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SENATE COMMITTEE REPORT

FURTHER: FINANCE

5/1/87

DATE TURNED INTO OFFICE 4-19-88

Mr. President:

STATE AFFAIRS Committee considered CSHB 58(Fin)am  
confidential tax information; relating to the filing of tax returns; efd.

and recommended:

replace with 5 CS FOR CSHB 58(SA),  same title  
 or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ )  new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted \_\_\_\_\_

Committee  attached or  adopted fiscal note(s)

new  updated or  previous  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Joe P. Josephson

La. Tommy Nolas

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Ben M. ...  
Chairman signature and recommendation

Committee Backup Attached

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: Senate CS for CS for HB 58 (oil + gas)  
Publish Date: \_\_\_\_\_

REQUEST \_\_\_\_\_

Revision Date: 4/30/87  
Title: An Act Relating to Confidential Tax Info.; relating to filing/tax rtns.  
Sponsor: Legislative Budget & Audit  
Requestor: Senate Oil & Gas Comm.

Agency Affected: Revenue  
BRU: \_\_\_\_\_

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
<b>OPERATING</b>						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<b>TOTAL</b>	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page if necessary

Prepared By: Royce Weller *RW*  
Division: Office of the Commissioner

Phone: 465-2300  
Date: April 30, 1987

Approved by Commissioner: Hugh Malone  
Agency: Department of Revenue

Date: April 30, 1987

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: Senate CS for CS for HB 58 (oil + gas)  
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Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMP. 1RY	-	-	-	-	-	-

ANALYSIS: Attach a separate page if necessary

Prepared By: Royce Weller  
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Phone: 465-2300  
Date: April 30, 1987

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Date: April 30, 1987

Distribution (by Agency preparing fiscal note):

Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary

TESTIMONY OF THOMAS K. WILLIAMS  
ON BEHALF OF  
STANDARD ALASKA PRODUCTION COMPANY  
REGARDING  
SENATE STATE AFFAIRS CS FOR CSHB 58

April 13, 1988

Good morning, Mr. Chairman and members of the committee. My name is Thomas K. Williams, and I am Manager of Tax Planning for Standard Alaska Production Company (Standard). Thank you for this opportunity to testify about your draft committee substitute for House Bill 58, regarding legislative access to otherwise confidential tax information.

Present law severely restricts access to confidential tax information outside the Department of Revenue and its agents. There are extremely compelling reasons for this requirement. First, most taxes depend on detailed reporting and self-assessment by the taxpayers in order to work. Without confidentiality taxpayers would be reluctant to provide adequate detail. Second, some taxes can require taxpayers to report income, activities or information that is commercially sensitive. Taxpayers will likely disclose such information voluntarily to the taxing authority only if they are confident that such information will not be leaked to competitors or be otherwise misused. Finally, and most importantly, the Constitutions of the United States and of the State of Alaska grant taxpayers a right to privacy. Confidentiality is essential to protect that right.

Having said this, I must also acknowledge the right and duty of the Legislature to monitor the workings of Alaska's tax laws. Without such legislative review, needed changes in those laws may end up not being made.

Alaska has a unique problem that impairs the Legislature's supervision of the administration of the tax laws. Over 90% of its total tax revenues comes from only two dozen or so taxpayers in the oil and gas industry. Three taxpayers account for more than 80% of all tax revenues of the State. These extraordinary facts make it often impossible to discuss with the Legislature the efficacy of the taxing system without identifying a particular taxpayer and thereby violating the current confidentiality law.

The proposed State Affairs committee substitute seeks to strike a balance between the competing interests of confidentiality on the one hand, and the need for appropriate legislative supervision on the other hand.

We notice several significant changes in this latest version of the bill from the versions preceding it. First, with the introduction of the notion of "critical taxes," the scope of the bill is limited to just the "oil company" taxpayers. Confidential tax information of all other taxpayers would remain "off limits" to the Legislature as is the case under current law. The wisdom of such a limitation may not be clear, but its political expediency is.

Second, the committee substitute would make a breach of confidentiality by a legislator a Class C felony. We believe this is likely to have serious problems under the speech and debate clause in Article II, section 6 of the Alaska State Constitution. Rather than trying to criminalize a legislator's breach of a taxpayer's confidentiality or mandating a particular penalty such as expulsion from the Legislature, we believe it is better to leave the exact penalty up to the discretion of the legislative ethics committee. Accordingly, we suggest replacing "A person who knowingly violates this subsection is guilty of a class C felony" on lines 18-19 on page 3, with the following: "A violation of this subsection is a breach of ethics of the most serious kind."

This change is would be in keeping with the importance of each taxpayer's constitution right of privacy. A violation of that right is not something to be punished with a mere slap of the hand by the ethics committee. Yet this change would leave open to the ethics committee's discretion exactly what the punishment should be in light of the particular circumstances of the violation. In effect, it would say to the ethics committee, "A legislator's violation of confidentiality is a most serious matter, but use your own judgment about how to punish the violator."

A third change we note in this newest version of the bill is that it would give a taxpayer a reasonable right to learn how its tax information is being used in front of

the legislative committee to which it is presented. This is done by giving the taxpayer a right to attend the executive session for those portions where its tax information is being discussed. Where a presentation or discussion intertwines confidential information about more than one taxpayer, each taxpayer is entitled to a transcript of the executive session, with the references to the other taxpayers blanked out. This protects one taxpayer's confidential information from being seen by other taxpayers. Each taxpayer has a right to appear before the committee in executive session, to respond to the presentation or discussion of its tax information.

Fourth, the committee substitute would allow a taxpayer to request the Department of Revenue to furnish its tax information to a legislative committee. Under earlier versions of this bill, if a taxpayer believed that the Legislature was being given an inaccurate or incomplete picture, the only way the taxpayer could present information to the legislative committee would be by waiving its confidentiality altogether. Under your bill, this total sacrifice would not be necessary.

These last two points, and our suggestion on the second one, represent improvements to the bill in our opinion. There are a number of technical drafting changes that have been made that also improve it, but I shall not take up your time going into these less substantive matters. There are also a number of technical changes that should be

made, and I have them here in written form. At the end of my testimony, I would be glad to answer any questions that the members of the committee might have about these technical changes.

Let me conclude by saying that Standard believes that the reasons for having confidentiality in the first place are extremely important and compelling. We also understand the frustration felt by the Legislature because of confidentiality. We believe the proposed committee substitute is appropriate for the purposes for which it is intended.

TECHNICAL COMMENTS  
ON  
SCS CSHB 58 (State Affairs)

- P. 2, lines 24-25: Delete the hyphens in "time-to-time"
- P. 3., line 11: Delete ", or the former provisions of AS 43,"
- P. 3, line 15: Strike "the" at the end of the line and replace it with "any"
- P. 3, line 17: Delete ", or the former provisions of AS 43,"
- P. 3, lines 18-19: Delete "A person who knowingly violates this subsection is guilty of a class C felony." and replace it with "A violation of this subsection is a breach of ethics of the most serious kind."
- P. 3, lines 24-25: Delete ", or the former provisions of AS 43,"
- P. 3, line 29: Insert "person's" between "the" and "identity" and delete "of the taxpayer or third party"
- P. 4, line 1: Between "committee" and "are" insert "under AS 24.60.170"
- P. 4, line 9: Insert "confidential tax" before "information" at the beginning of the line
- P. 4, line 10: Between "party" and the semicolon, insert "whose tax information has allegedly been disclosed improperly"
- P. 4, line 12: Insert "confidential tax" between "the" and "information"
- P. 4, line 15: Insert "confidential tax" between "the" and "information"
- P. 4, line 18: Insert "tax" between "the" and "information"
- P. 4, line 20: Insert "tax" before "information" at the beginning of the line
- P. 4, line 21: After the period at the end of the line, add a new sentence, "Information so released from confidentiality may be disclosed in materials described in (a)(4) - (6) of this section."

