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REPRESENTATIVE PAUL SEATON

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HB 365: Income Tax & Permanent Fund Refundable Tax Credit Version: 29-LS 1422\H

Sectional – Long Version

*Please note that a sectional analysis of a bill or resolution should not be considered an authoritative interpretation of the measure itself.
The legislation is the best statement of its contents.*

The majority of the sections in HB 365 are only changing the name of the Permanent Fund Dividend (PFD) to the Refundable Tax Credit. This sectional will be divided into three parts. The first part will discuss those sections where there are system changes to the permanent fund, repeals and effective dates. The second part will discuss the new Income Tax section. The third part will list those sections that deal only with name changes from PFD to Refundable Tax Credit and minor “clean up language”.

Part 1: System changes from Permanent Fund Dividend to Refundable Tax Credit

Section 7 & 8 (page 4, line 3) – Allows a person to donate part of their Refundable Tax Credit to Advance College Tuition Savings Fund prior to applying the credit to their state income tax due.

Section 22 (page 10, line 27) – Alaska Permanent Fund Corporation & Disposition of Income: this section does not change the calculation for determining distributable income (21% of last 5 year’s earnings from principal investments of permanent fund). This section changes what is done with the distributable income. Currently, 50% of the distributable income goes towards paying PFDs and 50% stays in the Earnings Reserve for inflation proofing the principals or for use by the legislature. With this bill, 50% stays in the Earnings Reserve, 25% now goes to pay Refundable Tax Credits, and the remaining 25% goes directly to the General Fund to help support state services.

Section 47 (page 27, line 7) – States that the Refundable Tax Credit amount will not exceed \$1200.00 for each individual. Any excess over \$1200 shall be appropriated to the General Fund to support state services.

Section 54 (page 30, line 12) – Duties of the Dept. of Revenue are outlined. This section changes the date the Refundable Tax Credit is available for an individual from the current

October PFD date to the subsequent year when the individual applies for their state income taxes (also minor clean up language). A person is allowed to apply their Refundable Tax Credit to previous tax years if they did not apply their tax credit within two years after the date of its issuance.

Section 55 - 61 (starting on page 32, line 6) – Allows a person to donate part of their Refundable Tax Credit to Pick Click Give prior to applying the credit to their state income tax due.

Section 91 (page 49, line 24) – Repeals:

- AS 09.38.015(a)(9) Property exempt without limitation: this repeal removes the Refundable Tax Credit from the list of property exemptions.
- AS 43.05.085, AS 43.20.012(b), AS 43.20.013: these repeals remove a former tax credit for political contributions that existed under Alaska's prior individual income tax which was repealed in 1980.
- AS 43.23.035(b) & AS 43.23.035(d): Penalties & Enforcement of the Permanent Fund: these are repealed because the PFD is now changed to a Refundable Tax Credit and under AS 43.05 and 43.10 the Dept. of Revenue has sufficient statute and regulations related to penalties and enforcement of refunds and tax credits.

Section 92 (page 49, line 26) – States that the Income tax will be applied to income received on or after the effective date. Also, if a person has a dispute on their 2016 PFD and this dispute rolls over into 2017, then if HB 365 were passed, the old regulations (prior to the effective date of HB 365) would apply to the 2016 PFD dispute until it is resolved.

Section 93 (page 50, line 5) – Effective date of January 1, 2017.

Part 2: Income Tax

Section 24 (page 11, line 14) – creates the Individual Income Tax within AS 43.

Subsection: Sec. 43.22.010 (page 11, line 16) – Imposes an income tax on both residents and nonresidents who have earned income from a source within Alaska. The tax is equal to 15% of the taxpayer's total federal income tax due on the amount of the taxpayer's income from sources within the state (typically Line 63 on 1040 form). Long term capital gains are additionally taxed by multiplying the taxpayer's long term capital gains for the calendar year (typically Line 13 on 1040 form) by the lesser of:

- 10%; or
- The difference between the taxpayer's incremental federal income tax rate on ordinary income and the taxpayer's federal tax rate on long term capital gains.

Currently the difference between the taxpayer's incremental federal income tax rate on ordinary income and the taxpayer's federal tax rate on long term capital gains is between 10 -19.6%. Should the federal government change the rates on either, this could increase or decrease this difference. Based on in this section, a taxpayer's long term capital gains will be multiplied by no more than 10%. This section also defines *federal income tax due* and *long term capital gains* as that reported on a taxpayer's federal individual income tax return.

Subsection: Sec. 43.22.020 (page 12, line 4) - Establishes how taxpayers will submit tax returns and make payments for the individual income tax. It clarifies that this tax is due and payable to the department at the same time and in the same manner as the tax payable to the U.S. IRS for federal taxes. The section also outlines procedures in case there are changes to the taxpayer's federal income tax return. Any overpayments will be reimbursed by the department out of the general fund.

