection (a)(4)(i); and**

25                                   **(C) all other sales of intangible property shall be**  
26 **excluded from the numerator and denominator of the sales factor.**

27                                   [: (a) THE INCOME-PRODUCING ACTIVITY IS PERFORMED IN  
28 THIS STATE; OR]

29                   (b) **If the state or states of assignment under subsection (a) cannot be**  
30 **determined, the state or states of assignment shall be reasonably approximated.**

31                   (c) **If the taxpayer is not taxable in a state to which a sale is assigned**

1 **under subsection (a) or (b), or if the state of assignment cannot be determined**  
 2 **under subsection (a) or reasonably approximated under subsection (b), such a**  
 3 **sale shall be excluded from the denominator of the sales factor.**

4 **(d) The tax administrator may adopt regulations as necessary or**  
 5 **appropriate to carry out the purposes of this section** [THE INCOME-  
 6 PRODUCING ACTIVITY IS PERFORMED BOTH IN AND OUTSIDE THIS  
 7 STATE AND A GREATER PROPORTION OF THE INCOME-PRODUCING  
 8 ACTIVITY IS PERFORMED IN THIS STATE THAN IN ANY OTHER STATE,  
 9 BASED ON COSTS OF PERFORMANCE].

10 18. If the allocation and apportionment provisions of this Article do not fairly  
 11 represent the extent of the taxpayer's business activity in this state, the taxpayer may  
 12 petition for or the tax administrator may require, in respect to all or any part of the  
 13 taxpayer's business activity, if reasonable:

- 14 (a) separate accounting;
- 15 (b) the exclusion of any one or more of the factors;
- 16 (c) the inclusion of one or more additional factors which will fairly represent  
 17 the taxpayer's business activity in this state; or
- 18 (d) the employment of any other method to effectuate an equitable allocation  
 19 and apportionment of the taxpayer's income.

20 ARTICLE V.

21 ELEMENTS OF SALES AND USE TAX LAWS.

22 TAX CREDIT.

23 1. Each purchaser liable for a use tax on tangible personal property shall be  
 24 entitled to full credit for the combined amount or amounts of legally imposed sales or  
 25 use taxes paid by the purchaser with respect to the same property to another state and  
 26 any subdivision thereof. The credit shall be applied first against the amount of any use  
 27 tax due the state, and any unused portion of the credit shall then be applied against the  
 28 amount of any use tax due a subdivision.

29 EXEMPTION CERTIFICATES, VENDORS MAY RELY.

30 2. Whenever a vendor receives and accepts in good faith from a purchaser a  
 31 resale or other exemption certificate or other written evidence of exemption authorized

1 by the appropriate state or subdivision taxing authority, the vendor shall be relieved of  
2 liability for a sales or use tax with respect to the transaction.

3 ARTICLE VI.

4 THE COMMISSION.

5 ORGANIZATION AND MANAGEMENT.

6 1.(a) The Multistate Tax Commission is hereby established. It shall be  
7 composed of one "member" from each party state who shall be the head of the state  
8 agency charged with the administration of the types of taxes to which this compact  
9 applies. If there is more than one such agency the state shall provide by law for the  
10 selection of the commission member from the heads of the relevant agencies. State  
11 law may provide that a member of the commission be represented by an alternate but  
12 only if there is on file with the commission written notification of the designation and  
13 identity of the alternate. The attorney general of each party state or the designee of the  
14 attorney general, or other counsel if the laws of the party state specifically provide,  
15 shall be entitled to attend the meetings of the commission, but shall not vote. Such  
16 attorneys general, designees, or other counsel shall receive all notices of meetings  
17 required under paragraph 1(e) of this Article.

18 (b) Each party state shall provide by law for the selection of representatives  
19 from its subdivisions affected by this compact to consult with the commission member  
20 from that state.

21 (c) Each member shall be entitled to one vote. The commission shall not act  
22 unless a majority of the members are present, and no action shall be binding unless  
23 approved by a majority of the total number of members.

24 (d) The commission shall adopt an official seal to be used as it may provide.

25 (e) The commission shall hold an annual meeting and such other regular  
26 meetings as its bylaws may provide and such special meetings as its executive  
27 committee may determine. The commission bylaws shall specify the dates of the  
28 annual and any other regular meetings, and shall provide for the giving of notice of  
29 annual, regular and special meetings. Notices of special meetings shall include the  
30 reasons therefor and an agenda of the items to be considered.

