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SENATE CS FOR CS FOR HOUSE BILL NO. 306(FIN) am S

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 4/23/14

Offered: 4/20/14

Sponsor(s): REPRESENTATIVES THOMPSON, Stoltze, Saddler, Chenault, Hawker, Keller, Tammie Wilson, Isaacson, Reinbold, Austerman, Olson, Hughes, LeDoux

SENATORS Olson, Stevens, Dyson, Kelly, Fairclough, McGuire, Bishop, Egan, Giessel, Dunleavy, Micciche

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the review and administration of tax credit programs; requiring the**
2 **Department of Revenue to report indirect expenditures; relating to the duties of state**
3 **agencies; requiring the legislative finance division to analyze certain indirect**
4 **expenditures; relating to lapse dates for appropriations for capital projects; relating to**
5 **lapse dates for capital budget grants; relating to capital expenditures; relating to**
6 **unexpended balances of capital projects; repealing the capital projects funds; repealing**
7 **the insurance tax education credit, the income tax education credit, the oil or gas**
8 **producer education credit, the property tax education credit, the mining business**
9 **education credit, the fisheries business education credit, the fisheries business tax credit**
10 **for scholarship contributions, the fisheries business salmon product development tax**
11 **credit, the fisheries business salmon utilization tax credit, the fisheries business landing**
12 **tax credit for scholarship contributions, the fisheries resource landing tax credit for the**

1 fisheries resource harvested under the community development quota, the fisheries
 2 resource landing tax education credit, and the film production tax credit; providing for
 3 an effective date by repealing the effective dates in sec. 7, ch. 57, SLA 2003, the effective
 4 date in sec. 57, ch. 92, SLA 2010, and the effective dates in secs. 40 - 42, ch. 51, SLA
 5 2012; and providing for an effective date."

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

7 * **Section 1.** AS 21.06.110 is amended to read:

8 **Sec. 21.06.110. Director's annual report.** As early in each calendar year as is
 9 reasonably possible, the director shall prepare and deliver an annual report to the
 10 commissioner, who shall notify the legislature that the report is available, showing,
 11 with respect to the preceding calendar year,

12 (1) a list of the authorized insurers transacting insurance in this state,
 13 with a summary of their financial statement as the director considers appropriate;

14 (2) the name of each insurer whose certificate of authority was
 15 surrendered, suspended, or revoked during the year and the cause of surrender,
 16 suspension, or revocation;

17 (3) the name of each insurer authorized to do business in this state
 18 against which delinquency or similar proceedings were instituted and, if against an
 19 insurer domiciled in this state, a concise statement of the facts with respect to each
 20 proceeding and its present status;

21 (4) a statement in regard to examination of rating organizations,
 22 advisory organizations, joint underwriters, and joint reinsurers as required by
 23 AS 21.39.120;

24 (5) the receipt and expenses of the division for the year;

25 (6) recommendations of the director as to amendments or
 26 supplementation of laws affecting insurance or the office of director;

27 (7) statistical information regarding health insurance, including the
 28 number of individual and group policies sold or terminated in the state; this paragraph
 29 does not authorize the director to require an insurer to release proprietary information;

(8) the annual percentage of health claims paid in the state that meets the requirements of AS 21.36.495(a) and (d);

(9) the total amount of contributions reported and the total amount of credit claimed under AS 21.96.075 [AS 21.96.070 AND 21.96.075]; and

(10) other pertinent information and matters the director considers proper.

* **Sec. 2.** AS 21.09.210(j) is amended to read:

(j) The provisions of AS 21.96.075 [AS 21.96.070 AND 21.96.075] apply to a taxpayer who is required to pay a tax due under this section.