- P. 5, line 11: Strike "class A misdemeanor" and replace it with "class C felony"
- P. 5, line 12: Delete the comma after "legislature"
- P. 5, lines 16-17: Strike "section" and replace it with "subsection"
- P. 5, line 29: Strike "under this section" and replace it with "in accordance with AS 43.05.231 - 45.05.239"
- P. 7, line 9: After the word "to" and the end of the line, insert "assist the committee in carrying out its responsibilities to"
- P. 7, lines 10-11: Delete "assist the committee in carrying out its responsibilities to"
- P. 7, line 11: After the semicolon at the end of the line, insert the word "or"
- P. 7, line 14: Insert a period after "settlements" and delete "; or"
- P. 7, line 15: Delete the entire line
- P. 7, line 22: Delete "legislature" and replace it with "legislative committee"
- P. 9, line 5: Delete "legislature" and replace it with "legislative committee" and at the end of the line replace "43.05.235" with "43.05.239"
- P. 9, line 17: Between "department" and the period at the end of the line, insert "for transfer under AS 43.05.234(b)"
- P. 9, line 25: Insert "confidential" between "taxpayer's" and "tax return"
- P. 9, line 26: Delete "under this section"
- P. 10, lines 5-10: Make a new subsection (f) starting with "A taxpayer's request" Also, replace "subsection" where it currently appears in lines 6 and 7 with the word "section"
- P. 10, line 16: Insert "tax" between "taxpayer's" and "return"
- P. 10, line 22: Insert "designated" between "of" and "employees" and delete "designated" where it currently appears between "agents" and "to"
- P. 10, line 25: Strike "The" and replace it with "Only"

- P. 11, line 21: Insert "tax" between "a" and "return"
- P. 12, line 23: Delete "and the former provisions of AS 43"
- P. 12, line 26: Delete "and the former provisions of AS 43"
- P. 13, line 25: Delete "this subsection" and replace it with "AS 43.05.238"
- P. 13, line 27: Insert a new section of the Bill as follows:

\* Sec. 10. SEVERABILITY. In the event it is held that a provision of this Act, when and as applied to a member of the legislature, violates the speech and debate clause of Article II, section 6 of the Alaska State Constitution, it is the intention of the legislature that the provision shall remain in full force and effect for all persons other than those to whom its application would violate the speech and debate clause of Article II, section 6 of the Alaska State Constitution.

- P. 13, line 27: Renumber the present section 10 as section 11

# STATE OF ALASKA THE LEGISLATURE

POUCHY STATE CAPITAL  
JUNEAU, ALASKA 99811  
207 465 3800

## LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 12, 1988

SUBJECT: Constitutional and other issues in  
SCS CSHB 58(SA)

TO: Senator Mitch Abood, Chair  
Senate State Affairs Committee

FROM: Theresa L. Bannister *TB*  
Legislative Counsel

This memorandum accompanies the draft of the committee substitute that you have requested for HB 58.

Please be aware that sections 3, 5, 6 and 7 of the draft raise a constitutional speech and debate issue. Proposed AS 24.60.060(b), AS 43.05.230(a), AS 43.05.230(f) AS 43.05.237 could be challenged as violating the speech and debate immunity clause appearing in art. II, sec. 6 of the Alaska Constitution. These sections would subject legislators to liability enforceable by other branches of the government for acts arguably occurring during the exercise of their legislative duties during the session or while going to or returning from the session.

It is not clear whether the four sections discussed above would be held to be constitutional. There does not appear to be any Alaska case law on this specific issue. In United States v. Helstoski, 442 U.S. 477, 61 L.Ed.2d 12 (1979), the U.S. Supreme court suggested with regard to the speech and debate immunity provision of the U.S. Constitution that Congress could "enlist the aid of the Executive Branch and the courts" in disciplining its members by a "narrowly drawn statute passed by Congress in the exercise of its legislative power to regulate the conduct of its members". Id. at 492. Although the issue apparently has not arisen in court, the Internal Revenue Service appears to have taken the position that Congress has done just that in an Internal Revenue law, so that members of Congress are not immune from penalties for disclosure. However, since the Alaska Supreme

Senator Mitch Abood  
Page 2  
April 12, 1988

Court has not addressed this specific issue, the outcome of a challenge to the proposed sections is unknown.

Finally, it is not clear to me why the taxes of a Native corporation are excluded from the definition of "critical tax" if the taxes satisfy the other criteria for a "critical tax".

If I may be of further assistance, please advise.

TLB:gc  
WKG2:109

Enclosure

ARCO Alaska, Inc.

External Affairs  
Mailing Address: 134 Franklin Street  
Juneau, Alaska 99801  
Telephone 907 586 3680



Beverly A. Ward  
Director, Southeast  
Government & Community Relations

13 April 1988

Senator Mitch Abood  
All Members of Senate State Affairs  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Senator Abood:

ARCO Alaska, Inc. appreciates the opportunity to testify today regarding the CS for HB 58. ARCO understands the frustrations which the Legislature has experienced in its attempts to gain access to certain information which the Department of Revenue must keep confidential under current law. ARCO also understands the Legislature's need for certain confidential taxpayer information.

Balanced against the Legislature's needs for this information, of course, are our concerns regarding privacy and the commercial value of sensitive business information.

The CS for HB 58 has effectively dealt with and resolved many of our concerns. As a result, ARCO does not oppose the CS for HB 58.

Thank you very much.

A handwritten signature in cursive script that reads "Beverly A. Ward".

Beverly A. Ward

BAW:lip

TESTIMONY OF

GERALD SERENA

FOR

EXXON COMPANY, U.S.A.

BEFORE THE

SENATE STATE AFFAIRS COMMITTEE

SCS FOR CSHB 58

APRIL 13, 1988

GOOD AFTERNOON, CHAIRMAN ABOOD AND MEMBERS OF THE COMMITTEE.

MY NAME IS GERALD SERENA AND I AM A TAX LAWYER WITH EXXON COMPANY, U.S.A. IN ANCHORAGE.

EXXON APPRECIATES THE OPPORTUNITY TO COMMENT ON THE CURRENT VERSION OF HB 58, A BILL WHICH WOULD ESTABLISH RULES AND PROCEDURES FOR DISCLOSURE TO COMMITTEES OF THE LEGISLATURE OF CONFIDENTIAL TAX RETURN INFORMATION. EXXON OPPOSED EARLIER VERSIONS OF THIS BILL PRIMARILY BECAUSE WE FELT SUCH LEGISLATION WAS UNNECESSARY AND THAT CURRENT LAW PERMITTED THE COMMISSICNER OF REVENUE ENOUGH FLEXIBILITY TO KEEP THE LEGISLATURE SUFFICIENTLY INFORMED IN THE AREA OF TAXATION. WE OPPOSED ANY UNNECESSARY COMPROMISE OF THE CONFIDENTIALITY OF SENSITIVE BUSINESS INFORMATION. OUR CONCERNS WERE SHARED NOT ONLY BY OTHER OIL COMPANIES, BUT BY OTHER BUSINESSES AS WELL.