31 (f) The commission shall elect annually, from among its members, a chairman,

1 a vice-chairman and a treasurer. The commission shall appoint an executive director  
2 who shall serve at its pleasure, and it shall fix the duties and compensation of the  
3 executive director. The executive director shall be secretary of the commission. The  
4 commission shall make provision for the bonding of such of its officers and employees  
5 as it may deem appropriate.

6 (g) Irrespective of the civil service, personnel or other merit system laws of  
7 any party state, the executive director shall appoint or discharge such personnel as  
8 may be necessary for the performance of the functions of the commission and shall fix  
9 their duties and compensation. The commission bylaws shall provide for personnel  
10 policies and programs.

11 (h) The commission may borrow, accept or contract for the services of  
12 personnel from any state, the United States, or any other governmental entity.

13 (i) The commission may accept for any of its purposes and functions any and  
14 all donations and grants of money, equipment, supplies, materials and services,  
15 conditional or otherwise, from any governmental entity, and may utilize and dispose  
16 of the same.

17 (j) The commission may establish one or more offices for the transacting of its  
18 business.

19 (k) The commission shall adopt bylaws for the conduct of its business. The  
20 commission shall publish its bylaws in convenient form, and shall file a copy of the  
21 bylaws and any amendments thereto with the appropriate agency or officer in each of  
22 the party states.

23 (l) The commission annually shall make to the governor and legislature of  
24 each party state a report covering its activities for the preceding year. Any donation or  
25 grant accepted by the commission or services borrowed shall be reported in the annual  
26 report of the commission, and shall include the nature, amount and conditions, if any,  
27 of the donation, gift, grant or services borrowed and the identity of the donor or  
28 lender. The commission may make additional reports as it may deem desirable.

#### 29 COMMITTEES.

30 2.(a) To assist in the conduct of its business when the full commission is not  
31 meeting, the commission shall have an executive committee of seven members,

1 including the chairman, vice-chairman, treasurer and four other members elected  
2 annually by the commission. The executive committee, subject to the provisions of  
3 this compact and consistent with the policies of the commission, shall function as  
4 provided in the bylaws of the commission.

5 (b) The commission may establish advisory and technical committees,  
6 membership on which may include private persons and public officials, in furthering  
7 any of its activities. Such committees may consider any matter of concern to the  
8 commission, including problems of special interest to any party state and problems  
9 dealing with particular types of taxes.

10 (c) The commission may establish such additional committees as its bylaws  
11 may provide.

#### 12 POWERS.

13 3. In addition to powers conferred elsewhere in this compact, the commission  
14 shall have power to:

15 (a) Study state and local tax systems and particular types of state and local  
16 taxes.

17 (b) Develop and recommend proposals for an increase in uniformity or  
18 compatibility of state and local tax laws with a view toward encouraging the  
19 simplification and improvement of state and local tax law and administration.

20 (c) Compile and publish information as in its judgment would assist the party  
21 states in implementation of the compact and taxpayers in complying with state and  
22 local tax laws.

23 (d) Do all things necessary and incidental to the administration of its functions  
24 pursuant to this compact.

#### 25 FINANCE.

26 4.(a) The commission shall submit to the governor or designated officer or  
27 officers of each party state a budget of its estimated expenditures for such period as  
28 may be required by the laws of that state for presentation to the legislature thereof.

29 (b) Each of the commission's budgets of estimated expenditures shall contain  
30 specific recommendations of the amounts to be appropriated by each of the party  
31 states. The total amount of appropriations requested under any such budget shall be



1 uniform or similar provisions of law relating to an income tax, capital stock tax, gross  
2 receipts tax, sales or use tax, the commission may adopt uniform regulations for any  
3 phase of the administration of such law, including assertion of jurisdiction to tax, or  
4 prescribing uniform tax forms. The commission may also act with respect to the  
5 provisions of Article IV of this compact.

6 2. Prior to the adoption of any regulation, the commission shall:

7 (a) As provided in its bylaws, hold at least one public hearing on due notice to  
8 all affected party states and subdivisions thereof and to all taxpayers and other persons  
9 who have made timely request of the commission for advance notice of its regulation-  
10 making proceedings.

11 (b) Afford all affected party states and subdivisions and interested persons an  
12 opportunity to submit relevant written data and views, which shall be considered fully  
13 by the commission.

14 3. The commission shall submit any regulations adopted by it to the  
15 appropriate officials of all party states and subdivisions to which they might apply.  
16 Each such state and subdivision shall consider any such regulations for adoption in  
17 accordance with its own laws and procedures.

## 18 ARTICLE VIII.

### 19 INTERSTATE AUDITS.

20 1. This Article shall be in force only in those party states that specifically  
21 provide therefor by statute.

