

HOUSE BILL NO. 115

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Introduced: 2/10/17

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the permanent fund dividend; relating to the appropriation of
2 certain amounts of the earnings reserve account; relating to the taxation of income of
3 individuals; relating to a payment against the individual income tax from the permanent
4 fund dividend disbursement; repealing tax credits applied against the tax on individuals
5 under the Alaska Net Income Tax Act; and providing for an effective date."

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

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

9 SHORT TITLE. This Act may be known as the State Revenue Restructuring Act.

10 * **Sec. 2.** AS 37.13.140 is amended to read:

11 **Sec. 37.13.140. Income and market value.** Net income of the fund includes
12 income of the earnings reserve account established under AS 37.13.145. The
13 corporation shall determine the net [NET] income of the fund [SHALL BE

COMPUTED ANNUALLY AS OF THE LAST DAY OF THE FISCAL YEAR] in accordance with generally accepted accounting principles, excluding any unrealized gains or losses. [INCOME AVAILABLE FOR DISTRIBUTION EQUALS 21 PERCENT OF THE NET INCOME OF THE FUND FOR THE LAST FIVE FISCAL YEARS, INCLUDING THE FISCAL YEAR JUST ENDED, BUT MAY NOT EXCEED NET INCOME OF THE FUND FOR THE FISCAL YEAR JUST ENDED PLUS THE BALANCE IN THE EARNINGS RESERVE ACCOUNT DESCRIBED IN AS 37.13.145.]

* **Sec. 3.** AS 37.13.140 is amended by adding a new subsection to read:

(b) The corporation shall determine the amount available for distribution each year. The amount available for distribution is 4.75 percent of the average market value of the fund for the first five of the preceding six fiscal years, excluding the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles. In this subsection, "the average market value of the fund" includes the balance of the earnings reserve account established under AS 37.13.145, but does not include that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District).

* **Sec. 4.** AS 37.13.145(b) is amended to read:

(b) **Each** [AT THE END OF EACH] fiscal year, the **legislature may appropriate** [CORPORATION SHALL TRANSFER] from the earnings reserve account to the

(1) dividend fund established under AS 43.23.045, 33 [50] percent of the income available for distribution under AS 37.13.140(b); and

(2) general fund, 67 percent of the income available for distribution under AS 37.13.140(b) [AS 37.13.140].

* **Sec. 5.** AS 37.13.145(d) is amended to read:

(d) **Income** [NOTWITHSTANDING (b) OF THIS SECTION, INCOME] earned on money awarded in or received as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District), including settlement, summary judgment, or adjustment to a royalty-in-kind contract that is tied to the

outcome of this case, or interest earned on the money, or on the earnings of the money shall be treated in the same manner as other income of the Alaska permanent fund, except that it is not available for distribution [TO THE DIVIDEND FUND OR FOR TRANSFERS TO THE PRINCIPAL] under **(b)** [(c)] of this section, and shall be annually deposited into the Alaska capital income fund (AS 37.05.565).

* **Sec. 6.** AS 37.13.145 is amended by adding a new subsection to read:

(e) Each year, after the appropriations under (b) of this section, the legislature may appropriate from the earnings reserve account to the principal of the permanent fund the amount by which the balance of the earnings reserve account exceeds four times the amount calculated for appropriation under (b) of this section.

* **Sec. 7.** AS 37.13.150 is amended to read:

Sec. 37.13.150. Corporation budget. The revenue generated by the fund's investments must be identified as the source of the operating budget of the corporation in the state's operating budget under AS 37.07 (Executive Budget Act). The unexpended balance of the corporation's annual operating budget does not lapse at the end of the fiscal year but shall be treated as income **and part of the market value of the fund** under AS 37.13.140.

* **Sec. 8.** AS 37.13.300(c) is amended to read:

(c) Net income from the mental health trust fund may not be included in the computation of net income **or market value** available for distribution under AS 37.13.140.