THE REVISED LEGISLATION BEING CONSIDERED TODAY INCORPORATES SEVERAL CHANGES DESIGNED TO PREVENT OVERBROAD DISCLOSURES OF INFORMATION AND TO INSURE THE INTEGRITY OF THE SYSTEM.

WHILE WE STILL QUESTION THE NECESSITY FOR THIS LEGISLATION, WE DO NOT OPPOSE THE VERSION OF THIS BILL WHICH IS UNDER CONSIDERATION TODAY.

THANK YOU.



# ALASKA STATE LEGISLATURE

## SENATE SPECIAL COMMITTEE ON OIL AND GAS

Senator Bettye Fahrenkamp  
Chairman  
Senator Jack Coghill  
Senator Paul Fischer

P.O. Box V, State Capitol  
Juneau, Alaska 99811  
(907) 465-3834

April 27, 1987

SCS CSHB 58am (Oil and Gas), RELATING TO CONFIDENTIAL T. X  
INFORMATION; RELATING TO THE FILING OF TAX RETURNS.

COMPARISON OF HOUSE PASSED AND PROPOSED SENATE BILLS.

INCLUDES APRIL 24 OIL AND GAS COMMITTEE SUBSTITUTE.

Section 1: A finding and purpose section is included to assist the courts in interpreting the bill. A taxpayer's right to privacy under Alaska Constitution Article 1, Section 22 must be balanced with the legislature's need for information on how the state's tax laws are working.

Both versions contain this identical section.

Section 2: Adds a new section to Title 24, Article 2, on legislative employees. It would prohibit a present or former employee or agent of the legislature from disclosing confidential tax information.

Both versions contain this identical section.

Section 3: Adds a new section to the Legislative Standards of Conduct Code. Disclosure of confidential tax information by persons covered by the Code would be prohibited.

Both versions contain this identical section.

Section 4: Also adds to the Legislative Standards of Conduct Code a section to protect confidential information that may have been a source of a complaint before the Legislative Ethics Committee.

Both versions contain this identical section.

Section 5: Amends existing statute that prohibits disclosure of confidential tax information by state employees to allow the transfer of information to the legislature.

Both versions contain this identical section.

Section 6: Establishes penalties for violation of the confidentiality provisions. Current statute provides penalties only for an "intentional" violation.

House version: A "knowing" violation is a class A misdemeanor (Maximum penalties: 1 year imprisonment and \$5,000); a "grossly negligent" violation is subject to a civil penalty of \$5,000.

April 24 Oil and Gas CS: A "knowing" violation is a class A misdemeanor (Maximum penalties: 1 year imprisonment and \$5,000). Reduces standard for civil penalty from "gross negligence" to simple "negligence". Clarifies that penalties for negligence apply to only members or former members of the legislature and present or former employees or agents of the legislature. Directs the Department of Revenue to enforce and collect the civil penalties.

Section 7: Creates a new section of statute to deal specifically with the transfer of confidential tax information to the legislature.

(a) Establishes purposes for which tax information may be transferred to the legislature (to assist in consideration of tax legislation, oversight of the administration of tax laws, including the review of settlements, litigation, and audits, or estimation of future state revenues), and purposes for which information may not be transferred (to direct the executive branch in its audit, litigation, or settlement efforts, or to embarrass, harass, or discriminate against a taxpayer).

Both versions contain this identical subsection.

(b) Establishes a procedure for requesting tax information.

House version: After adoption of a simple resolution that identifies the scope of the inquiry and allows a committee to receive information, a committee chair or co-chair may make a written request. During the interim, the chairman of the Legislative Budget and Audit Committee may request information if a majority of the committee agree.

April 24 Oil and Gas CS: Removes mechanism for interim requests. Requires adoption of simple resolution.

(c) Allows the commissioner to transfer unrequested information under certain conditions.

House version: Only if a written finding is filed showing that the transfer is in the best interest of the state. Lists points the commissioner must consider (whether the information would demonstrate the application of a tax or

the effect of a change in tax law, assist in estimating revenues, or clarify information provided by a taxpayer, and the potential harm a taxpayer may suffer by the possible subsequent illegal disclosure of the information). Requires the commissioner to provide affected taxpayers with a copy of the written finding before the information is transferred.

April 24 Oil and Gas CS: Requires written finding as in House version. Notification requirement moved to subsection (e).

- (d) This section restricts the commissioner's ability to transfer commercially sensitive tax information.

House version: Requires that, when more than one type of information will satisfy the legislature's request, the commissioner must choose the least commercially sensitive information.

April 24 Oil and Gas CS: Adds a requirement that the commissioner shall transfer summary documents instead of transactional documents whenever possible.

- (e) Requires the commissioner to provide the taxpayer with a comment period before transferring information to the Legislature. Under a transfer initiated by the commissioner, the finding and a notification of the contents of the information must be provided to the taxpayer ten days before information is transferred to the legislature. If the transfer is the result of a legislative request, the comment period is five days. Within the last 36 days of session, or during special sessions, the comment period is reduced to three days.

April 24 Oil and Gas CS: This is a new subsection.

- (f) To ensure that any additional taxpayer comments will also be kept confidential, this subsection requires all written comments to be submitted to the department and then transferred to the committee within 24 hours.

April 24 Oil and Gas CS: This is a new subsection.

- (g) Requires that confidential information be considered only in executive session.

House version: Specifies that all legislators may attend the session. Authorizes the chair or co-chair to designate employees and agents allowed to attend and review the tax information, but to minimize the number of such employees. Authorizes the chair to allow the taxpayer whose returns are being considered to attend the executive session.

April 21 Oil and Gas CS: Replaces the phrase "seek to minimize" with "limit".

(h) Specifies that anyone authorized to receive confidential information must sign a form acknowledging that disclosure of the information is prohibited by law, and agreeing to abide by procedures adopted by the department.

Both versions contain this identical subsection.

(i) Establishes procedures for handling confidential tax information.

House version: Requires the commissioner to adopt regulations governing the transmittal, receipt, safekeeping, duplication, accounting for, and return of the information.

April 24 Oil and Gas CS: Specifies that the department of revenue will be responsible for the duplication and numbering of documents transferred to the legislature. Also adds "removal from storage or filing location" and "accounting for possession" to the list of regulations that the department will adopt.

(j) Ensures that the exchange of information agreement with the Internal Revenue Service will not be violated.

Both versions contain this identical subsection.

(k) Defines "return" and "return information".

House version: References definition used in federal law.

April 24 Oil and Gas CS: Also references definition used in federal law. Specifies that "return and return information" does not include "transactional documents" prepared during a tax period within two years of the transfer. It also defines "transactional documents".

Section 8: Amends existing law to allow the department to grant taxpayers an extension for filing their returns.

House version: Allows only a 30 day extension beyond filing date or IRS extension.

April 24 Oil and Gas CS: Allows a reasonable extension not more than one month beyond IRS maximum.

Section 9: Specifies that the act applies to all returns and return information in the possession of the department on the effective date of the act.

Both versions contain this section.

Section 10: Clarifies that regulations will be adopted before confidential information is transferred.

April 24 Oil and Gas CS: This is a new section.

Section 11: The bill has an immediate effective date.

Both versions contain this section.