* **Sec. 3.** AS 24.20.231 is amended to read:

Sec. 24.20.231. Duties. The legislative finance division shall

(1) analyze the budget and appropriation requests of each department, institution, bureau, board, commission, or other agency of state government;

(2) analyze the revenue requirements of the state;

(3) provide the finance committees of the legislature with comprehensive budget review and fiscal analysis services;

(4) cooperate with the office of management and budget in establishing a comprehensive system for state budgeting and financial management as set out in AS 37.07 (Executive Budget Act);

(5) complete studies and prepare reports, memoranda, or other materials as directed by the Legislative Budget and Audit Committee;

(6) with the governor's permission, designate the legislative fiscal analyst to serve ex officio on the governor's budget review committee; [AND]

(7) identify the actual reduction in state expenditures in the first fiscal year following a review under AS 44.66.040 resulting from that review and inform the Legislative Budget and Audit Committee of the amount of the reduction; and

(8) not later than the first legislative day of each first regular session of each legislature, conduct a review in accordance with AS 24.20.235 of the report provided to the division under AS 43.05.095.

* **Sec. 4.** AS 24.20 is amended by adding a new section to read:

Sec. 24.20.235. Indirect expenditure report. (a) Every two years, the

1 legislative finance division shall deliver to the chair of the finance committee in each
 2 house of the legislature a report analyzing the indirect expenditure report created
 3 under AS 43.05.095 for the appropriate agencies listed in this subsection. The first
 4 review shall occur in the calendar year set out after each agency's name, as follows,
 5 and subsequent reviews of each agency shall occur every six years:

6 (1) Department of Commerce, Community, and Economic
 7 Development, 2015;

8 (2) Department of Fish and Game, 2015;

9 (3) Department of Health and Social Services, 2015;

10 (4) Department of Labor and Workforce Development, 2015;

11 (5) Department of Revenue, 2015;

12 (6) Alaska Court System, 2017;

13 (7) Department of Administration, 2017;

14 (8) Department of Education and Early Development, 2017;

15 (9) Department of Environmental Conservation, 2017;

16 (10) Department of Natural Resources, 2017;

17 (11) Department of Transportation and Public Facilities, 2017;

18 (12) all remaining agencies, 2019.

19 (b) The report prepared under this section must provide

20 (1) an estimate of the revenue foregone by the state because of the
 21 indirect expenditure;

22 (2) an estimate of the monetary benefit of the indirect expenditure to
 23 the recipients of the benefit of the indirect expenditure;

24 (3) a determination of whether the legislative intent of the indirect
 25 expenditure is being met and, if necessary, a determination of why the legislative
 26 intent of the indirect expenditure is not being met;

27 (4) a recommendation as to whether each indirect expenditure should
 28 be continued, modified, or terminated, a basis for the recommendation, and the
 29 expected effect on the economy of the state if the recommendation is executed; and

30 (5) an explanation of the methodology and assumptions used in
 31 preparing the report.

1 * **Sec. 5.** AS 37.05.315(b) is amended to read:

2 (b) An appropriation or allocation for a grant to a municipality [FOR
3 CONSTRUCTION OF A PUBLIC FACILITY] lapses if substantial, ongoing work on
4 the project has not begun within five years after the effective date of the appropriation
5 or allocation.

6 * **Sec. 6.** AS 37.05.316 is amended by adding a new subsection to read:

7 (c) An appropriation or allocation for a grant to a named recipient that is not a
8 municipality lapses if substantial, ongoing work on the project has not begun within
9 five years after the effective date of the appropriation or allocation.

10 * **Sec. 7.** AS 37.05.317 is amended by adding a new subsection to read:

11 (c) An appropriation or allocation for a grant to an unincorporated community
12 lapses if substantial, ongoing work on the project has not begun within five years after
13 the effective date of the appropriation or allocation.

14 * **Sec. 8.** AS 37.07.062(a) is amended to read:

15 (a) Each appropriation bill authorizing capital expenditures required to be
16 submitted to the legislature in AS 37.07.020(a) must be accompanied by documents
17 supporting the expenditures [FOR EACH OF THE CAPITAL PROJECTS FUNDS
18 (AS 44.42.080)]. The documents must list, for each project, the

19 (1) project identification number;

20 (2) project title;

21 (3) source of funding;

22 (4) amount expended on the project during the preceding fiscal year,
23 the amount authorized for the current fiscal year, [AND] the amount proposed to be
24 expended during the succeeding fiscal year, and the amount proposed to be
25 expended each year until project completion;

26 (5) estimated start for construction;

27 (6) cost of each subsequent phase with estimated construction start
28 and completion dates, for projects that will be completed in phases; and