* **Sec. 9.** AS 37.14.031(c) is amended to read:

(c) The net income of the fund shall be determined by the Alaska Permanent Fund Corporation, **computed annually as of the last day of the fiscal year, in accordance with generally accepted accounting principles, excluding any unrealized gains or losses** [IN THE SAME MANNER THE CORPORATION DETERMINES THE NET INCOME OF THE ALASKA PERMANENT FUND UNDER AS 37.13.140].

* **Sec. 10.** AS 43.05.045(a) is amended to read:

(a) **Except as provided in AS 43.22.020(f), or unless** [UNLESS] an exemption is granted under (b) of this section, a taxpayer required to submit a return

or report for a tax levied under this title or for any other tax administered by the department shall submit the return or report electronically in a format prescribed by the department. Failure to comply with this section may result in a civil penalty under AS 43.05.220(f). If a law under this title requires a report or return or a portion of a report or return to be in writing, an electronically filed report or return satisfies this section. A taxpayer shall submit attachments to a report or return required under this title electronically.

* **Sec. 11.** AS 43 is amended by adding a new chapter to read:

Chapter 22. Individual Income Tax.

Sec. 43.22.010. Tax on individuals. (a) Except as provided in (c) of this section, a tax is imposed for each calendar year or fraction of a calendar year on every

(1) resident individual; and

(2) nonresident individual with income from a source in the state.

(b) The tax under this section for a

(1) resident individual is equal to the sum of

(A) 15 percent of the individual's total federal income tax due or \$25, whichever is greater; and

(B) the product of the individual's long-term capital gains for the calendar year and the lesser of

(i) 10 percent; or

(ii) the difference between the individual's incremental federal income tax rate on ordinary income and the individual's federal tax rate on long-term capital gains; or

(2) nonresident individual is equal to the sum of

(A) 15 percent of the nonresident individual's total federal income tax due on the amount of the individual's income from a source in the state or \$25, whichever is greater; and

(B) the product of the taxpayer's long-term capital gains from a source in the state for the calendar year and the lesser of

(i) 10 percent; or

(ii) the difference between the taxpayer's incremental

1 federal income tax rate on ordinary income and the taxpayer's federal
2 tax rate on long-term capital gains.

3 (c) An individual who, under federal law, is not required to file a federal
4 individual income tax return is exempt from the tax due under this chapter.

5 (d) In this section,

6 (1) "federal income tax due" means the total tax payable to the federal
7 government as reported by the taxpayer on a federal individual income tax return,
8 including alternative minimum tax, net of nonrefundable credits allowed against a
9 liability and net of federal tax attributable to income from stocks and obligations of the
10 United States government exempt from taxation under 31 U.S.C. 3124;

11 (2) "long-term capital gains" means the total long-term capital gains
12 required to be reported on the federal individual income tax form related to capital
13 gains attached to a federal individual income tax return.

14 **Sec. 43.22.020. Returns and payment of taxes.** (a) An individual required to
15 make a return under the provisions of the Internal Revenue Code shall file with the
16 department a return setting out

17 (1) the amount of tax due under this chapter; and

18 (2) other information for the purpose of carrying out the provisions of
19 this chapter that the department requires.

20 (b) The return shall either be on oath or contain a written declaration that it is
21 made under penalty of perjury, and the department shall prescribe forms accordingly.

22 (c) The total amount of tax imposed by this chapter is due and payable to the
23 department at the same time and in the same manner as the tax payable to the United
24 States Internal Revenue Service.

25 (d) A taxpayer, upon request by the department, shall furnish to the
26 department a true and correct copy of the tax return that the taxpayer has filed with the
27 United States Internal Revenue Service. Every taxpayer shall notify the department in
28 writing of an alteration in, or modification of, the taxpayer's federal income tax return
29 and of a recomputation of tax or determination of deficiency, whether with or without
30 assessment. A full statement of the facts must accompany this notice. The taxpayer
31 shall file the notice within 60 days after the final determination of the alteration,

modification, recomputation, or deficiency, and the taxpayer shall pay the additional tax under this chapter at that time. For purposes of this subsection, a final determination means the time that an amended federal return is filed or a notice of deficiency or an assessment is mailed to the taxpayer by the Internal Revenue Service, and the taxpayer has exhausted rights of appeal under federal law.

