CS FOR HOUSE BILL NO. 115(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

"An Act relating to the permanent fund dividend; relating to the Alaska permanent fund; relating to the procurement by the Alaska Permanent Fund Corporation; relating to the management of the budget reserve fund; relating to the appropriation of certain amounts of the earnings reserve account; relating to the taxation of income of individuals, partners, shareholders in S corporations, trusts, and estates; relating to a payment against the individual income tax from the permanent fund dividend disbursement; repealing tax credits applied against the tax on individuals under the Alaska Net Income Tax Act; and providing for an effective date."

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

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

    SHORT TITLE. This Act may be known as the State Revenue Restructuring Act.
* Sec. 2. AS 36.30.015 is amended by adding a new subsection to read:

(l) The board of trustees of the Alaska Permanent Fund Corporation shall adopt regulations to govern the procurement of supplies, services, and professional services. The regulations must be similar to the procedures described in this chapter and in regulations adopted under this chapter. Notwithstanding any other provisions of this subsection, the Alaska Permanent Fund Corporation shall comply with the five percent preference under AS 36.30.321(a) and the requirement that contracts for legal services be approved by the attorney general under (d) of this section.

* Sec. 3. AS 36.30.990(1) is amended to read:

(1) "agency"

(A) means a department, institution, board, commission, division, authority, public corporation, the Alaska Pioneers' Home, the Alaska Veterans' Home, or other administrative unit of the executive branch of state government;

(B) does not include

(i) the University of Alaska;

(ii) the Alaska Railroad Corporation;

(iii) the Alaska Housing Finance Corporation;

(iv) a regional Native housing authority created under AS 18.55.996 or a regional electrical authority created under AS 18.57.020;

(v) the Department of Transportation and Public Facilities, in regard to the repair, maintenance, and reconstruction of vessels, docking facilities, and passenger and vehicle transfer facilities of the Alaska marine highway system;

(vi) the Alaska Aerospace Corporation;

(vii) the Alaska Retirement Management Board;

(viii) the Alaska Seafood Marketing Institute;

(ix) the Alaska children's trust and the Alaska Children's Trust Board;

(x) the Alaska Industrial Development and Export
Authority;

(xii) the Alaska Permanent Fund Corporation;

* Sec. 4. AS 37.05.550(b) is amended to read:

(b) The legislature may appropriate to the fund money received by the state as
Alaska marine highway system program receipts or from a settlement or final judicial
determination of the Dinkum Sands case (United States v. Alaska) and the North
Slope royalty case (State v. Amerada Hess, et al.) and not deposited into the Alaska
permanent fund under AS 37.13.010(a) [AS 37.13.010(a)(1) OR (2)] or into the public
school trust fund under AS 37.14.150.

* Sec. 5. AS 37.10.430(c) is amended to read:

(c) A special subaccount is established in the budget reserve fund (art. IX, sec.
17, Constitution of the State of Alaska). Money in the subaccount shall be invested to
yield higher returns than might be feasible to obtain with other money in the budget
reserve fund. [IN ESTABLISHING OR MODIFYING THE INVESTMENT POLICY
FOR THE SUBACCOUNT IN THE CONSTITUTIONAL BUDGET RESERVE
FUND, THE COMMISSIONER OF REVENUE SHALL ASSUME THAT THOSE
FUNDS WILL NOT BE NEEDED FOR AT LEAST FIVE YEARS.] Income earned
on money in the subaccount shall be retained in the subaccount by the department.

* Sec. 6. AS 37.13.010(a) is amended to read:

(a) Under art. IX, sec. 15, of the state constitution, there is established as a
separate fund the Alaska permanent fund. The Alaska permanent fund consists of

(1) 25 percent of all mineral lease rentals, royalties, royalty sale
proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue
sharing payments received by the state from mineral leases [ISSUED ON OR
BEFORE DECEMBER 1, 1979], and 25 percent of all bonuses received by the state
from mineral leases [ISSUED ON OR BEFORE FEBRUARY 15, 1980]; and

(2) [50 PERCENT OF ALL MINERAL LEASE RENTALS,
ROYALTIES, ROYALTY SALE PROCEEDS, NET PROFIT SHARES UNDER
AS 38.05.180(f) AND (g), AND FEDERAL MINERAL REVENUE SHARING
PAYMENTS RECEIVED BY THE STATE FROM MINERAL LEASES ISSUED
AFTER DECEMBER 1, 1979, AND 50 PERCENT OF ALL BONUSES RECEIVED
BY THE STATE FROM MINERAL LEASES ISSUED AFTER FEBRUARY 15, 1980; AND

(3)] any other money appropriated to or otherwise allocated by law or former law to the Alaska permanent fund.

