

SENATE BILL NO. 5

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY SENATOR WIELECHOWSKI

Introduced: 1/16/13

Referred: Labor and Commerce, Resources, Finance

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; and relating to confidentiality and use of tax information."

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 **SHORT TITLE.** This Act may be known as the Tax Break Transparency Act.

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

9 **Sec. 24.08.038. Tax expenditure bills.** The legislature shall include a
10 statement of the rationale and purpose of a tax expenditure in a bill creating a tax
11 expenditure. In this section, "tax expenditure" has the meaning given in AS 43.05.090.

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

13 **Sec. 24.20.232. Analysis of tax expenditures.** (a) If publicly available
14 information indicates the sum of tax expenditures of a specific type exceeds

1 \$1,000,000 in fiscal year 2012 or a succeeding fiscal year, the legislative finance
 2 division shall analyze the use of the tax expenditure on the following schedule to assist
 3 the legislature in determining whether the statute authorizing the tax expenditure
 4 appears to be achieving its intended purpose:

5 (1) tax expenditures existing on July 1, 2012, shall be analyzed once
 6 between July 1, 2012, and January 1, 2018, and before a delayed repeal of a tax
 7 expenditure;

8 (2) a tax expenditure created after July 1, 2012, shall be analyzed after
 9 it has been in effect for seven years or, if the statute authorizing the expenditure has a
 10 delayed repeal date, one year before the effective date of the delayed repeal of the tax
 11 expenditure.

12 (b) In this section, "tax expenditure" has the meaning given in AS 43.05.090.

13 * **Sec. 4.** AS 40.25.100(a) is amended to read:

14 (a) Information in the possession of the Department of Revenue that discloses
 15 the particulars of the business or affairs of a taxpayer or other person is not a matter of
 16 public record, except as provided in AS 43.05.090(d) and 43.05.230(i)
 17 [AS 43.05.230(i)] or for purposes of investigation and law enforcement. The
 18 information shall be kept confidential except when its production is required in an
 19 official investigation, administrative adjudication under AS 43.05.405 - 43.05.499, or
 20 court proceeding. These restrictions do not prohibit the publication of statistics
 21 presented in a manner that prevents the identification of particular reports and items,
 22 prohibit the publication of tax lists showing the names of taxpayers who are delinquent
 23 and relevant information that may assist in the collection of delinquent taxes, or
 24 prohibit the publication of records, proceedings, and decisions under AS 43.05.405 -
 25 43.05.499.

26 * **Sec. 5.** AS 43.05.090 is amended to read:

27 **Sec. 43.05.090. Preparation and publication of statistics.** The department
 28 shall prepare and annually publish statistics of the revenues derived, and the revenues
 29 lost in the form of tax expenditures, under the tax laws administered by it.

30 * **Sec. 6.** AS 43.05.090 is amended by adding new subsections to read:

31 (b) The tax expenditure statistics must include

1 (1) the annual sum of tax expenditures for the prior fiscal year,
 2 separately calculated for each type of expenditure, and the total number of taxpayers
 3 who benefitted from each type of expenditure;

4 (2) an estimate of tax expenditures for the current fiscal year,
 5 separately calculated for each type of expenditure;

6 (3) an estimate of the public costs of administering the tax
 7 expenditures.

8 (c) The department shall annually transmit an electronic copy of the revenue
 9 and tax expenditure report to each member of the legislature and make the report
 10 available to the public on the department's Internet website.

11 (d) The department shall notify the legislative finance division when the sum
 12 of tax expenditures of a specific type has exceeded \$1,000,000 in fiscal year 2018 or a
 13 succeeding fiscal year and provide the legislative finance division with the
 14 nonconfidential or, subject to the division's execution of a confidentiality agreement,
 15 confidential information necessary to complete the analysis under AS 24.20.232.

16 (e) In this section, "tax expenditure" means a loss of state revenue resulting
 17 from a tax credit, exclusion, waiver, or other reduction authorized by an express
 18 provision of state tax law; "tax expenditure" does not include a tax credit, exclusion,
 19 waiver, or other reduction authorized under federal law adopted by reference under
 20 AS 43.20.021, a tax deduction for an expenditure incurred in the ordinary course of a
 21 trade or business, or a tax credit, exclusion, exemption, waiver, or other loss of a
 22 person not subject to tax under this title.

23 * **Sec. 7.** AS 43.05.230(a) is amended to read:

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

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

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

- 1 (3) as provided in AS 38.05.036 pertaining to audit functions of the
2 Department of Natural Resources;
- 3 (4) **as provided in AS 43.05.090(d);**
- 4 **(5)** as provided in AS 43.05.405 - 43.05.499; and
- 5 **(6)** [(5)] as otherwise provided in this section or AS 43.55.890.