

# Fiscal Note

State of Alaska  
2017 Legislative Session

|                     |               |
|---------------------|---------------|
| Bill Version:       | CSHB 115(FIN) |
| Fiscal Note Number: | 1             |
| (H) Publish Date:   | 4/12/2017     |

Identifier: HB115CS(FIN)-DOA-OAH-03-24-17  
Title: INCOME TAX; PFD CREDIT; PERM FUND  
INCOME  
Sponsor: FINANCE  
Requester: House Finance Committee

Department: Department of Administration  
Appropriation: Centralized Administrative Services  
Allocation: Office of Administrative Hearings  
OMB Component Number: 2771

## Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

|                        | FY2018<br>Appropriation<br>Requested | Included in<br>Governor's<br>FY2018<br>Request | Out-Year Cost Estimates |             |              |              |              |
|------------------------|--------------------------------------|--|-------------------------|-------------|--------------|--------------|--------------|
| OPERATING EXPENDITURES | FY 2018                              | FY 2018  | FY 2019                 | FY 2020     | FY 2021      | FY 2022      | FY 2023      |
| Personal Services      |                                      |  |                         | 34.9        | 139.8        | 272.5        | 272.5        |
| Travel                 |                                      |  |                         | 0.5         | 1.8          | 3.6          | 3.6          |
| Services               |                                      |  |                         | 2.1         | 8.5          | 16.5         | 16.5         |
| Commodities            |                                      |  |                         | 0.9         | 3.5          | 6.9          | 6.9          |
| Capital Outlay         |                                      |  |                         |             |              |              |              |
| Grants & Benefits      |                                      |  |                         |             |              |              |              |
| Miscellaneous          |                                      |  |                         |             |              |              |              |
| <b>Total Operating</b> | <b>0.0</b>                           | <b>0.0</b>                                     | <b>0.0</b>              | <b>38.4</b> | <b>153.6</b> | <b>299.5</b> | <b>299.5</b> |

## Fund Source (Operating Only)

|                        |            |            |            |             |              |              |              |
|------------------------|------------|------------|------------|-------------|--------------|--------------|--------------|
| 1007 I/A Rcpts (Other) |            |            |            | 38.4        | 153.6        | 299.5        | 299.5        |
| <b>Total</b>           | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>38.4</b> | <b>153.6</b> | <b>299.5</b> | <b>299.5</b> |

## Positions

|           |  |  |  |  |     |     |     |
|-----------|--|--|--|--|-----|-----|-----|
| Full-time |  |  |  |  | 1.0 | 1.0 | 1.0 |
| Part-time |  |  |  |  |     |     |     |
| Temporary |  |  |  |  |     |     |     |

## Change in Revenues

|              |            |            |            |            |            |            |            |
|--------------|------------|------------|------------|------------|------------|------------|------------|
| None         |            |            |            |            |            |            |            |
| <b>Total</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

**Estimated SUPPLEMENTAL (FY2017) cost:** 0.0 (separate supplemental appropriation required)  
(discuss reasons and fund source(s) in analysis section)

**Estimated CAPITAL (FY2018) cost:** 0.0 (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

## ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

## Why this fiscal note differs from previous version:

This fiscal note changes the funding source from general funds to interagency receipts. It addresses the change in the effective date, which impacted the years and amount of funding required.

Prepared By: Christopher Kennedy  
Division: Office of Administrative Hearings  
Approved By: Sheldon Fisher, Commissioner  
Agency: Department of Administration

Phone: (907)269-6741  
Date: 03/23/2017 05:30 PM  
Date: 03/24/17

**REPORTED OUT OF  
HFC 04/11/2017**

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2017 LEGISLATIVE SESSION**Analysis**

HB115 establishes a personal income tax on resident and non-resident individuals, trusts, and estates, with certain exemptions including an exemption for effectively nonresident trust organized in Alaska. In general, the tax is based on a graduated percentage of "income," defined as federal adjusted gross income with certain excluded items added back and certain additional exclusions. The tax is payable by non-residents on the portion of their income "derived from, or connected with" Alaska sources. Like the federal income tax, it would be payable by most taxpayers based on calendar year earnings.

Partnership income and earnings from subchapter-S corporations are encompassed by the tax. There are provisions for rules for determining whether income is Alaska-sourced and therefore taxable for nonresident individuals, estates, trusts, or shareholders of S corporations, and for capturing income routed through entities created for tax-avoidance.

The bill provides that the tax will be due at the same time and in the same manner as federal income tax. There are provisions for withholding.

The tax takes effect beginning in calendar year 2019.

**Implementation Cost**

The Office of Administrative Hearings (OAH) functions as the state equivalent of the United States Tax Court, presently handling appeals relating to corporate income tax, oil and gas production tax, fish tax, and a variety of other taxes. OAH will have jurisdiction over appeals from final Department of Revenue informal conference decisions (ICDs) on audit findings and other disputes relating to the new tax.

The income tax established in this bill is similar to the income tax in individuals and fiduciaries that existed in the 1970s. The experience in Alaska and other states is that such taxes generate a significant volume of appeals. Appeals can relate to domicile issues, penalties for failure to file and failure to pay, withholding issues, and substantive tax questions. When Alaska had a personal income tax in the 1970s, it accounted for about twenty percent of the workload of three Revenue Appeals Officers (who were then the equivalent in this context of present-day administrative law judges at OAH). The state's population has increased 84% since that time. Moreover, it is anticipated that the complexity of interstate business models today means that the proposed tax would generate interstate taxation disputes at a higher rate than would have been encountered forty years ago.

Experience in Alaska and other states is that such taxes generate a significant volume of appeals. It is anticipated that the appeals will peak soon after the inception of the tax, tapering to a lower level as the public, and the businesses required to withhold, become more accustomed to the personal income tax. However, there would be a preliminary period when relatively few appeals would reach OAH until a large volume of returns had been filed and disputes were generated. The projected annual costs above reflect this and reach a peak of approximately 1.3 times the full-time work of one tax-qualified administrative law judge. OAH believes the work would taper slightly beginning in FY2024, just beyond the horizon of this note.

In order for OAH to complete this work, a full-time, range 24 Administrative Law Judge is being requested. Interagency receipt authority in the amount of \$174.2 will be necessary to bill the Department of Revenue for this service. In addition, it is anticipated that funding may be used for non-permanent hires or professional services contracts to help when appeals are at their peak times.