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Referred: Finance

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Budget and Audit

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 58 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to confidential tax information of
7 the Department of Revenue; and providing for an
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature
11 finds that

12 (1) the majority of the state's revenue is derived from taxa-
13 tion;

14 (2) tax revenue enables the state to provide essential services
15 to the citizens of the state to ensure the public health and welfare;

16 (3) the elected representatives of the people of the state must
17 be assured that the state is receiving all of the income to which it is
18 entitled and that the tax laws are operating in the manner intended by the
19 legislature;

20 (4) the legislature must exercise its oversight authority to
21 ensure that tax revenue collection by the Department of Revenue is effi-
22 cient, fair, prompt, and in the best interest of the state;

23 (5) there is a legitimate and compelling governmental interest
24 in the legislature having adequate access to tax-related information to
25 allow responsible oversight;

26 (6) without sufficient information, the legislature cannot
27 adequately determine that the state's tax revenue collection functions are
28 properly administered and that tax revenue due the state is promptly re-
29 ceived;

1 (7) tax returns and return information contain confidential
2 information, often regarding sensitive business information;

3 (8) taxpayers have protections against public disclosure of
4 certain tax information;

5 (9) exchange agreements with the Internal Revenue Service re-
6 quire that certain tax information not be publicly disclosed;

7 (10) protection of confidentiality fosters full disclosure by
8 taxpayers to taxing authorities and therefore promotes effective adminis-
9 tration of tax programs; and

10 (11) legislators and legislative employees who improperly dis-
11 close confidential tax information should be subject to the same sanctions
12 imposed against executive branch employees.

13 (b) The purpose of this Act is to ensure that

14 (1) the state is receiving all the tax revenue due the state;

15 (2) oversight of the tax revenue collection function is effec-
16 tively provided;

17 (3) tax revenue due to the state is available to provide for the
18 public health and welfare of the citizens of the state;

19 (4) taxpayers are protected from improper disclosure of tax
20 information;

21 (5) the exchange agreements with the Internal Revenue Service
22 regarding tax information are not jeopardized;

23 (6) tax programs are administered fairly; and

24 (7) the right of the people to privacy is recognized and may not
25 be infringed.

26 * Sec. 2. AS 24.10 is amended by adding a new section to article 2 to
27 read:

28 Sec. 24.10.070. CONFIDENTIALITY OF INFORMATION. A present or
29 former employee or agent of the legislature may not disclose tax
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1 information contained in a report or return filed under AS 43 with the
2 Department of Revenue and furnished to the person under AS 43.05.-
3 230(h) or (i).

4 * Sec. 3. AS 24.60.060 is amended by adding a new subsection to read:

5 (b) A person to whom this chapter applies may not disclose tax
6 information contained within a report or a return filed under AS 43
7 with the Department of Revenue and furnished to the person under
8 AS 43.05.230(h) or (i).

9 * Sec. 4. AS 24.60 is amended by adding a new section to read:

10 Sec. 24.60.172. SPECIAL PROCEEDINGS BEFORE THE COMMITTEE.
11 Notwithstanding AS 24.60.170, if a complaint before the committee
12 involves an allegation that a person to whom this chapter applies has
13 disclosed tax information contained within a report or return filed
14 under AS 43 with the Department of Revenue and furnished to the person
15 under AS 43.05.230(h) or (i) and the taxpayer or a third party whose
16 tax information is alleged to have been improperly disclosed does not
17 agree to the public disclosure of the identity of the taxpayer, the
18 third party, or the tax information,

19 (1) the hearing may not be held in open session;

20 (2) a transcript containing confidential tax information
21 shall be edited to prevent the disclosure of the confidential informa-
22 tion;

23 (3) a decision, if made public, shall be edited to prevent
24 the disclosure of the tax information and to protect the identity of
25 the taxpayer or the third party; and

26 (4) a public statement may not contain information identi-
27 fying the taxpayer, a third party, or the tax information.

28 * Sec. 5. AS 43.05.230(f) is amended to read:

29 (f) An intentional [A WILFUL] violation of the provisions of

1 this section is a class A misdemeanor [PUNISHABLE BY A FINE OF NOT
2 MORE THAN \$5,000, OR BY IMPRISONMENT FOR NOT MORE THAN TWO YEARS, OR
3 BY BOTH].

4 * Sec. 6. AS 43.05.230 is amended by adding new subsections to read:

5 (h) A legislative committee, after identifying the scope of an
6 investigation or inquiry relating to matters of taxation and the
7 adoption by either house of a simple resolution giving the committee
8 authority to receive confidential tax information, may request the
9 commissioner of revenue to provide confidential taxpayer returns or
10 return information; the request by the committee shall be in writing
11 and may identify, directly or indirectly, a particular taxpayer. On
12 adoption of the resolution, the commissioner of revenue shall provide
13 the committee with the requested returns or return information. If
14 specific returns or return information concerning a particular taxpay-
15 er are provided to a legislative committee under this subsection, the
16 commissioner of revenue shall notify the particular taxpayer of the
17 request and of the delivery to the committee of the information. The
18 committee may designate legislative employees or agents to inspect
19 returns and return information. The committee may consider informa-
20 tion made available under this subsection only in executive session
21 unless the taxpayer and any third party whose tax information is being
22 considered consent in writing to a disclosure in open session.

23 (i) Notwithstanding (h) of this section, the commissioner may
24 transfer information made confidential under this section to a legis-
25 lative committee after a written finding by the commissioner that the
26 transfer is in the best interest of the public. The transfer of the
27 confidential information is in the best interest of the public if

28 (1) a taxpayer has testified before a legislative commit-
29 tee, either orally or in writing, or has otherwise provided

1 information to a committee concerning the administration of a tax
2 under this title and the department has confidential information of
3 the taxpayer that directly conflicts with the testimony or information
4 offered by the taxpayer;

5 (2) a legislative committee is reviewing the administration
6 of a tax imposed by this title and confidential information is needed
7 to demonstrate the application of the tax to taxpayers;

8 (3) the legislature has under consideration a bill propos-
9 ing to add an additional tax or to amend a tax administered by the
10 department and confidential information is needed to demonstrate the
11 fiscal effect of the proposed new tax or amendment; or

12 (4) after giving the taxpayer a hearing, the commissioner
13 makes a written determination that the interest of the public in
14 transferring the information to the legislative committee outweighs
15 the interest of the taxpayer in avoiding the transfer of the informa-
16 tion.

17 (j) If a return or information that is provided to a committee
18 under (h) or (i) of this section identifies the taxpayer, the taxpayer
19 may attend the portion of the committee meeting that considers the
20 return or information.

21 (k) The disclosure of information made confidential by this
22 section by a member or former member of the legislature or by a pre-
23 sent or former employee or agent of the legislature is a violation of
24 this section. A member of the legislature and an employee or agent of
25 the legislature, before receiving or reviewing information provided by
26 the commissioner under (h) or (i) of this section, shall acknowledge,
27 on a form prepared by the commissioner, that the information is confi-
28 dential, and that a disclosure of the information is prohibited by
29 law.

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(l) The legislative committee and the commissioner of revenue shall adopt procedures governing the transmittal, receipt, safekeeping, and use of the confidential information provided by the commissioner under (h) or (i) of this section.

(m) This section does not permit the disclosure to the legislature of confidential information provided by the Internal Revenue Service under exchange agreements with the department.

* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).