* Sec. 7. AS 37.13.140 is amended to read:


* Sec. 8. 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 five percent of the average market value of the fund for the first five of the preceding six fiscal years, including 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. 9. AS 37.13.140(b), added by sec. 8 of this Act, is amended to read:

(b) The corporation shall determine the amount available for distribution each year. The amount available for distribution is five percent of the average market value of the fund for the first five of the preceding six fiscal years, including the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles.
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. 10. 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) principal of the fund, 0.25 percent of the average market value of the fund for the first five of the preceding six fiscal years, including the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles; in this paragraph, "average market value of the fund" has the meaning given in AS 37.13.140(b);

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

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

* Sec. 11. 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. 12. AS 37.13.145 is amended by adding new subsections to read:

(e) Each year that the balance of the earnings reserve account exceeds four times the amount calculated for appropriations under (b) and (f) of this section, after
the appropriations under (b) and (f) of this section, the legislature may appropriate from the earnings reserve account to the principal of the fund the lesser of the

(1) amount by which the balance of the earnings reserve account exceeds four times the amount calculated for appropriations under (b) and (f) of this section; or

(2) cumulative amount of inflation on the principal of the fund between the current fiscal year and June 30, 2015, less amounts transferred after June 30, 2015, to the fund to offset the effect of inflation on the principal of the fund.

(f) After the appropriations under (b) of this section, but before the appropriation under (e) of this section, for fiscal years 2018 and 2019, the legislature may appropriate from the earnings reserve account an additional amount, if necessary, to provide a dividend of at least $1,250 for each individual.

* Sec. 13. AS 37.13.145(e), added by sec. 12 of this Act, is amended to read:

(e) Each year that the balance of the earnings reserve account exceeds four times the amount calculated for appropriations under (b) [AND (f)] of this section, after the appropriations under (b) [AND (f)] of this section, the legislature may appropriate from the earnings reserve account to the principal of the fund the lesser of the

(1) amount by which the balance of the earnings reserve account exceeds four times the amount calculated for appropriations under (b) [AND (f)] of this section; or

(2) cumulative amount of inflation on the principal of the fund between the current fiscal year and June 30, 2015, less amounts transferred after June 30, 2015, to the fund to offset the effect of inflation on the principal of the fund.

* Sec. 14. 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. 15. 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. 16. AS 43.05.045(a) is amended to read:

(a) Except as provided in AS 43.22.070(h), 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. 17. AS 43 is amended by adding a new chapter to read:

Chapter 22. Individual Income Tax.

Sec. 43.22.010. Income tax on individuals. (a) Each calendar year or fraction of a calendar year, an income tax is imposed on the income

(1) of a resident;

(2) derived from or connected with a source in the state of a nonresident.

(b) The tax under this section for an individual is determined as follows:

If the taxable income is

Then the tax is

Less than $10,300

$0

$10,300 but less than $50,000

2.5 percent of the amount in excess of $10,300

$50,000 but less than $100,000

$992.50 plus 4 percent of the amount in excess of $50,000

$100,000 but less than $200,000

$2,992.50 plus 5 percent of the amount in excess of $100,000

$200,000 but less than $250,000

$7,992.50 plus 6 percent of the
amount in excess of $200,000

$250,000 or more $10,992.50 plus 7 percent of the amount in excess of $250,000.

(c) Except as otherwise provided in this section, the tax under this section for two individuals who file a joint federal income tax return is determined as follows:

If the taxable income is

Then the tax is

Less than $22,600 $0

$22,600 but less than $100,000 2.5 percent of the amount in excess of $22,600

$100,000 but less than $200,000 $1,935 plus 4 percent of the amount in excess of $100,000

$200,000 but less than $400,000 $5,935 plus 5 percent of the amount in excess of $200,000

$400,000 but less than $500,000 $15,935 plus 6 percent of the amount in excess of $400,000

$500,000 or more $21,935 plus 7 percent of the amount in excess of $500,000.

(d) An individual who is eligible to file a joint federal income tax return but who files an individual federal income tax return shall determine the tax imposed by this chapter under (b) of this section.

(e) Two resident individuals who are eligible to file a joint federal income tax return but who do not, individually or jointly, file a federal income tax return may elect to determine the tax imposed by this chapter either

(1) individually under (b) of this section; or

(2) jointly under (c) of this section.

