

CS FOR SENATE BILL NO. 112(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/20/05

Referred: Rules

Sponsor(s): SENATORS BUNDE, Wilken, Wagoner

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a tax on residents of and individuals employed in regional**
2 **educational attendance areas and to permanent fund dividend applications; and**
3 **providing for an effective date."**

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

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 LEGISLATIVE INTENT. It is the intent of the legislature that the proceeds of the tax
8 imposed in sec. 4 of this Act provide an additional source of revenue that can be used by the
9 legislature to provide additional funding for regional educational attendance areas beyond
10 existing state and federal contributions.

11 * **Sec. 2.** AS 43.05.240 is amended by adding a new subsection to read:

12 (c) An individual requesting an informal conference under (a) of this section
13 regarding the regional educational attendance area tax under AS 43.45 shall pay a \$50
14 fee. The department shall refund the fee to the individual if the individual prevails

1 upon a final determination of the case.

2 * **Sec. 3.** AS 43.23.015(b) is amended to read:

3 (b) The department shall prescribe and furnish an application form for
 4 claiming a permanent fund dividend. The application must include notice of the
 5 penalties provided for under AS 43.23.035 and contain a statement of eligibility and a
 6 certification of residency. **The department shall require applicants to supply a**
 7 **physical address as well as a mailing address.**

8 * **Sec. 4.** AS 43 is amended by adding a new chapter to read:

9 **Chapter 45. Regional Educational Attendance Area Tax.**

10 **Sec. 43.45.011. Tax imposed.** (a) There is imposed a tax each year on each
 11 individual

12 (1) who is at least 21 years of age but not more than 64 years of age on
 13 January 1 of the tax year; and

14 (2) who

15 (A) resides in a regional educational attendance area on
 16 January 1 of the tax year; or

17 (B) is employed during the tax year in a regional educational
 18 attendance area for 10 consecutive working days or a normal pay period,
 19 whichever is less, or for more than 20 cumulative working days.

20 (b) The commissioner shall determine the amount of tax due each year from
 21 each individual subject to the tax imposed under (a) of this section by dividing the
 22 amount of the total local contributions to schools required of organized boroughs
 23 under AS 14.17.410(b)(2) by the estimated population of individuals 21 years of age
 24 and older but not more than 64 years of age in the organized boroughs.

25 (c) The following are exempt from the tax imposed under (a) of this section:

26 (1) an individual who is a member of a family with an income during
 27 the tax year equal to or less than the federal poverty guidelines for the tax year for
 28 Alaska set by the United States Department of Health and Human Services;

29 (2) a disabled veteran, as the term is defined in AS 29.45.030(i);

30 (3) the owner of real property located in a municipality that levies a
 31 property tax, if the taxes on the property were not delinquent at any time during the tax

1 year.

2 **Sec. 43.45.021. Collection of tax.** (a) The tax imposed under AS 43.45.011
3 shall be paid before April 1 of the calendar year following the year for which it is
4 imposed. An individual who is subject to the tax and has not had the tax withheld
5 during the tax year by an employer from the individual's salary or other compensation
6 shall file a return and pay the tax on a form and in a manner prescribed by the
7 department.

8 (b) Each employer of an individual subject to tax under this chapter shall
9 deduct and withhold the lesser of one-half of the tax for the year or 10 percent of the
10 employee's gross compensation from the employee's first regular payroll during the
11 tax year and each subsequent regular payroll until the full tax due has been collected.
12 The employer shall hold the tax withheld in trust and remit it to the department with a
13 return prescribed by the department not later than the 15th day of the month following
14 the end of each calendar quarter or any month during which the cumulative unpaid
15 withholding by the employer exceeds \$500, whichever is earlier. These withheld
16 taxes are not subject to garnishment or attachment and, in the event of lien, judgment,
17 or bankruptcy proceedings, are not considered assets of the employer. An employer
18 who fails to make the deductions from the compensation of employees or to remit the
19 tax to the department by the date required under this section is liable to the department
20 for the tax.

21 (c) An employer is not required to withhold the tax from the salary or other
22 compensation of an individual if the employer reasonably believes, based on the
23 attestation of the individual, that the individual

24 (1) owns real property located in a municipality that levies a property
25 tax;

26 (2) was 20 years of age or younger or 65 years of age or older on
27 January 1 of the tax year; or

28 (3) has had the full tax due under AS 43.45.011 for that tax year
29 withheld by another employer.

30 (d) If the tax is not deducted under (b) of this section from the salary or other
31 compensation of an individual subject to the tax, and the individual has not filed a

1 return and paid the tax under (a) of this section, notwithstanding AS 09.35, the
2 department may make a return under AS 43.05.050.

3 (e) An employer required to withhold tax under (b) of this section shall file a
4 report not later than January 31 following each tax year showing the total withholding
5 for each employee during the tax year. The report shall be filed in a form and manner
6 prescribed by the department. An employer who fails to file a report under this
7 section is subject to a penalty of \$50 a day not to exceed \$2,500.

8 (f) If the full amount required under (b) of this section has been deducted and
9 withheld from each payroll of an employee employed in a regional educational
10 attendance area but not residing in a regional educational attendance area on January 1
11 of the tax year, the department shall consider the employee's tax obligation satisfied,
12 and the employee is not required to file a return under (a) of this section, even if the
13 total amount deducted and withheld was less than the full amount of the tax calculated
14 under AS 43.45.011(b).

15 **Sec. 43.45.031. Record of withholding.** An employer who withholds tax
16 under AS 43.45.021 shall furnish to the employee upon request a record of the amount
17 of tax withheld from the employee. The department shall provide a form for that
18 purpose.

19 **Sec. 43.45.041. Refunds.** An individual who has paid more than the amount
20 of tax due under this chapter for a calendar year may claim a refund under
21 AS 43.05.275. A claim for a refund under this section may only be filed during the
22 calendar year following the tax year for which the refund is claimed and on a form and
23 in the manner prescribed by the department. The department is not required to issue a
24 refund to an employer.

25 **Sec. 43.45.051. Disposition of tax proceeds.** (a) The tax collected under
26 AS 43.45.021 shall be deposited into the general fund and accounted for separately.

27 (b) The legislature may appropriate the estimated amounts to be collected and
28 separately accounted for under (a) of this section for education.

29 (c) The deposit required and appropriation authorized by this section are not
30 intended to create a dedication in violation of art. IX, sec. 7, Constitution of the State
31 of Alaska.

1 **Sec. 43.45.099. Definitions.** In this chapter,

2 (1) "family" means persons who are related by blood, marriage, or
3 adoption and who live in the same household on a permanent basis;

4 (2) "regional educational attendance area" means those portions of a
5 regional educational attendance area, as that term is defined in AS 14.60.010, that are
6 outside of a home rule or first class city;

7 (3) "tax year" means the calendar year for which the tax levied in
8 AS 43.45.011 is imposed.

9 * **Sec. 5.** This Act takes effect January 1, 2006.