*Chugiak-Eagle River  
Chamber of Commerce*

P.O. Box 770353 / Eagle River, Alaska 99577

"PLACE OF MANY PLACES"

RECEIVED  
APR 15 1987

April 13, 1987

Senator Mitch Abood  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99801

Dear Senator Abood:

The Chugiak-Eagle River Chamber of Commerce is greatly concerned over HB 58, "An Act Relating to Confidential Tax Information". We feel strongly that such a Bill will have a negative impact on business in the State of Alaska. The questionable benefits of such a Bill are outweighed by the potential for damage which the unlawful disclosure of proprietary information would have. Business has a right to expect confidentiality when making full disclosure on their tax returns. This right has been traditionally upheld by the courts.

The Chugiak-Eagle River Chamber of Commerce does not support this Bill and would request that you vote to defeat the legislation. This request was unanimously adopted by the Board of Directors of the Chugiak-Eagle River Chamber of Commerce.

Sincerely,

Stephen R. Punch  
President

SRP:ph

Humana Hospital  
Alaska

April 9, 1987

Senator Mitch Abood  
P. O. Box V  
Juneau, AK 99811

Dear Senator Abood:

HB 58, now under consideration in the Alaska State Senate, would give the legislature access to all business tax returns.

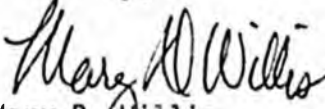
The reasoning for this bill has been that the legislators need the tax returns to verify that the oil companies are paying all of the taxes owed.

There are other procedures and processes which enable the legislators to accomplish this as all state returns are on file and the audit departments can conduct extensive reviews.

Please do not support this bill which would affect all businesses in Alaska, not just the oil companies, and would create a redundant process for the confirmation of tax payments; more to our concerns, the door would be wide open to use the information in, as yet, undeterminable ways.

Please oppose HB 58 and protect Alaskan business from more fear of instability in tax issues.

Sincerely,

  
Mary D. Willis  
Executive Director

MDW:jb

HB 58 m

RECEIVED  
APR 13 1987



# BUILDING PRODUCTS SUPPLY, INC.

624 W. Potter Drive • Anchorage, Alaska 99518 • Phone (907) 562-2237

P.O. Box 93830 • Anchorage, Alaska 99509

April 9, 1987

Alaska Senate Members  
P.O. Box V  
Juneau, Alaska 99811

RE: HB58 Access to Business Tax Returns

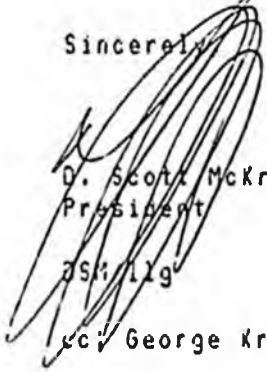
Dear Senator Abood:

Concerning the above referenced bill which has passed in the House, it is my understanding that although the legislatures' concern in this regard is (although existing law already requires) to ensure compliance to law and maximum oil industry related tax revenues are captured, the bill pertains to all Alaska businesses.

If state tax obligations are required of a business, it would be wholly appropriate to expect such business(s) to provide annual tax returns to ensure compliance to law. However, it is otherwise an unlawful invasion of privacy, failing to have a privileged basis of need to know and obtain such information.

I therefore urge you to reject by casting a "nay" vote against HB58 to ensure the continued preservation of our rights as provided under the Constitution of the United States of America.

Sincerely,

  
D. Scott McKray  
President

DSM/llg

cc: George Krusz, President, Alaska State Chamber of Commerce

RECEIVED  
APR 13 1987



NORTHERN TELEVISION, INC.  
THE BROADCAST CENTER

P.O. BOX 102200 ANCHORAGE, ALASKA 99510  
KTVA-TV/KBYR-AM/KNIK-FM/MUZAK  
(907) 562-3458

P.O. BOX 950 FAIRBANKS, ALASKA 99701  
KTVF-TV/KCBF-AM  
(907) 452-5121

MEMO TO: Members of the State Senate

FROM: A. G. Hiebert

DATE: April 20, 1987

RE: CSHB 58

Please consider this letter a strong opposition to CSHB 58, the proposed bill that would allow the State legislature access to all business tax returns, passed recently by a large majority in the House.

Your desire to make sure what the oil industry is doing in terms of paying all taxes owed is understandable. However, I think applying this to all businesses in Alaska will have a very chilling effect on business and doesn't appear to be at all necessary nor fair to every business that files an Alaska business tax return.

Very truly yours,

A. G. Hiebert  
Chairman/CEO

klm

RECEIVED  
APR 22 1987



# Telegram

C 2027 FOM ANCHORAGE ALASKA 15 04-08 1350 ADT 1987 MAR 8 14 35 C

FMS

SENATOR MITCH ABOOD

JUNEAU AK 103

WE OPPOSE HOUSE BILL 58. PLEASE VOTE NO.

CHUCK PARKER, ANCHORAGE FOOD STORAGE INC.

3338 WESLEYAN DR

ANCHORAGE AK 99508

RECEIVED  
APR 09 1987



# Telegram

C2015 FOM ANCHORAGE ALASKA 15 04-08 1350 ADT 1987 MAR 8 14 34

PMS

SENATOR MITCH ABOOD

JUNEAU AK 153

WE ARE VERY STRONGLY OPPOSED TO HOUSE BILL 58. PLEASE VOTE NO.

ROBERT SAHLBERG, SAHLBERG EQUIPMENT CO.

1702 SHIP AVE

ANCHORAGE AK 99501

RECEIVED  
APR 09 1987

ARCO Alaska, Inc.  
Post Office Box 100360  
Anchorage, Alaska 99510-0360  
Telephone 907 276 1215



April 29, 1987

Senator Bettye Fahrenkamp  
Chairman  
Senate Oil & Gas Committee  
Pouch V  
Juneau, Alaska 99801

Dear Senator Fahrenkamp:

ARCO Alaska, Inc. greatly appreciated the opportunity to provide input during the shaping of what is now Senate CS for CS for HB 58. As a result of this process, the bill has, in our view, been substantially improved.

Unfortunately, we are still unable to endorse this bill because it permits unrequested information to be transferred out of the Department of Revenue and it subjects some of our most sensitive business documents to the risks of disclosure.

We do however, recognize the legislature's need for certain information and regret that we were unable to fully resolve our concerns during our extensive sessions.

Sincerely,

Hugh R. Motley  
Assistant Tax Officer

Testimony of  
Exxon Company, U.S.A.  
Senate CS for CSHB-58 (O&G)  
Senate Special Committee on Oil & Gas  
April 30, 1987

Exxon appreciates the opportunity we have had to express our concerns about CSHB-58 to the Special Oil and Gas Committee members and other participants. We especially appreciate your efforts both in improving the security procedures which govern the transmittal of taxpayer information to the legislature and in affording the taxpayer the opportunity of notification and comment to a proposed transfer of information.

However, we continue to believe that this bill is unnecessary. Under AS 43.05.010, the Commissioner already has the responsibility to inform the legislature about the efficiency and effectiveness of the Department of Revenue and may communicate in general terms concerning the operations of his department and the tax laws. Since we believe the current law is sufficient to keep the legislature informed, we urge you to reconsider the need for this bill.

Thank you.

MLJ/570:dag  
4/28/87

Standard Alaska  
Production Company  
900 East Benson Boulevard  
P.O. Box 196612  
Anchorage, Alaska 99519-6612  
(907) 561-5111

**STANDARD**  
ALASKA PRODUCTION

MY NAME IS JIM PALMER. I AM THE MANAGER OF GOVERNMENTAL AFFAIRS FOR  
STANDARD ALASKA PRODUCTION COMPANY.