22 2. Any party state or subdivision thereof desiring to make or participate in an  
23 audit of any accounts, books, papers, records or other documents may request the  
24 commission to perform the audit on its behalf. In responding to the request, the  
25 commission shall have access to and may examine, at any reasonable time, such  
26 accounts, books, papers, records, and other documents and any relevant property or  
27 stock of merchandise. The commission may enter into agreements with party states or  
28 their subdivisions for assistance in performance of the audit. The commission shall  
29 make charges, to be paid by the state or local government or governments for which it  
30 performs the service, for any audits performed by it in order to reimburse itself for the  
31 actual costs incurred in making the audit.

1           3. The commission may require the attendance of any person within the state  
2 where it is conducting an audit or part thereof at a time and place fixed by it within  
3 such state for the purpose of giving testimony with respect to any account, book,  
4 paper, document, other record, property or stock of merchandise being examined in  
5 connection with the audit. If the person is not within the jurisdiction, the person may  
6 be required to attend for such purpose at any time and place fixed by the commission  
7 within the state of which the person is a resident: provided that such state has adopted  
8 this Article.

9           4. The commission may apply to any court having power to issue compulsory  
10 process for orders in aid of its powers and responsibilities pursuant to this Article and  
11 any and all such courts shall have jurisdiction to issue such orders. Failure of any  
12 person to obey any such order shall be punishable as contempt of the issuing court. If  
13 the party or subject matter on account of which the commission seeks an order is  
14 within the jurisdiction of the court to which application is made, such application may  
15 be to a court in the state or subdivision on behalf of which the audit is being made or a  
16 court in the state in which the object of the order being sought is situated. The  
17 provisions of this paragraph apply only to courts in a state that has adopted this  
18 Article.

19           5. The commission may decline to perform any audit requested if it finds that  
20 its available personnel or other resources are insufficient for the purpose or that, in the  
21 terms requested, the audit is impracticable of satisfactory performance. If the  
22 commission, on the basis of its experience, has reason to believe that an audit of a  
23 particular taxpayer, either at a particular time or on a particular schedule, would be of  
24 interest to a number of party states or their subdivisions, it may offer to make the audit  
25 or audits, the offer to be contingent on sufficient participation therein as determined by  
26 the commission.

27           6. Information obtained by any audit pursuant to this Article shall be  
28 confidential and available only for tax purposes to party states, their subdivisions or  
29 the United States. Availability of information shall be in accordance with the laws of  
30 the states or subdivisions on whose account the commission performs the audit, and  
31 only through the appropriate agencies or officers of such states or subdivisions.

1 Nothing in this Article shall be construed to require any taxpayer to keep records for  
2 any period not otherwise required by law.

3 7. Other arrangements made or authorized pursuant to laws for cooperative  
4 audit by or on behalf of the party states or any of their subdivisions are not superseded  
5 or invalidated by this Article.

6 8. In no event shall the commission make any charge against a taxpayer for an  
7 audit.

8 9. As used in this Article, "tax," in addition to the meaning ascribed to it in  
9 Article II, means any tax or license fee imposed in whole or in part for revenue  
10 purposes.

#### 11 ARTICLE IX.

#### 12 ARBITRATION.

13 1. Whenever the commission finds a need for settling disputes concerning  
14 apportionments and allocations by arbitration, it may adopt a regulation placing this  
15 Article in effect, notwithstanding the provisions of Article VII.

16 2. The commission shall select and maintain an arbitration panel composed of  
17 officers and employees of state and local governments and private persons who shall  
18 be knowledgeable and experienced in matters of tax law and administration.

19 3. Whenever a taxpayer who has elected to employ Article IV, or whenever the  
20 laws of the party state or subdivision thereof are substantially identical with the  
21 relevant provisions of Article IV, the taxpayer, by written notice to the commission  
22 and to each party state or subdivision thereof that would be affected, may secure  
23 arbitration of an apportionment or allocation, if the taxpayer is dissatisfied with the  
24 final administrative determination of the tax agency of the state or subdivision with  
25 respect thereto on the ground that it would subject the taxpayer to double or multiple  
26 taxation by two or more party states or subdivisions thereof. Each party state and  
27 subdivision thereof hereby consents to the arbitration as provided herein, and agrees to  
28 be bound thereby.

