

SENATE CS FOR CS FOR HOUSE BILL NO. 118(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/12/12

Referred: Finance

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the reporting and analysis of certain information relating to tax
2 credits, exclusions, exemptions, waivers, and other tax expenditures; relating to bills
3 creating tax expenditures; relating to confidentiality and use of tax information; relating
4 to a tax credit for qualified research and development expenditures; and providing for
5 an effective date."

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

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

9 SHORT TITLE. Sections 1 - 9 of this Act may be known as the Alaska Tax Break
10 Transparency Act.

11 * **Sec. 2.** AS 24.08 is amended by adding a new section to read:

12 **Sec. 24.08.038. Tax expenditure bills.** The legislature shall include a
13 statement of the rationale and purpose of a tax expenditure in a bill creating a tax

1 expenditure. In this section, "tax expenditure" has the meaning given in AS 43.05.090.

2 * **Sec. 3.** AS 24.20 is amended by adding a new section to read:

3 **Sec. 24.20.232. Analysis of tax expenditures.** If the sum of tax expenditures
4 of a specific type exceeds \$1,000,000 in fiscal year 2012 or a succeeding fiscal year,
5 the legislative finance division shall analyze the use of the tax expenditure on the
6 following schedule to determine whether the statute authorizing the tax expenditure
7 has achieved its purpose:

8 (1) tax expenditures existing on July 1, 2015, shall be analyzed once
9 between July 1, 2015, and June 30, 2020, and before a delayed repeal of a tax
10 expenditure;

11 (2) a tax expenditure created after July 1, 2015, shall be analyzed after
12 it has been in effect for seven years or, if the statute authorizing the expenditure has a
13 delayed repeal date, one year before the effective date of the delayed repeal of the tax
14 expenditure.

15 * **Sec. 4.** AS 37.07.020(a) is amended to read:

16 (a) **After considering the revenue and tax expenditure report prepared by**
17 **the Department of Revenue under AS 43.05.090, the** [THE] governor shall prepare
18 a budget for the succeeding fiscal year that must cover all estimated receipts, including
19 all grants, loans, and money received from the federal government and all proposed
20 expenditures of the state government. The budget shall be organized so that the
21 proposed expenditures for each agency are presented separately. The budget must be
22 accompanied by the information required under AS 37.07.050 and by the following
23 separate bills: (1) an appropriation bill authorizing the operating and capital
24 expenditures of the state's integrated comprehensive mental health program under
25 AS 37.14.003(a); (2) an appropriation bill authorizing state operating expenditures
26 other than those included in the state's integrated comprehensive mental health
27 program; (3) an appropriation bill authorizing capital expenditures other than those
28 included in the state's integrated comprehensive mental health program; and (4) a bill
29 or bills covering recommendations, if any, in the budget for new or additional revenue.
30 The budget for the succeeding fiscal year and each of the bills shall become public
31 information on December 15 at which time the governor shall submit copies to the

1 legislature and make copies available to the public. The bills, identical in content to
 2 the copies released on December 15, shall be delivered to the rules committee of each
 3 house before the fourth legislative day of the next regular session for introduction.

4 * **Sec. 5.** AS 37.07.020(b) is amended to read:

5 (b) In addition to the budget and bills submitted under (a) of this section, the
 6 governor shall submit a capital improvements program covering the succeeding six
 7 fiscal years. The governor shall also submit a fiscal plan with estimates of significant
 8 sources and uses of funds for the succeeding 10 fiscal years. The fiscal plan

9 (1) must include sufficient details to identify

10 (A) significant sources of funds;

11 (B) significant uses of funds, including lump sum projections

12 of

13 (i) operating expenditures;

14 (ii) capital expenditures;

15 (iii) debt service expenditures;

16 (iv) fund capitalizations;

17 (v) appropriations of income of the Alaska permanent

18 fund (art. IX, sec. 15, Constitution of the State of Alaska), if any;

19 (2) must balance sources and uses of funds held while providing for
 20 essential state services and protecting the economic stability of the state;

21 (3) must include projected balances of significant funds held in
 22 separate accounts, including the budget reserve fund (art. IX, sec. 17, Constitution of
 23 the State of Alaska), the public education fund (AS 14.17.300), and the Alaska capital
 24 income fund (AS 37.05.565);

25 (4) must set out significant assumptions used in the projections with
 26 sufficient detail to enable the legislature to rely on the fiscal plan in understanding,
 27 evaluating, and resolving issues of state budgeting, including information that supports
 28 major areas of operating increases, such as population demographics that affect the
 29 need for particular government services;

30 **(5) must consider issues raised by the revenue and tax expenditure**
 31 **report prepared by the Department of Revenue under AS 43.05.090.**

1 * **Sec. 6.** AS 40.25.100(a) is amended to read:

2 (a) Information in the possession of the Department of Revenue that discloses
3 the particulars of the business or affairs of a taxpayer or other person is not a matter of
4 public record, except as provided in AS 43.05.230(i) **and 43.05.090(d)** or for purposes
5 of investigation and law enforcement. The information shall be kept confidential
6 except when its production is required in an official investigation, administrative
7 adjudication under AS 43.05.405 - 43.05.499, or court proceeding. These restrictions
8 do not prohibit the publication of statistics presented in a manner that prevents the
9 identification of particular reports and items, prohibit the publication of tax lists
10 showing the names of taxpayers who are delinquent and relevant information that may
11 assist in the collection of delinquent taxes, or prohibit the publication of records,
12 proceedings, and decisions under AS 43.05.405 - 43.05.499.