STANDARD APPRECIATES THE ATTENTION WHICH THIS COMMITTEE HAS PAID TO OUR  
CONCERNS ABOUT HOUSE BILL 58. CHANGES SUCH AS ALLOWING THE TAXPAYER AN  
OPPORTUNITY TO REVIEW THE CONTENTS OF THE INFORMATION TO BE TRANSFERRED AND  
TO COMMENT THEREON IS A VALUABLE PROTECTION TO ALL TAXPAYERS. THIS  
OPPORTUNITY BY THE TAXPAYER TO REVIEW AND COMMENT IS ALSO VALUABLE TO THE  
LEGISLATURE IN THAT THE LEGISLATURE IS MORE LIKELY TO RECEIVE A BALANCED  
PACKAGE OF INFORMATION. COMPARED TO EARLIER VERSIONS, THE CURRENT BILL  
STRIKES A FAR BETTER BALANCE OF THE TAXPAYER'S PRIVACY RIGHTS WITH THE  
LEGISLATURE'S NEED TO KNOW CERTAIN INFORMATION.

STANDARD DOES STOP SHORT OF ENDORSING THE BILL, HOWEVER, BECAUSE WITH  
60 LEGISLATORS AND THEIR AIDES AND AGENTS HAVING ACCESS TO HIGHLY CONFIDENTIAL  
INFORMATION, THERE IS AN UNAVOIDABLE CONCERN ABOUT UNAUTHORIZED DISCLOSURE.  
ADDITIONALLY, THE BILL COULD ALLOW A FUTURE LEGISLATIVE BODY TO PERFORM  
EXECUTIVE FUNCTIONS. THIS COULD OCCUR WHERE THE LEGISLATURE UNDULY INFLUENCES  
THE DEPARTMENT IN THE EXECUTION OF AUDITS.

WHILE WE HAVE BASIC PROBLEMS WITH THE THRUST OF THE BILL, WE BELIEVE THIS  
COMMITTEE HAS INCORPORATED MANY SAFEGUARDS IN HB 58 WHICH ARE BENEFICIAL.  
IF THE LEGISLATURE BELIEVES THAT A BILL OF THIS TYPE IS NECESSARY, WE THINK  
THE OIL AND GAS COMMITTEE SUBSTITUTE CLOSES MANY OF THE LOOPHOLES THAT  
PREVIOUS VERSIONS HAD. STANDARD AGAIN THANKS THIS COMMITTEE FOR THE GOOD  
FAITH MANNER IN WHICH THE COMMITTEE LISTENED TO OUR CONCERNS AND FOR THE  
INCORPORATION OF CHANGES INTO THE BILL.



SKILL  
RESPONSIBILITY  
INTEGRITY

THE ALASKA CHAPTER  
**ASSOCIATED GENERAL CONTRACTORS  
OF AMERICA, INC.**

BOX 92500 • ANCHORAGE, ALASKA 99509  
TELEPHONE (907) 561-5354

April 30, 1987



3201 SPENARD ROAD  
ANCHORAGE  
WILLIAM E. SCHNEIDER  
EXECUTIVE DIRECTOR

Senator Mitch Abood  
Alaska State Legislature  
P.O. V (M.S. 3100)  
Juneau, AK 99811

*C*  
*HB 58*  
*Non*  
*W*

Dear Senator Abood:

I am writing to state AGC-Alaska's opposition to HB58, and Senate CS for CS for House Bill No. 58 (O&G) An Act Relating To Confidential Information.

As you are aware AGC-Alaska represents over 600 construction related businesses in Alaska. As business persons we all treasure a certain degree of confidentiality when it comes to our business affairs. The construction industry is very competitive, particularly in today's market. Confidentiality of our business data is important to our ability to successfully bid against our competitors.

The Senate is presently considering HB58, a bill that will disturb the present level of confidentiality shared by Alaska businesses. We are disturbed by the bill and urge you to oppose this legislation.

We understand that some legislators desire to ensure oil companies are paying the proper tax. However, the approach taken in HB58 goes far beyond that stated desire. HB 58 will affect the confidentiality of all businesses not just oil companies. This is not right nor is it necessary.

The proposed legislation purports to protect confidentiality by imposing "civil" fines on any legislator violating the confidentiality of a business tax return. This is a meaningless sanction both from the burden of proof problem and the legislators' immunity from criminal and civil sanctions.

We can appreciate the legislators desire to review certain tax records particularly when they involve out of court settlements of petroleum tax litigation. However, we urge you to act not in haste. The present proposed legislation is too broad and needs further refinement and thought.

Sincerely,

ALASKA CHAPTER  
ASSOCIATED GENERAL CONTRACTORS

*F. Michael Swalling*  
F. Michael Swalling, Chairman  
AGC-Alaska State Legislative Committee

**RECEIVED**  
MAY 04 1987

cc: Senator Jan Faiks  
Senator Bettye M. Fahrenkamp



BOX 719  
BETHEL, ALASKA 99559

RE: Senate CS for CS for House BILL No. 58 (O & G)

STATEMENT TO BE READ AT TELECONFERENCE

The Bethel Native Corporation adamantly opposes the passage of this legislation. Notwithstanding the protections written into the legislation, this legislation, if passed, is an unwarranted invasion of privacy and opens the door to blatant discrimination against individual corporations by the Legislature.

We feel that the purposes used to justify this legislation can adequately be achieved from aggregated information provided by the Commissioner of the Department of Revenue.

Further, politics being what it is, we have absolutely no faith in the Legislature and its employees and their ability to maintain the confidentiality of the information received from individual tax returns. This is a bad piece of legislation and should be immediately dropped from further consideration.

William C. Bivin  
General Manager  
Bethel Native Corporation

LTCC FZJ  
5861062.

\*\*\*\*\*  
 \*  
 \* DELIVER TO: LIOCANC  
 \*  
 \*  
 \* ORIGINAL  
 \* SENT: '05/87 TIME: 16:09  
 \* FROM: 'GTG  
 \* SUBJECT: '11 TELE  
 \* PRINT DATE: '77 TIME: 16:10  
 \*  
 \*\*\*\*\*

HB 58

LEGISLATIVE - ALL SITES

DATE - DAY/TIME:  
MONDAY - 5/11 7:00 - 9:30PM

SPONSOR:  
SENATE STATE AFFAIRS

TYPE/SUBJECT:  
LEG. PUB. HEARING - HB 58: CONFIDENTIAL TAX INFORMATION

SITES:  
JNU, ANC, BAR, BET, DJT, DLG, FBX, GLN, SOL, KTN, KOD, MAT, NOM,  
PSG, SIT, VAL,

BRIDGE-NUMBER/#PORTS:  
ELLIOT: 258-1808, 20 PORTS

CHAIRING SITE/PERSON:  
JNU/SEN. ABOOD

JNU ROOM:  
C-205 BUTROVICH

CONTACT PERSON/PHONE#:  
CAROL AT 465-4522

BACK UP #:  
ANC: 278-9624  
JNU: TBA

SPECIAL NOTES:

DATE TAKEN-BY:

\*\*\*\*\*





Legislative  
Information and  
Teleconference Networks

# Legislative Teleconference Network SIGN-IN SHEET

START TIME: \_\_\_\_\_

DATE: \_\_\_\_\_

END TIME: \_\_\_\_\_

PLACE: \_\_\_\_\_

SPONSOR/SUBJECT: \_\_\_\_\_

Please Print

HERE TO  
TESTIFY

HERE TO  
OBSERVE

NAME/REPRESENTING

ADDRESS

PHONE

	NAME/REPRESENTING	ADDRESS	PHONE	HERE TO TESTIFY	HERE TO OBSERVE
1	Tom Walsh	3605 ARCTIC #1489	248-9396	X	
	Barbara Heenan	10316 4th	276-3550		X
9	Bill REEVES/AGC	3201 Spruce Rd	561-5359	X	
10	Cynthia Coultter	815 W 80th	561-1034	X	
11	Michael Swalling	P.O. Box 101039 Anch	272-3461	X	
12	Dawn Kirk	P.O. Box 110809	245-1138	X	
13	N. P. Road	1400 W. Beav	272-0571	<input checked="" type="checkbox"/>	X
13	Brian <sup>TIMBER</sup> Zinke	3532 clay products	561-4949	<input checked="" type="checkbox"/>	
14	Dennis BRANDON	Box 110-655	346-1980	X	<input checked="" type="checkbox"/>
	Hugh R. Motley	9900 Spring Hill, ANL	346-7909		X
15	Ernest W. Casper	2602 Kelsan Circle	279-2120	X	
	CH Rosenthal	PO BOX 100360	265-6153		X
16	Paul Schilling	PO Box 190733	563-3752	<input checked="" type="checkbox"/>	
	Bob Nelson	700 G STREET	265-6527		X
	Ch. Wilson & Jeanne AGIC	2255 Sakba Way	279-8173	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>



5-13-87

Att Mitch Abood

Dear Senator

This is a short letter to let you know that I am against passage of H.B. 158, FB 158, ELN Bill now before the legislature.

Thank You

Lester Anderson

5-0321T  
Bannister  
4/12/88

Original sponsor: Rules/Legislative  
Budget and Audit

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 58 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to confidential tax information;  
7 relating to the filing of tax returns; and providing  
8 for an 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) tax revenue is essential to enable the state to provide  
13 essential services for its citizens and to ensure the public health and  
14 welfare;

15 (2) the great majority of the state's tax revenue is derived  
16 from certain critical taxes imposed on taxpayers in the oil and gas indus-  
17 try, including in particular, the production and severance taxes levied  
18 under AS 43.55 and AS 43.57, the income taxes levied under AS 43.20 when  
19 AS 43.20.072 applies, and the income taxes levied under former AS 43.21;

20 (3) the relatively small number of taxpayers of these critical  
21 taxes often makes it difficult or impossible for the Department of Revenue  
22 to review the administration and operation of these taxes with the legisla-  
23 ture without disclosing information that allows a particular taxpayer to be  
24 identified;

25 (4) the legislature must be able to review and supervise the  
26 administration and operation of these critical taxes in order to be assured  
27 that the state is receiving its proper tax revenue and that these critical  
28 tax laws are operating in the manner intended by the legislature;

29 (5) the legislature must exercise its supervisory authority to

1 ensure that the collection of this critical tax revenue by the Department  
2 of Revenue is efficient, fair, prompt, and in the best interest of the  
3 state;

4 (6) tax returns and return information are confidential and  
5 often contain information of a proprietary or sensitive business nature;

6 (7) taxpayers are entitled to protections against public disclo-  
7 sure of their confidential tax returns and return information;

8 (8) exchange agreements with the Internal Revenue Service pre-  
9 vent certain tax information from being publicly disclosed;

10 (9) protection of confidential tax returns and return informa-  
11 tion fosters and allows for full disclosure by taxpayers to taxing author-  
12 ities and, therefore, promotes effective administration of, and compliance  
13 with, tax programs; and

14 (10) legislators and legislative employees who are given access  
15 to confidential tax returns and return information and who improperly  
16 breach that confidentiality by disclosing or allowing the information to be  
17 disclosed should be subject to the same sanctions that are imposed for the  
18 violations by employees of the executive branch.

19 (b) The purposes of this Act are to ensure that

20 (1) the public health and welfare of the citizens of the state  
21 are provided for through the receipt and expeditious collection of all tax  
22 revenue that the state is entitled to receive under its tax laws;

23 (2) the legislature is able to fulfill effectively its respon-  
24 sibilities to monitor and review the administration of the state's tax laws  
25 and to consider changes that may become necessary or desirable from time-  
26 to-time for those laws;

27 (3) taxpayers are protected from improper disclosure of confi-  
28 dential tax returns and return information;

29 (4) the exchange agreements with the Internal Revenue Service  
SCS CSHB 58(SA)

1 regarding tax information are not jeopardized;

2 (5) the tax laws of the state are administered fairly and uni-  
3 formly; and

4 (6) the right to privacy is recognized, respected, and properly  
5 protected.

6 \* Sec. 2. AS 24.10 is amended by adding a new section to article 2 to  
7 read:

8 Sec. 24.10.070. CONFIDENTIALITY OF INFORMATION. A present or  
9 former employee or agent of the legislature may not disclose confiden-  
10 tial tax information contained in a report or return filed under  
11 AS 43, or the former provisions of AS 43, without the prior consent of  
12 the person whose tax information is contained in the report or return.

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

14 (b) A person to whom this chapter applies may not disclose or  
15 use for personal gain or for the personal gain of another person the  
16 confidential tax information contained in a report or a return filed  
17 under AS 43, or the former provisions of AS 43, and furnished to the  
18 person under AS 43.05.231 - 43.05.239. A person who knowingly vio-  
19 lates this subsection is guilty of a class C felony.

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

21 Sec. 24.60.172. SPECIAL PROCEEDINGS BEFORE THE COMMITTEE. (a)  
22 If a complaint before the committee involves an allegation that a  
23 person to whom this chapter applies has disclosed confidential tax  
24 information contained in a report or return filed under AS 43, or the  
25 former provisions of AS 43, with the Department of Revenue and fur-  
26 nished to the person under AS 43.05.231 - 43.05.239, and if the tax-  
27 payer or a third party whose tax information is alleged to have been  
28 improperly disclosed does not consent to the public disclosure of the  
29 tax information or of the identity of the taxpayer or third party, the

1 proceedings of the committee are modified as follows:

2 (1) the complaint may be initiated and filed at any time  
3 within one year of the alleged disclosure;

4 (2) the hearing may not be held in open session;

5 (3) proceedings on the complaint that are pending before  
6 the committee on the 60th day before a state primary or general elec-  
7 tion are not stayed;

8 (4) before being made public, a transcript containing the  
9 information shall be edited to prevent the disclosure of the informa-  
10 tion and the identity of the taxpayer or the third party;

11 (5) a decision, if made public, shall be edited to prevent  
12 the disclosure of the information and to protect the identity of the  
13 taxpayer or the third party; and

14 (6) a public statement may not contain information identi-  
15 fying the taxpayer, a third party, or the information.

16 (b) A person whose confidential tax information is alleged to  
17 have been improperly disclosed may consent to the public disclosure of  
18 the person's identity and of certain portions of the information,  
19 without waiving the right to keep confidential the remainder of the  
20 information. The release must be in writing unless given orally by  
21 the person on the record before the committee.