29 4. The arbitration board shall be composed of one person selected by the  
30 taxpayer, one by the agency or agencies involved, and one member of the  
31 commission's arbitration panel. If the agencies involved are unable to agree on the

1 person to be selected by them, such person shall be selected by lot from the total  
2 membership of the arbitration panel. The two persons selected for the board in the  
3 manner provided by the foregoing provisions of this paragraph shall jointly select the  
4 third member of the board. If they are unable to agree on the selection, the third  
5 member shall be selected by lot from among the total membership of the arbitration  
6 panel. No member of a board selected by lot shall be qualified to serve if the member  
7 is an officer or employee or is otherwise affiliated with any party to the arbitration  
8 proceeding. Residence within the jurisdiction of a party to the arbitration proceeding  
9 shall not constitute affiliation within the meaning of this paragraph.

10 5. The board may sit in any state or subdivision party to the proceeding, in the  
11 state of the taxpayer's incorporation, residence or domicile, in any state where the  
12 taxpayer does business, or in any place that it finds most appropriate for gaining  
13 access to evidence relevant to the matter before it.

14 6. The board shall give due notice of the times and places of its hearings. The  
15 parties shall be entitled to be heard, to present evidence, and to examine and cross-  
16 examine witnesses. The board shall act by majority vote.

17 7. The board shall have power to administer oaths, take testimony, subpoena  
18 and require the attendance of witnesses and the production of accounts, books, papers,  
19 records, and other documents, and issue commissions to take testimony. Subpoenas  
20 may be signed by any member of the board. In case of failure to obey a subpoena, and  
21 upon application by the board, any judge of a court of competent jurisdiction of the  
22 state in which the board is sitting or in which the person to whom the subpoena is  
23 directed may be found may make an order requiring compliance with the subpoena,  
24 and the court may punish failure to obey the order as a contempt. The provisions of  
25 this paragraph apply only in states that have adopted this Article.

26 8. Unless the parties otherwise agree the expenses and other costs of the  
27 arbitration shall be assessed and allocated among the parties by the board in such  
28 manner as it may determine. The commission shall fix a schedule of compensation for  
29 members of arbitration boards and of other allowable expenses and costs. No officer  
30 or employee of a state or local government who serves as a member of a board shall be  
31 entitled to compensation therefor unless the member is required on account of the

1 service as a board member to forego the regular compensation attaching to the public  
2 employment, but any such board member shall be entitled to expenses.

3 9. The board shall determine the disputed apportionment or allocation and any  
4 matters necessary thereto. The determinations of the board shall be final for purposes  
5 of making the apportionment or allocation, but for no other purpose.

6 10. The board shall file with the commission and with each tax agency  
7 represented in the proceeding: the determination of the board; the board's written  
8 statement of its reasons therefor; the record of the board's proceedings; and any other  
9 documents required by the arbitration rules of the commission to be filed.

10 11. The commission shall publish the determinations of boards together with  
11 the statements of the reasons therefor.

12 12. The commission shall adopt and publish rules of procedure and practice  
13 and shall file a copy of such rules and of any amendment thereto with the appropriate  
14 agency or officer in each of the party states.

15 13. Nothing contained herein shall prevent at any time a written compromise of  
16 any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration  
17 proceedings.

## 18 ARTICLE X.

### 19 ENTRY INTO FORCE AND WITHDRAWAL.

20 1. This compact shall enter into force when enacted into law by any seven  
21 states. Thereafter, this compact shall become effective as to any other state upon its  
22 enactment thereof. The commission shall arrange for notification of all party states  
23 whenever there is a new enactment of the compact.

24 2. Any party state may withdraw from this compact by enacting a statute  
25 repealing the same. No withdrawal shall affect any liability already incurred by or  
26 chargeable to a party state prior to the time of such withdrawal.

27 3. No proceeding commenced before an arbitration board prior to the  
28 withdrawal of a state and to which the withdrawing state or any subdivision thereof is  
29 a party shall be discontinued or terminated by the withdrawal, nor shall the board  
30 thereby lose jurisdiction over any of the parties to the proceeding necessary to make a  
31 binding determination therein.

ARTICLE XI.

EFFECT ON OTHER LAWS AND JURISDICTION.

Nothing in this compact shall be construed to:

(a) Affect the power of any state or subdivision thereof to fix rates of taxation, except that a party state shall be obligated to implement Article III 2 of this compact.

(b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax: provided that the definition of "tax" in Article VIII 9 may apply for the purposes of that Article and the commission's powers of study and recommendation pursuant to Article VI 3 may apply.

(c) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

(d) Supersede or limit the jurisdiction of any court of the United States.

ARTICLE XII.

CONSTRUCTION AND SEVERABILITY.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

\* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 43.19.010, as amended by sec. 1 of this Act, applies to a taxpayer filing a return for a tax year beginning on or after January 1, 2027.

\* **Sec. 3.** This Act takes effect January 1, 2027.