29 (7) schedule of bond elections pertaining to the appropriation,
30 including elections previously held. [THE TOTAL APPROPRIATION TO EACH
31 CAPITAL PROJECTS FUND MUST BE REFLECTED IN THE BALANCE SHEET

1 OF EACH FUND AS OF JUNE 30 OF EACH FISCAL YEAR.]

2 * **Sec. 9.** AS 37.15.420(a) is amended to read:

3 (a) There is established [A CAPITAL PROJECT FUND KNOWN AS] the
 4 "International Airports Construction Fund," into which shall be paid the proceeds of
 5 the sale of the bonds (except any accrued interest paid on them, which shall be paid
 6 into the bond redemption fund) and grant or other money that is legally provided for
 7 the same purposes for which the bonds are authorized. The money in the construction
 8 fund shall be used to pay the costs of acquiring, equipping, constructing and installing
 9 additions and improvements to and extensions of and facilities for the airports and
 10 costs incidental thereto, including costs of the authorization, issuance and sale of the
 11 bonds. To the extent provided in the bond resolution, money in the construction fund
 12 may also be used for the payment of interest on the bonds during the period of actual
 13 construction, and for a further period, not exceeding one year after the period of
 14 construction, that may be provided in the bond resolution. Money in the construction
 15 fund may also be transferred to the bond redemption fund, to the extent provided in
 16 the bond resolution, to establish a reserve for the payment of the principal of and
 17 interest on the bonds.

18 * **Sec. 10.** AS 37.25.020 is amended to read:

19 **Sec. 37.25.020. Unexpended balances of appropriation for capital projects.**

20 An appropriation made for a capital project is valid for the life of the project, and the
 21 unexpended balance shall be carried forward to subsequent fiscal years if substantial,
 22 ongoing work on the project has begun within five years after the effective date of
 23 the appropriation. Between July 1 and August 31 of each fiscal year, a statement
 24 supporting the amount of the unexpended balance required to complete the projects for
 25 which the initial appropriation was made and the amount that may be lapsed shall be
 26 recorded with the Department of Administration. The office of management and
 27 budget, in coordination with the Department of Administration, shall deliver to
 28 the house and senate finance committees a report of unexpended balances of
 29 appropriations for capital projects not later than the 15th day of each regular
 30 session of the legislature.

31 * **Sec. 11.** AS 43.05 is amended by adding a new section to read:

Sec. 43.05.095. Indirect expenditure report. (a) The commissioner shall, not later than July 1 before the first regular session of each legislature, submit a report to the chair of the finance committee of each house of the legislature and to the legislative finance division that states, for each indirect expenditure made by the state,

- (1) the name of the indirect expenditure;
- (2) a brief description of the indirect expenditure;
- (3) the statutory authority for the indirect expenditure;
- (4) the date the statute authorizing the indirect expenditure is to be repealed, if applicable;
- (5) the intent of the legislature in enacting the statute authorizing the indirect expenditure;
- (6) the public purpose served by the indirect expenditure;
- (7) the estimated annual effect on revenue of the indirect expenditure for the previous five fiscal years, excluding the fiscal year immediately preceding the date the report is due;
- (8) the estimated cost to administer the indirect expenditure, if applicable;
- (9) the number of beneficiaries of the indirect expenditure.

(b) For purposes of (a) of this section, federal tax credits adopted under AS 43.20.021 shall be reported in the aggregate.

(c) A department, agency, or public corporation of the state shall, upon the request of the commissioner, provide the records, reports, data analysis, or other information necessary for the commissioner to complete the report required by this section. The commissioner may enter into a confidentiality agreement if necessary to obtain information or a record required to prepare the report under this section.

(d) In this section, "indirect expenditure" means an express provision of state law that results in foregone revenue for the state by providing

- (1) a tax credit or other credit;
- (2) an exemption, but does not include federal tax exemptions adopted by reference in AS 43.20.021;
- (3) a discount;

(4) a deduction, but does not include costs incurred in the ordinary course of business that are deducted in the calculation of a tax under this title or in the calculation of a royalty or net profit share payment for a lease issued under AS 38;

(5) a differential allowance.