22 \* Sec. 5. AS 43.05.230(a) is amended to read:

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

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

1 (2) in connection with official investigations or proceed-  
2 ings of the child support enforcement agency, whether judicial or  
3 administrative, involving child support obligations imposed or im-  
4 posable under AS 25 or AS 47;

5 (3) as provided in AS 38.05.036 pertaining to audit func-  
6 tions; and

7 (4) as otherwise provided in this section or in AS 43.-  
8 05.231 - 43.05.239.

9 \* Sec. 6. AS 43.05.230(f) is repealed and reenacted to read:

10 (f) A person who knowingly violates a provision of this section  
11 is guilty of a <sup>C Felony</sup> class A misdemeanor. If the negligence of a member or  
12 former member of the legislature, or a present or former employee or  
13 agent of the legislature results in a violation of this section, the  
14 member, employee, or agent of the legislature is subject to a civil  
15 penalty of \$5,000. The department shall enforce this section and  
16 collect the civil penalty established by this subsection. This sec-  
17 tion is not intended to impair, limit, or abolish a right, claim, or  
18 cause of action that a person may have whose confidential information  
19 is unlawfully disclosed.

20 \* Sec. 7. AS 43.05 is amended by adding new sections to read:

21 Sec. 43.05.231. LEGISLATIVE REQUEST FOR TAX INFORMATION. Sub-  
22 ject to AS 43.05.233, after a legislative committee identifies the  
23 scope of an investigation or inquiry relating to taxes, and after  
24 adoption by either house of the legislature of a simple resolution  
25 giving the committee authority to receive confidential tax information  
26 about critical taxes, the committee chair or co-chair may request  
27 confidential tax returns and return information relating to critical  
28 taxes, and the commissioner of revenue shall provide the requested tax  
29 returns or return information under this section. The request shall

1 be in writing and may identify a particular taxpayer.

2 Sec. 43.05.232. COMMISSIONER'S TRANSFER OF UNREQUESTED TAX  
3 INFORMATION. (a) Subject to AS 43.05.233, the commissioner may  
4 transfer unrequested confidential tax returns or return information  
5 regarding critical taxes to a legislative committee after making a  
6 written determination that the transfer of the tax returns or return  
7 information is in the best interest of the state.

8 (b) In making a determination under (a) of this section, the  
9 commissioner shall consider

10 (1) if the legislative committee is reviewing the adminis-  
11 tration of a critical tax, whether the tax returns or return informa-  
12 tion would demonstrate the application of a critical tax more clearly  
13 than a hypothetical example would, and if so, whether the aspects of  
14 tax administration that would be more clearly demonstrated are materi-  
15 al and significant to the committee's review;

16 (2) if the legislative committee is considering adding a  
17 new tax or amending an existing tax, how necessary it is to transfer  
18 tax returns or return information regarding critical taxes in order to  
19 demonstrate the effect on taxpayers of the tax law change being con-  
20 sidered;

21 (3) whether the tax returns or return information would  
22 clarify or rectify information provided by a taxpayer to a legislative  
23 committee;

24 (4) the potential harm the taxpayer may suffer if the  
25 taxpayer's tax returns or return information is subsequently disclosed  
26 illegally;

27 (5) any other interest of the taxpayer in avoiding the  
28 transfer of the tax returns or return information;

29 (6) if a taxpayer's tax returns or return information is

1 being transferred at the taxpayer's request under AS 43.05.235(e),  
2 whether it is necessary or appropriate to supplement the tax returns  
3 or return information in order to give the committee a balanced and  
4 complete presentation.

5 Sec. 43.05.233. GENERAL LIMITATIONS ON REQUESTS AND TRANSFERS.

6 (a) Confidential tax returns and return information for critical  
7 taxes may be requested by a legislative committee under AS 43.05.231  
8 or transferred to a legislative committee under AS 43.05.232 only if  
9 the purpose of the committee's request or transfer is to

10 (1) assist the committee in carrying out its responsibil-  
11 ities to consider tax legislation;

12 (2) oversee the effective and efficient administration of  
13 the state's laws regarding critical taxes, including the review of  
14 audits, litigation, or settlements; or

15 (3) estimate future state revenue.

16 (b) A request or transfer may not be made under AS 43.05.231 or  
17 43.05.232 if the purpose of the request or transfer is to direct the  
18 executive branch in its audit, litigation, or settlement efforts, or  
19 to collect information to embarrass, harass, or discriminate against a  
20 taxpayer.

21 (c) AS 43.05.231 - 43.05.239 do not permit the transfer to a  
22 legislature of confidential tax returns and return information provid-  
23 ed by the Internal Revenue Service under exchange agreements with the  
24 department, or the transfer to a legislative committee of confidential  
25 tax returns and return information for taxes other than critical  
26 taxes.

27 Sec. 43.05.234. PREPARATION AND TRANSMITTAL OF TAX INFORMATION.

28 (a) Before providing confidential tax return or return information in  
29 response to a legislative request under AS 43.05.231 or under a

1 commissioner's determination made under AS 43.05.232, the commissioner  
2 shall review the purpose of the proposed transfer of the tax returns  
3 or return information to determine what type of confidential tax  
4 return or return information will provide the needed information. If  
5 more than one type of confidential tax return or return information  
6 will provide the needed information, the commissioner shall choose the  
7 return or return information that, in the commissioner's discretion,  
8 is the least commercially sensitive. Whenever possible, instead of  
9 transactional documents, the commissioner shall transfer summary  
10 documents or analyses that have been prepared by the department. In  
11 this subsection, "summary documents or analyses" includes audit narra-  
12 tives, informal conference decisions, and formal hearing decisions.

13 (b) When the period for submitting additional analysis, comment,  
14 or information under AS 43.05.235(b) has expired, the commissioner  
15 shall transfer to the committee the tax return or return information,  
16 including the additional analysis, comment, or information, if any,  
17 received by the commissioner from the taxpayer under AS 43.05.235(b).

18 (c) If a taxpayer submits analysis, comment, and other written  
19 information to a committee under AS 43.05.235(d), the department shall  
20 transfer the analysis, comment, or other information to the committee  
21 within 24 hours after receiving it and the request.

22 (d) The commissioner shall transfer all the tax returns and  
23 return information requested to be transferred by the taxpayer under  
24 AS 43.05.235(e) within 24 hours after receiving the request, except  
25 for return information that needs to be extracted or compiled by the  
26 department from other materials. Return information that needs to be  
27 extracted or compiled by the department shall be transferred within  
28 five days after the request. The chair or co-chair of the committee  
29 to which the return information is to be transferred may for good

1 cause grant a reasonable extension of time for making the transfer and  
2 shall immediately notify the taxpayer of the extension.

3 (e) The department has exclusive responsibility for duplicating  
4 and numbering the copies of confidential tax returns and return infor-  
5 mation provided to a legislature under AS 43.05.231 - 43.05.235.

6 Sec. 43.05.235. TAXPAYER NOTIFICATION AND SUBMISSION OF TAX  
7 INFORMATION. (a) Before transferring a confidential tax return or  
8 return information under AS 43.05.231 or 43.05.232, the commissioner  
9 shall notify the taxpayer whose tax return or return information is to  
10 be transferred of the proposed transfer and the content of the tax  
11 return or return information to be transferred, and, if the transfer  
12 is under AS 43.05.232, shall provide the taxpayer with a copy of the  
13 commissioner's determination.