(e) The department may credit or refund overpayments of taxes, taxes erroneously or illegally assessed or collected, penalties collected without authority, and taxes that are found unjustly assessed or excessive in amount, or otherwise wrongfully collected. The department shall set limitations, specify the manner in which claims for credits or refunds are made, and give notice of allowance or disallowance. When a refund is allowed to a taxpayer, it shall be paid out of the general fund on a warrant issued under a voucher approved by the department.

(f) Except as otherwise required in this subsection, a taxpayer is not required to file a return under this section electronically. A person employed to prepare and file income tax returns for 10 or more individuals shall file the returns for those individuals electronically.

Sec. 43.22.030. Income from sources in the state. (a) For purposes of AS 43.22.010(a), income from a source in the state includes

- (1) compensation for personal services rendered in the state;
- (2) salary or wages earned in the state;
- (3) income from real or tangible personal property located in the state;
- (4) income from stocks, bonds, notes, bank deposits, and other intangible personal property having a taxable or business situs in the state;
- (5) rentals and royalties for the use of or for the privilege of using, in the state, patents, copyrights, secret processes and formulas, good will, marks, trade brands, franchises, and other property having a taxable or business situs in the state;
- (6) income of whatever nature from a source with a taxable or business situs in the state, including income attributed to or derived from
 - (A) business facilities or property in the state;
 - (B) business, farming, or fishing activities in the state;
 - (C) conducting in the state the management or investment

1 function for intangible property;

2 (D) a partnership, limited liability company, estate, or trust
3 conducting business activities in the state;

4 (E) a corporation transacting business activities in the state that
5 has elected to file federal returns under 26 U.S.C. 1362 (Internal Revenue
6 Code);

7 (F) any other activity from which income is received, realized,
8 or derived in the state.

9 (b) In this section, if a business, trade, or profession is carried on partly inside
10 and partly outside the state, the income from sources in the state shall be determined
11 under AS 43.19 or as otherwise provided under AS 43.20.141 - 43.20.145.

12 **Sec. 43.22.035. Credit for taxes paid.** (a) A resident is entitled to a credit
13 against the tax liability under this chapter for the amount of tax paid to other states,
14 territories, or possessions of the United States on income derived from sources in
15 those jurisdictions that is also subject to tax in this chapter.

16 (b) The claim for credit under (a) of this section may include tax paid by an S
17 corporation or partnership on behalf of the individual, based on that individual's share
18 of income derived in the other jurisdiction. In this subsection, "S corporation" has the
19 meaning given in 26 U.S.C. 1361.

20 (c) The credit allowed under this section may not exceed an amount equal to
21 the tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross
22 income derived from sources in the other jurisdiction divided by total federal adjusted
23 gross income.

24 (d) The application of the tax credit provided under this section may not
25 operate to reduce the tax payable under this chapter to an amount less than would have
26 been payable if the income from the other state was disregarded.

27 **Sec. 43.22.040. Permanent fund tax payment.** The department shall adopt
28 regulations establishing procedures for an individual eligible for a dividend under
29 AS 43.23.005 to direct the department to hold all or a part of the amount of the
30 dividend to pay the tax due under this chapter. The amount held under this section
31 may not exceed the dividend amount after contributions, garnishments, levies, fees,

1 attachments, assignments, or other reductions or donations allowed under AS 43.23.
 2 The department shall apply the amount held under this section to the tax period in
 3 which the taxpayer applies for the dividend. The department shall refund the amount
 4 of the dividend not applied against taxes under this section to the individual who
 5 appears on the application for the dividend.

