

SENATE BILL NO. 34

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY SENATORS BUNDE, Wilken

Introduced: 1/16/07

Referred: Community and Regional Affairs, Health, Education and Social Services, Finance

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; relating to permanent fund dividend applications;
3 relating to regional educational attendance area grants; and providing for an effective
4 date."

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

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

8 LEGISLATIVE INTENT. It is the intent of the legislature that the proceeds of the tax
9 imposed in sec. 5 of this Act provide an additional source of revenue that can be used by the
10 legislature to provide additional funding for regional educational attendance areas beyond
11 existing state and federal contributions.

12 * **Sec. 2.** AS 14.08 is amended by adding a new section to read:

13 **Sec. 14.08.154. Regional educational attendance area grants.** (a) There is
14 established a regional educational attendance area grant program.

1 (b) The department shall annually distribute money appropriated by the
 2 legislature for grants under this section to each regional educational attendance area,
 3 allocating the money according to each regional educational attendance area's district
 4 adjusted ADM, as that term is defined in AS 14.17.990.

5 * **Sec. 3.** AS 43.05.240 is amended by adding a new subsection to read:

6 (c) An individual requesting an informal conference under (a) of this section
 7 regarding the regional educational attendance area tax under AS 43.45 shall pay a \$50
 8 fee. The department shall refund the fee to the individual if the individual prevails on
 9 a final determination of the case.

10 * **Sec. 4.** AS 43.23.015(b) is amended to read:

11 (b) The department shall prescribe and furnish an application form for
 12 claiming a permanent fund dividend. The application must include notice of the
 13 penalties provided for under AS 43.23.035 and contain a statement of eligibility and a
 14 certification of residency. **The department shall require an applicant to supply a**
 15 **physical address as well as a mailing address.**

16 * **Sec. 5.** AS 43 is amended by adding a new chapter to read:

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

18 **Sec. 43.45.011. Tax imposed.** (a) There is imposed a tax each year on an
 19 individual

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

22 (2) who

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

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

28 (b) The commissioner shall determine the amount of tax due each year from
 29 each individual subject to the tax imposed under (a) of this section by dividing the
 30 amount of the total local contributions to schools required of organized boroughs
 31 under AS 14.17.410(b)(2) by the estimated population of individuals 21 years of age

1 and older but not more than 64 years of age in the organized boroughs.

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

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

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

7 (3) the owner of real property located in a municipality that levies a
8 property tax, if the taxes on the property were not delinquent at any time during the tax
9 year.

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

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

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

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

3 (2) was less than 21 years of age or over 64 years of age on January 1
4 of the tax year; or

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

7 (d) If the tax is not deducted under (b) of this section from the salary or other
8 compensation of an individual subject to the tax, and the individual has not filed a
9 return and paid the tax under (a) of this section, notwithstanding AS 09.35, the
10 department may make a return under AS 43.05.050.

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

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

23 **Sec. 43.45.031. Record of withholding.** An employer who withholds tax
24 under AS 43.45.021 shall furnish to the employee on request a record of the amount of
25 tax withheld from the employee. The department shall provide a form for that
26 purpose.

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

1 refund to an employer.

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

4 (b) The legislature may appropriate the estimated amounts to be collected and
5 separately accounted for under (a) of this section for grants to regional educational
6 attendance areas under AS 14.08.154.

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

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

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

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

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

18 * **Sec. 6.** This Act takes effect January 1, 2008.