14 (b) Within seven days after receiving the notice of a transfer  
15 proposed under AS 43.05.231 or the notice and determination of a  
16 transfer proposed under AS 43.05.232, the taxpayer may submit addi-  
17 tional analysis, comment, or other information to the department.

18 (c) A taxpayer may waive the provisions of (a) - (b) of this  
19 section by providing the commissioner with a written waiver signed by  
20 the taxpayer.

21 (d) If, in addition to the additional analysis, comment, and  
22 other information filed by the taxpayer with the department under (b)  
23 of this section, a taxpayer wants to provide the legislative committee  
24 with analysis, comment, and other written information regarding the  
25 taxpayer's tax return or return information being considered by the  
26 committee under this section, the taxpayer shall file the analysis,  
27 comment, or other information with the department and request that the  
28 department transfer the information to the legislative committee.

29 (e) A taxpayer may at any time request the commissioner to

1 transfer the taxpayer's confidential tax returns or return information  
2 to a legislative committee. The request must be in writing, must  
3 state which tax returns or return information is to be transferred,  
4 and must state the legislative committee to which the tax returns or  
5 return information is to be transferred. A taxpayer's request under  
6 this subsection is not a waiver of confidentiality, and the tax re-  
7 turns and return information transferred under this subsection are  
8 subject to the same sanctions and safeguards against disclosure as  
9 other tax returns and return information transferred under AS 43.05.-  
10 231 - 43.05.235.

11 Sec. 43.05.236. CONSIDERATION OF TAX INFORMATION BY LEGISLATIVE  
12 COMMITTEE. (a) A legislative committee shall consider confidential  
13 tax returns and return information transferred under AS 43.05.231 -  
14 43.05.235 in executive session only, unless the taxpayer and any third  
15 party whose tax return or return information is being considered in  
16 conjunction with the taxpayer's return or return information consent  
17 in writing to a disclosure in open session. The executive session  
18 must be open to all legislators.

19 (b) The committee chair or co-chair may designate legislative  
20 employees and agents to inspect the confidential tax returns and  
21 return information, but the chair or co-chair shall limit the number  
22 of employees and agents designated to the fewest number necessary that  
23 is consistent with the need of the committee and its individual mem-  
24 bers to analyze and understand the tax return and return information  
25 fully. The designated employees and agents may attend the executive  
26 session.

27 (c) If tax returns or return information regarding only one  
28 taxpayer is being presented to the committee or is being discussed by  
29 it, the chair or co-chair shall allow the taxpayer to attend the

1 portions of the executive session when the taxpayer's confidential tax  
2 return or return information is presented or discussed, and the tax-  
3 payer shall have a reasonable opportunity to address the committee at  
4 the conclusion of the presentation or discussion.

5 (d) If tax returns or return information regarding more than one  
6 taxpayer is being presented to or considered by the committee at one  
7 time, a transcript of the executive session shall be prepared and  
8 presented to each taxpayer within 48 hours after the executive ses-  
9 sion. The portions of the transcript pertaining to tax returns and  
10 return information of a taxpayer other than the one to whom it is  
11 presented shall be blanked out or otherwise deleted while at the same  
12 time preserving the coherence of the transcript as much as possible.

13 (e) At the request of the taxpayer, a taxpayer receiving an  
14 edited transcript under (d) of this section shall be given a reason-  
15 able opportunity as soon as practicable to address the committee in  
16 executive session about the presentation and discussion of the tax-  
17 payer's tax returns and return information.

18 Sec. 43.05.237. PROHIBITION AGAINST DISCLOSURE. (a) Disclosure  
19 contrary to the provisions of AS 43.05.231 - 43.05.239 by a member or  
20 former member of the legislature or by a present or former employee or  
21 agent of the legislature of all or part of a return or return informa-  
22 tion that is confidential under AS 43.05.230 and transferred to a  
23 legislative committee under AS 43.05.231 - 43.05.235 is a violation of  
24 AS 43.05.230.

25 (b) Before receiving or reviewing a confidential return or  
26 return information provided by the commissioner under AS 43.05.231 -  
27 43.05.235, a member of the legislature or an employee or agent of the  
28 legislature shall, on a form prepared by the commissioner,

29 (1) acknowledge that the confidential return or return

1 information is confidential and that a disclosure of part or all of  
2 the return or return information contrary to the provisions of this  
3 section is prohibited by law; and

4 (2) execute an agreement with the department to keep the  
5 return or return information confidential, to abide by regulations  
6 adopted by the department under AS 43.05.238, and to return the docu-  
7 ments to the department.

8 Sec. 43.05.238. REGULATIONS. To ensure confidentiality, the  
9 commissioner shall adopt regulations governing the transmittal, re-  
10 ceipt, safekeeping, removal from storage or filing location, account-  
11 ing for possession, and return to the department of confidential tax  
12 return and return information transferred under AS 43.05.231 - 43.05.-  
13 235.

14 Sec. 43.05.239. DEFINITIONS. In AS 43.05.231 - 43.05.239

15 (1) "critical tax" means

16 (A) a tax imposed under AS 43.55 or AS 43.57;

17 (B) the tax imposed under former AS 43.21; and

18 (C) the tax imposed under AS 43.20 if AS 43.20.072

19 applies when determining the amount of the tax and the taxpayer  
20 is not a corporation established under 43 U.S.C. 1606;

21 (2) "return" has the meaning given in 26 U.S.C. 6103(b)(1),  
22 except that "secretary" is read as "department" and "this title" means  
23 AS 43 and the former provisions of AS 43;

24 (3) "return information" has the meaning given in 26 U.S.C.  
25 6103(b)(2)(A), except that "secretary" is read as "department" and  
26 "this title" means AS 43 and the former provisions of AS 43; "return  
27 information" does not include transactional documents prepared during  
28 a tax period that ended within two years of the date of the transfer  
29 of the "return information" under AS 43.05.231 - 43.05.235;

1 (4) "transactional document" means a document that relates  
2 to the sale, exchange, or other transfer by a taxpayer of real proper-  
3 ty or tangible or intangible personal property and that

4 (A) constitutes all or part of a contract or agreement  
5 concerning the sale, exchange, or other transfer, including  
6 contract amendments, billings, and invoices; or

7 (B) summarizes one or more of the terms of the sale,  
8 exchange, or other transfer.

9 \* Sec. 8. AS 43.20.030 is amended by adding a new subsection to read:

10 (h) The department may grant a reasonable extension of time for  
11 filing a return under this section. The extension may not be for more  
12 than 30 days beyond the maximum period allowable under 26 U.S.C.  
13 (Internal Revenue Code) for extensions of time to file federal income  
14 tax returns. An extension of time to file a return does not affect  
15 the date when the payment is due.

16 \* Sec. 9. TRANSITIONAL PROVISIONS. (a) AS 43.05.231 - 43.05.239, as  
17 added by sec. 7 of this Act, apply to all confidential tax returns and  
18 return information for critical taxes, as defined in AS 43.05.239, in the  
19 possession of the Department of Revenue on or after the effective date of  
20 this Act.

21 (b) The Department of Revenue shall adopt the regulations required by  
22 AS 43.05.238, enacted by sec. 7 of this Act, before the department trans-  
23 fers a confidential tax return or return information to a legislative  
24 committee under AS 43.05.231 - 43.05.239. Initial regulations adopted  
25 under this subsection to implement or interpret AS 43.05.231 - 43.05.239  
26 may not be adopted as emergency regulations.

27 \* Sec. 10. This Act takes effect immediately under AS 01.10.070(c).  
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