13 * **Sec. 7.** AS 43.05.090 is amended to read:

14 **Sec. 43.05.090. Preparation and publication of reports and statistics.** The
15 department shall prepare and annually publish statistics of the revenues derived under
16 the tax laws administered by it, **including an analysis of tax revenue losses due to**
17 **tax expenditures**.

18 * **Sec. 8.** AS 43.05.090 is amended by adding new subsections to read:

- 19 (b) The revenue and tax expenditure report must include
- 20 (1) the statutory authority for each type of tax expenditure;
- 21 (2) the annual sum of tax expenditures for the prior fiscal year,
22 separately calculated for each type of expenditure, and the total number of taxpayers
23 who benefitted from each type of expenditure;
- 24 (3) an estimate of tax expenditures for the current fiscal year,
25 separately calculated for each type of expenditure;
- 26 (4) an estimate of the public costs of administering the tax
27 expenditures.
- 28 (c) The department shall annually transmit an electronic copy of the revenue
29 and tax expenditure report to each member of the legislature and make the report
30 available to the public on the department's Internet website.
- 31 (d) The department shall notify the legislative finance division when the sum

1 of tax expenditures of a specific type has exceeded \$1,000,000 in fiscal year 2012 or a
 2 succeeding fiscal year and provide the legislative finance division with the
 3 nonconfidential or, subject to the division's execution of a confidentiality agreement,
 4 confidential information necessary to complete the analysis under AS 24.20.232.

5 (e) In this section, "tax expenditure" means a tax credit, exclusion, exemption,
 6 waiver, or other loss of state tax revenue due to an express provision of state tax law;
 7 "tax expenditure" does not include federal tax expenditures under federal law adopted
 8 by reference in AS 43.20.021 or tax deductions incurred in the ordinary course of
 9 trade or business.

10 * **Sec. 9.** AS 43.05.230(a) is amended to read:

11 (a) It is unlawful for a current or former officer, employee, or agent of the
 12 state to divulge the amount of income or the particulars set out or disclosed in a report
 13 or return made under this title, except

14 (1) in connection with official investigations or proceedings of the
 15 department, whether judicial or administrative, involving taxes due under this title;

16 (2) in connection with official investigations or proceedings of the
 17 child support enforcement agency, whether judicial or administrative, involving child
 18 support obligations imposed or imposable under AS 25 or AS 47;

19 (3) as provided in AS 38.05.036 pertaining to audit functions of the
 20 Department of Natural Resources;

21 (4) **as provided in AS 43.05.090(d);**

22 **(5)** as provided in AS 43.05.405 - 43.05.499; and

23 **(6)** [(5)] as otherwise provided in this section or AS 43.55.890.

24 * **Sec. 10.** AS 43.20 is amended by adding a new section to article 1 to read:

25 **Sec. 43.20.047. Qualified research and development tax credit.** (a) Subject
 26 to the terms and conditions of this section and in addition to any other credit
 27 authorized to the taxpayer by this chapter, a taxpayer may apply 20 percent of the
 28 taxpayer's expenditure for qualified research and development attributable to this state
 29 for the taxable year that exceeds the base amount as a credit not to exceed \$10,000,000
 30 against the state tax liability imposed on the taxpayer under this chapter.

31 (b) Qualified research and development expenditures are attributable to this

1 state if the research and development is being conducted in this state or the payroll of
 2 employees conducting the research and development is in this state. In this subsection,
 3 payroll of an employee is in this state if compensation is paid to an employee in this
 4 state and reported as paid in this state in the quarterly contribution report under
 5 AS 23.20 to the Department of Labor and Workforce Development.

6 (c) If the tax credit under this section exceeds the taxpayer's tax liability after
 7 other tax credits are taken under this chapter for the year in which the expenditure is
 8 incurred, the excess of the tax credit over the liability may be carried forward for up to
 9 seven years. If an unused credit is carried forward to a tax year from an earlier year,
 10 the credit arising in the earliest year is applied first against the tax liability for the year.

11 (d) A person may not claim a credit under this section for qualified research
 12 and development expenditures that were deducted in the calculation of tax liability
 13 under AS 43.20.011(e) or for which any other credit, including any federal credit, has
 14 been claimed under this title.

15 (e) Each year, if three or more taxpayers claim the credit authorized under this
 16 section during the immediately preceding year, the department shall report to the
 17 legislature the number of taxpayers who claimed credits under this section in the prior
 18 year, the total cumulative amount of credits granted to all taxpayers under this section
 19 for the prior tax year, a description of the research and development projects for which
 20 the credit was granted, and the total cumulative number of employees conducting the
 21 research and development for which all taxpayers claim the credit.

22 (f) In this section,

23 (1) "base amount" means the average of qualified research and
 24 development expenditures attributable to this state for the three tax years immediately
 25 preceding the taxable year for which the credit is being claimed;

26 (2) "qualified research and development" has the meaning given to
 27 "qualified research" in 26 U.S.C. 41(d) (Internal Revenue Code), as amended, that is
 28 attributable to this state.

29 * **Sec. 11.** Sections 3 - 9 of this Act take effect July 1, 2018.

30 * **Sec. 12.** Except as provided in sec. 11 of this Act, this Act takes effect immediately under
 31 AS 01.10.070(c).