*** Sec. 12.** AS 43.75.035(e) is amended to read:

(e) Qualified investment costs upon which a tax credit is claimed under this section may not be considered for another tax credit in this title. A tax credit applied under this section [TOGETHER WITH A TAX CREDIT APPLIED UNDER AS 43.75.036] may not exceed 50 percent of the taxpayer's tax liability incurred for the processing of salmon during the tax year.

*** Sec. 13.** AS 43.75.035(h) is amended to read:

(h) The amount of a tax credit recaptured under (g)(1) - (3) of this section may not be included in the determination of the amount of that tax credit that is allowable under this section [OR AS 43.75.036].

*** Sec. 14.** AS 43.75.130(f) is amended to read:

(f) For purposes of this section, tax revenue collected under AS 43.75.015 from a person entitled to a credit under AS 43.75.035 [, 43.75.036,] or AS 43.98.030 shall be calculated as if the person's tax were collected without applying the credit; tax revenue collected does not include the amount of a tax credit recaptured under AS 43.75.035(g) [OR 43.75.036(g)].

*** Sec. 15.** AS 43.75.130(f), as amended by sec. 14 of this Act, is amended to read:

(f) For purposes of this section, tax revenue collected under AS 43.75.015 from a person entitled to a credit under [AS 43.75.035 OR] AS 43.98.030 shall be calculated as if the person's tax were collected without applying the credit [; TAX REVENUE COLLECTED DOES NOT INCLUDE THE AMOUNT OF A TAX CREDIT RECAPTURED UNDER AS 43.75.035(g)].

*** Sec. 16.** AS 43.77.050(b) is amended to read:

(b) The tax collected under this chapter shall be paid into a separate account in the general fund. The annual balance in the account may be appropriated by the legislature for revenue sharing under AS 43.77.060. [THE AMOUNT OF ALL TAX CREDITS APPROVED BY THE COMMISSIONER UNDER AS 43.77.040(b)

1 SHALL BE DEDUCTED FROM AMOUNTS PAID TO MUNICIPALITIES UNDER
2 AS 43.77.060(a) - (c).]

3 * **Sec. 17.** AS 43.77.060(e) is amended to read:

4 (e) For purposes of this section, tax revenue collected under AS 43.77.010
5 from a person entitled to a credit under AS 43.77.045 [AS 43.77.035, 43.77.045,] or
6 AS 43.98.030 shall be calculated as if the person's tax had been collected without
7 applying the credits.

8 * **Sec. 18.** AS 43.77.060(e), as amended by sec. 17 of this Act, is amended to read:

9 (e) For purposes of this section, tax revenue collected under AS 43.77.010
10 from a person entitled to a credit under [AS 43.77.045 OR] AS 43.98.030 shall be
11 calculated as if the person's tax had been collected without applying the credits.

12 * **Sec. 19.** AS 37.07.062(b), 37.07.062(c), 37.07.062(d); and AS 44.42.080 are repealed.

13 * **Sec. 20.** AS 43.75.032, 43.75.036, 43.75.130(b); and AS 43.77.035 are repealed.

14 * **Sec. 21.** AS 21.66.110(b); AS 21.96.070, 21.96.075(c)(2); AS 43.05.010(15);
15 AS 43.20.014; AS 43.55.019; AS 43.56.018; AS 43.65.018; AS 43.75.018, 43.75.130(g);
16 AS 43.77.045, and 43.77.060(e) are repealed.

17 * **Sec. 22.** AS 43.75.035 and 43.75.130(f) are repealed.

18 * **Sec. 23.** AS 43.77.040 is repealed.

19 * **Sec. 24.** AS 24.20.271(12); AS 43.98.030; AS 44.25.100, 44.25.105, 44.25.110,
20 44.25.115, 44.25.120, 44.25.125, 44.25.130, 44.25.135, 44.25.140, 44.25.145, 44.25.150,
21 44.25.190; and AS 44.33.231(c) are repealed.

22 * **Sec. 25.** Sections 31, 32, and 33, ch. 51, SLA 2012, are repealed.