6 **Sec. 43.22.050. Tax withholding on wages of individuals.** (a) Every
 7 employer making payment of wages or salaries or a person paying a crew share

8 (1) shall deduct and withhold an amount of tax computed in a manner
 9 to approximate the amount of tax due on those wages, salaries, or crew shares under
 10 this chapter for that calendar year;

11 (2) shall remit the tax withheld to the department accompanied by a
 12 return on a form prescribed by the department at the times required by the department
 13 by regulation;

14 (3) is liable for the payment of the tax required to be deducted and
 15 withheld under this section but is not liable to any individual for the amount of the
 16 payment; and

17 (4) shall furnish to the employee or individual receiving a crew share
 18 on or before January 31 of the succeeding year, or within 30 days after a request by
 19 the employee or individual receiving a crew share after the employee's or individual's
 20 termination if the 30-day period ends before January 31, a written statement on a form
 21 prescribed by the department showing

22 (A) the name and taxpayer identification number of the
 23 employer or person paying a crew share;

24 (B) the name and social security number of the employee or
 25 individual receiving a crew share;

26 (C) the total amount of wages, salary, or crew shares for the
 27 calendar year; and

28 (D) the total amount deducted and withheld as tax under this
 29 chapter for the calendar year.

30 (b) The department shall publish the rate of withholding required by this
 31 section.

(c) Nothing in this section shall be interpreted to preclude an individual receiving a crew share from being classified as an independent contractor for tax purposes.

Sec. 43.22.055. Refunds. Notwithstanding AS 43.05.230, information on an individual income tax return may be released to a banking institution to verify the direct deposit of an income tax refund or correct an error in that deposit.

Sec. 43.22.060. Administration. (a) The department shall

(1) prescribe all forms necessary to implement this chapter, including a form that requires a taxpayer to itemize deductions and credits taken against the tax due under this chapter; and

(2) adopt regulations to implement and interpret this chapter, including regulations for the online filing and payment of tax due under this chapter or the prepayment of an estimated tax due under this chapter.

(b) The department may incorporate into the regulations provisions of the Internal Revenue Code that are necessary or useful to the administration of this chapter.

Sec. 43.22.190. Definitions. In this chapter,

(1) "domiciled" means established in a true principal permanent home to which the individual has the intention of returning whenever absent;

(2) "individual" means a natural person, married or unmarried, adult or minor, subject to payment of income tax under 26 U.S.C. (Internal Revenue Code);

(3) "Internal Revenue Code" means the Internal Revenue Code of the United States (26 U.S.C.) as the code exists now or as hereafter amended, as the code and amendments apply to the normal taxes and surtax on net incomes, which amendments are operative for the purposes of this chapter as of the time they became operative or will become operative under federal law;

(4) "nonresident" means an individual who is not a resident;

(5) "resident" means an individual who

(A) was domiciled in the state or resided in the state for the entire calendar year;

(B) claims to be a resident of the state on the individual's

1 federal tax forms;

2 (C) receives a permanent dividend under AS 43.23;

3 (D) is registered to vote under AS 15;

4 (E) received a resident fishing, hunting, or trapping license
5 during the calendar year under AS 16; or

6 (F) receives a tax benefit available only to an individual
7 domiciled in the state;

8 (6) "taxpayer" means a person subject to a tax imposed by this chapter.

9 * **Sec. 12.** AS 43.23 is amended by adding a new section to read:

10 **Sec. 43.23.092. Permanent fund dividend individual income tax payment.**

11 In accordance with AS 43.22.040, the department shall prepare the Alaska permanent
12 fund dividend application to allow an applicant to direct the department to hold all or
13 part of the amount of the individual's permanent fund dividend for application against
14 the individual income tax imposed under AS 43.22.

15 * **Sec. 13.** AS 37.13.145(c); AS 43.05.085; AS 43.20.012(b), and 43.20.013 are repealed.

16 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 **APPLICABILITY.** AS 43.22, added by sec. 11 of this Act, applies to income received
19 on or after the effective date of sec. 11 of this Act.

20 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 **TRANSITION: REGULATIONS.** The Department of Revenue may adopt regulations
23 necessary to implement this Act. The regulations take effect under AS 44.62 (Administrative
24 Procedure Act), but not before the effective date of the law implemented by the regulation.

25 * **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 **RETROACTIVITY.** If secs. 2 - 9 of this Act take effect after June 30, 2017, secs. 2 - 9
28 of this Act are retroactive to June 30, 2017.

29 * **Sec. 17.** Sections 1 - 9, 15, and 16 of this Act take effect immediately under
30 AS 01.10.070(c).

31 * **Sec. 18.** Except as provided in sec. 17 of this Act, this Act takes effect January 1, 2018.