Subsection: Sec. 43.22.030 (page 13, line 3) – Defines *income from sources in the state* as compensation for services rendered in the state; salary or wages earned in the state; income from real or tangible personal property located in the state; income from stocks, bonds, notes, bank deposits, and other intangible personal property having a taxable or business site in the state; rentals and royalties in the state; patents, copyrights, trade brands, franchises, etc.; and income of any nature from a source with a taxable or business site in the state.

The section also defines that income from a taxable or business site in the state includes: business facilities or property, business, farming, fishing, management or investment for intangible property, partnerships, limited liability companies, estate and trust businesses, corporations conducting business in the state, etc. It also clarifies that if a business, trade or profession is carried on both within and outside of Alaska, the income from the sources in Alaska shall be determined as provided in AS 43.19 “*Multistate Tax Compact*.”

Long term capital gains shall be reported from all property regardless of the location of the property.

Subsection: Sec. 43.22.035 (page 14, line 11) – Provides a credit to residents for taxes paid to another state based on income earned in that other state (so someone is not taxed twice on the same income).

Subsection: Sec. 43.22.040 (page 14, line 26) – State a person may apply their Refundable Tax Credit to a person's state income tax due, less any garnishment, levy, donations to Pick Click Give or college funds, etc. The word “may” is used vs. “shall” because it allows a person the choice to not apply their Refundable Tax Credit to their income taxes. If a person made this choice, their tax credit would remain with the state. If a person's Refundable Tax Credit is more than the amount of their state income tax due, the remaining amount will be reimbursed to the person. A person must apply for their state income tax to receive a refund. A person must be a resident to qualify for the Refundable Tax Credit.

Subsection: Sec. 43.22.050 (page 15, line 7) – Establishes how taxes will be withheld by employers making payment of wages, salaries, or crew shares. The employer shall deduct and withhold the amount of tax, remit the tax to the department, provide a written statement to the employee by January 31 of the succeeding year showing the amount deducted and other necessary information. The Department of Revenue shall publish the rate of withholding required by this section on a person's W2. The terms “employee” and “employer” are defined.

Subsection: Sec. 43.22.055 (page 16, line 5) – Allows a person’s income tax information to be shared with a banking institute to verify direct deposit of refunds.

Subsection: Sec. 43.22.060 (page 16, line 8) - Authorizes the department to provide all necessary forms and adopt regulations to implement this tax, including regulations for online filing and online payment of tax due.

Subsection: Sec. 43.22.190 (page 16, line 13) - Definitions of the following terms: domiciled, individual, Internal Revenue Code, nonresident, resident, and taxpayer. Resident is defined as an individual who: lives in the state for the entire calendar year; claims to be a resident of Alaska on their federal tax forms; receives an Alaska permanent fund dividend; is registered to vote in Alaska; or has an Alaska resident fishing, hunting, or trapping license during the calendar year.

Part 3: Name changes from Permanent Fund Dividend to Refundable Tax Credit

Sections listed in this part only deal with name changes and minor “clean up language” to incorporate the name change and the difference between receiving a dividend vs. tax credit. Many of these have to do with garnishing the PFD/Refundable Tax Credit for defaults on state fees and education loans, child support, etc. The topic of each section is provided below as a reference.

Section 1 & 2 & 3 (page 1, line 7- page 2 line 6) – Criminal offenses associated with lying on an Refundable Tax Credit application.

Section 4 (page 2, line 27) – Garnish the Refundable Tax Credit for various types of fines.

Section 5 (page 3, line 17) – Garnish for court surcharges.

Section 6 (page 3, line 29) – Garnish for default on University of Alaska fees.

Section 9 (page 4, line 24) – Garnish for default on Alaska Advantage Student Loans.

Section 10 & 11 (page 5, line 9 – line 21) – Voter registration

Section 12 (page 5, line 27) – Garnish for child support.

Section 13 (page 6, line 7) – Garnish for increased court fees.

Section 14 (page 6, line 14) – Garnish for jail fees (also minor clean up language).

Section 15 (page 7, line 13) – Garnish for costs of residential facility or similar facility (also minor clean up language).

Section 16 (page 8, line 10) – Municipal taxation exemptions.

Section 17 (page 9, line 2) – Using PFD/Refundable Tax Credit applicant numbers to determine population size of a municipality.

Section 18 (page 9, line 9) – Unclaimed property facility (also minor clean up language).

Section 19 (page 9, line 13) – Using PFD/Refundable Tax Credit applicant numbers to determine Alaska employment preference numbers for businesses that are required to hire a certain percentage of Alaska residents.

Section 20 (page 9, line 22) – Warrants.

Section 21 (page 10, line 1) – Determining eligibility for Alaska Retirement Management Board.

Section 23 (page 11, line 4) – State v. Amerada Hess, et.al. case as it relates to PFD/Refundable Tax Credit.

Section 25 (page 17, line 4) – Eligibility requirements.