23 * **Sec. 26.** Sections 3, 5, 7, 10, 14, 16, 18, 21, 23, 25, 28, 30, 32, 35, 37, 39, 42, 44, 46, 49,
24 51, 53, and 55, ch. 92, SLA 2010, sec. 14, ch. 7, FSSLA 2011, and secs. 15, 17, 19, 21, 23,
25 and 25, ch. 74, SLA 2012, are repealed.

26 * **Sec. 27.** Section 3, ch. 57, SLA 2003, is repealed.

27 * **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to
28 read:

29 TRANSITION. (a) A taxpayer that accrues a credit authorized by a statute repealed by
30 secs. 19 - 23 of this Act before the effective date of the repeal of the credit under this Act, but
31 whose tax year ends on or after the effective date of the repeal of the credit under this Act,

1 may take the tax credit in the tax year the taxpayer accrues the credit, or, if the credit may be
 2 carried forward, the credit may be carried forward in accordance with the statute under which
 3 it was accrued.

4 (b) For purposes of AS 43.75.130, tax revenue collected under AS 43.75.015 from a
 5 person entitled to a credit under AS 43.75.035, 43.75.036, or AS 43.98.030 shall be calculated
 6 as if the person's tax were collected without applying the credit; tax revenue collected does
 7 not include the amount of a tax credit recaptured under AS 43.75.035(g) or 43.75.036(g). For
 8 purposes of AS 43.77.060, tax revenue collected under AS 43.77.010 from a person entitled to
 9 a credit under AS 43.77.035, 43.77.045, or AS 43.98.030 shall be calculated as if the person's
 10 tax had been collected without applying the credits.

11 (c) Subject to AS 43.98.030, secs. 20 and 34 of this Act do not prohibit the film office
 12 from determining the qualified expenditures of a film production, awarding a tax credit, or
 13 reviewing a tax credit for a production that has received a notice of qualification under
 14 AS 44.25.120(b) before December 31, 2016, or the Department of Revenue from providing a
 15 transferable film production tax credit to a producer under AS 43.98.030(a), by applying the
 16 provisions repealed by sec. 20 of this Act, the regulations adopted by the Department of
 17 Commerce, Community, and Economic Development under AS 44.25.100 - 44.25.190, and
 18 the regulations adopted by the Department of Revenue under AS 43.98.030.

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

21 CONTINGENT EFFECT. Sections 22, 23, and 30 of this Act take effect only if the
 22 Twenty-Eighth Alaska State Legislature passes a bill that becomes law that further delays the
 23 repeal of AS 43.75.035 under sec. 3, ch. 57, SLA 2003, and sec. 7, ch. 57, SLA 2003, as
 24 amended by sec. 4, ch. 3, SLA 2006, sec. 4, ch. 8, SLA 2008, and sec. 3, ch. 102, SLA 2010,
 25 beyond January 1, 2019.

26 * **Sec. 30.** Sections 40 - 42, ch. 51, SLA 2012, and sec. 32, ch. 74, SLA 2012, are repealed.

27 * **Sec. 31.** Section 57, ch. 92, SLA 2010, as amended by sec. 15, ch. 7, FSSLA 2011, is
 28 repealed.

29 * **Sec. 32.** Section 7, ch. 57, SLA 2003, as amended by sec. 4, ch. 3, SLA 2006, sec. 4, ch. 8,
 30 SLA 2008, and sec. 3, ch. 102, SLA 2010, is repealed.

31 * **Sec. 33.** Sections 5 - 10 and 17 of this Act take effect July 1, 2014.

- 1 * **Sec. 34.** Sections 12 - 14, 16, 18, 22, and 27 of this Act take effect December 31, 2016.
- 2 * **Sec. 35.** Sections 1, 2, 19, 23, and 28 of this Act take effect December 31, 2018.
- 3 * **Sec. 36.** If secs. 20, 24, and 29 of this Act take effect under sec. 26 of this Act, they take
4 effect December 31, 2020.
- 5 * **Sec. 37.** Sections 15 and 21 of this Act take effect December 31, 2020.
- 6 * **Sec. 38.** Sections 1, 2, 15, 18, 21, 24, 26, and 31 of this Act take effect December 31,
7 2018.
- 8 * **Sec. 39.** Except as provided in secs. 33 - 37 of this Act, this Act takes effect immediately
9 under AS 01.10.070(c).