Section 26 (page 17, line 26) – Allows a parent or guardian to claim a Refundable Tax Credit for an eligible minor or eligible disabled or incompetent individual.

Section 27 (page 18, line 5) – States that eligibility can be denied if found guilty of felony or two or more misdemeanors.

Section 28 (page 18, line 18) – Under certain circumstances, allows for a deceased person's Refundable Tax Credit to be applied to their state income tax due.

Section 29 (page 19, line 11) – Allowable absences.

Section 30 (page 21, line 5) – Application period.

Section 31 (page 21, line 30) – Regulations for eligibility requirements (also minor clean up language).

Section 32 & 33 (page 22, line 10 – page 22, line 15) – Eligibility requirements.

Section 34 (page 22, line 20) – A public agency holding a Refundable Tax Credit refund in trust on behalf of an individual (also minor clean up language).

Section 35 (page 22, line 26) – A minor or disabled or incompetent individual cannot make a claim against the state for what their parent/guardian did with their refund from a Refundable Tax Credit.

Section 36 (page 23, line 2) – Appeal process.

Section 37 (page 23, line 18) – Penalty and enforcement provisions with eligibility.

Section 38 (page 23, line 22) – Releasing information from application to Dept. of Military and Veterans Affairs.

Section 39 (page 24, line 3) – Voter registration.

Section 40 (page 24, line 12) – Confidentiality with applicant information. NOTE: subsection relating to releasing information to banking institutes was moved to the income tax section (page 16 line 5).

Section 41 & 42 (page 25, line 2 – page 25 line 10) – Eligibility determination and use of Refundable Tax Credit can be delayed if a person who is required to register as a sex offender or child kidnapper has not done so.

Section 43 (page 25, line 19) – Garnish for debts to state (also minor clean up lanague).

Section 44 (page 25, line 27) – Additional circumstance for a deceased person's Refundable Tax Credit to be applied to their state income tax due.

Section 45 (page 26, line 4) – Information provided within application about when the Dept. of Revenue can delay payments.

Section 46 (page 26, line 7) – Procedure for calculating the Refundable Tax Credit amount based on number of eligible applicants (also minor clean up language).

Section 48 (page 27, line 12) – Outlines how the Dept. of Revenue will provide public notice about the Refundable Tax Credit amount per individual (also minor clean up language).

Section 49 (page 28, line 22) – Public notice about various garnishments.

Section 50 & 51 (page 29, line 12 – page 29, line 19) – Penalties and enforcement for lying on application.

Section 52 & 53 (page 29, line 31- page 30, line 5) – Refundable Tax Credit Fund established in state treasury.

Section 62 (page 35, line 15) – Outlines exemptions and levies on a Refundable Tax Credit.

Section 63 & 64 (page 37, line 12 – page 38, line 6) – Garnish for court ordered treatment costs.

Section 65 -67 (starting on page 38, line 21) – Garnish for default on Alaska Commission on Postsecondary Education loans.

Section 68 & 69 (page 39, line 24 – page 40, line 18) – Garnish for overpayment of public assistance.

Section 70 & 71 (page 41, line 1 – page 41, line 7) – A person may not assign the right to their Refundable Tax Credit.

Section 72 (page 41, line 11) – Fees for processing claims on a Refundable Tax Credit.

Section 73 & 74 (page 41, line 23 - page 42, line 21) – Garnish for claims under the Alaska Employment Security Act.

Section 75-77 (starting on page 43, line 6) – Garnish for default on University of Alaska fees.

Section 78 (page 44, line 17) – Eligibility for public assistance: just like a PFD, a Refundable Tax Credit may not be considered as income when applying for public assistance that is based on financial need (also minor clean up language).

Section 79 (page 45, line 15) – Eligibility for state programs: just like a PFD, a Refundable Tax Credit may not be considered as income when applying for state programs that are based on financial need.

Section 80 & 81 (page 45, line 21 - page 45, line 24) – Definitions of a Refundable Tax Credit.

Section 82 (page 45, line 29) – Assignment of a Refundable Tax Credit cannot be included as a provision on a lease agreement.

Section 83 (page 46, line 15) – Defines “resident worker” as part of Motor / Aircraft fuel tax exemptions.

Section 84 (page 47, line 13) – Defines “Alaska Resident” within the contract terms for hiring Alaskan residents and Alaskan businesses.

Section 85 (page 47, line 20) – Use of elected state official’s pictures.

Section 86 (page 47, line 24) – Garnish for public assistance overpayment.

Section 87 (page 47, line 29) – Child in Need of Aid: Dept. of Health and Social Services will apply on behalf of a foster care child for a Refundable Tax Credit.

Section 88 & 89 (page 48, line 5- page 48, line 13) – Parent accountability for juvenile delinquent: garnish for court ordered treatment for parent.

Section 90 (page 48, line 18) – Eligibility for payment assistance for Veteran Home, Pioneer Home, etc.: just like a PFD, a Refundable Tax Credit may not be considered as income when applying for payment assistance.