(f) Two individuals who file a joint federal income tax return one or both of whom is not a resident may elect to determine the tax imposed by this chapter either

(1) individually under (b) of this section; or

(2) jointly under (c) of this section, as if both individuals were residents; the income of the individuals filing jointly under this paragraph is not subject to allocation under AS 43.22.015.
Sec. 43.22.015. Allocation of individual income. Except as otherwise provided in this chapter, the tax on a nonresident individual is the product of the tax determined under AS 43.22.010(b) on the nonresident individual's taxable income computed as if the nonresident individual were a resident individual, multiplied by a fraction, the numerator of which is the nonresident individual's taxable income and the denominator of which is the nonresident individual's taxable income computed as if the nonresident individual were a resident individual. However, if a nonresident individual's taxable income computed as if the nonresident individual were a resident individual is less than the nonresident individual's taxable income, the tax imposed by this chapter is on the nonresident individual's taxable income.

Sec. 43.22.020. Tax on trusts and estates. (a) A seven percent tax is imposed for each taxable year or portion of taxable year on the taxable income of a resident or nonresident trust or estate. A tax of 2.5 percent is imposed on the taxable income of a nonresident or resident Alaska Native Settlement Trust that has elected for alternative federal tax treatment under 26 U.S.C. 646 (Internal Revenue Code). In this section, the taxable income of a nonresident trust or estate is the income of the trust or estate that is derived from or connected with a source in the state.

(b) A trust is not subject to tax under this chapter if

(1) all of the trustees of the trust are nonresidents;

(2) the entire corpus of the trust, including real, tangible, and intangible property, is located outside the state; and

(3) no income or gains of the trust are derived from or connected with a source in the state.

(c) For purposes of (b)(1) of this section, a trustee that is a nonresident banking corporation at the time the banking corporation becomes a trustee is a nonresident trustee until the banking corporation later becomes a resident trustee because it is acquired by or becomes an office or branch of a resident trustee.

Sec. 43.22.025. Credit for income taxes imposed by other jurisdictions. (a) A resident individual, trust, or estate or part-year resident individual, trust, or estate of the state is allowed a credit against the tax due under this chapter for an income tax that was imposed on the resident or part-year resident for the taxable year by another
state or the political subdivision of another state on income derived from or connected with that state or political subdivision.

(b) A credit allowed under (a) of this section

(1) for a resident individual, trust, or estate may not exceed the individual's, trust's, or estate's tax due under this chapter before credits are applied, multiplied by a ratio, the numerator of which is the portion of the individual's, trust's, or estate's taxable income that is derived from or connected with a source in another state or the political subdivision of another state and the denominator of which is the resident individual's, trust's, or estate's taxable income;

(2) for a part-year resident individual, trust, or estate may not exceed the individual's, trust's, or estate's tax due for the period of state residency before credits are applied, multiplied by a ratio, the numerator of which is the individual's, trust's, or estate's taxable income derived from or connected with a source in another state or the political subdivision of another state during the period of state residency and the denominator of which is the part-year resident individual's, trust's, or estate's taxable income during the period of state residency;

(3) may not reduce the tax due under this chapter to less than the tax that would have been due if the income derived from or connected with a source in another state or the political subdivision of another state and subject to taxation by the other state or political subdivision had been excluded from the resident or part-year resident individual's, trust's, or estate's taxable income during the calculation of tax under this chapter before the application of credits.

(c) If the tax administration of another state or a political subdivision of another state determines that a taxpayer has overpaid tax, affecting the computation of the credit allowed under this section for any taxable year, the taxpayer shall file an amended return with the department not later than 90 days after the final determination by the state or political subdivision that the tax was overpaid. The department may assess a taxpayer additional tax, proportional to the amount overpaid in the other state or political subdivision.

(d) A taxpayer is not allowed a credit under this section for taxes paid to another jurisdiction if the taxpayer has or will claim a credit against the income tax
imposed by the other jurisdiction for the tax paid or payable under this chapter.

(e) Income tax imposed on a partner or the shareholder of an S corporation on
the income of the partnership or S corporation, including tax paid by the partnership or
S corporation to satisfy the tax liability of the partner or shareholder, may be included
in the calculation of a credit under this section. Tax imposed on the partnership or S
corporation that is the direct liability of the partnership or S corporation and not that of
the partner or shareholder may not be included in the calculation of a credit under this
section.

Sec. 43.22.030. Taxable income; general rule. (a) In this chapter, taxable
income is the taxpayer's federal adjusted gross income for the taxable year

(1) plus, if not already included in federal adjusted gross income,

(A) interest on obligations of another state, a political
subdivision of another state, the public instrumentality of another state, or the
local authority of another state;

(B) interest or dividends on obligations or securities issued by
the United States, or an authority, commission, or instrumentality of the United
States, that the Internal Revenue Code exempts from federal income tax but
does not prevent from including;

(C) income taxes under this chapter;

(D) a gain realized but not recognized under 26 U.S.C. 1031
(Internal Revenue Code); and

(E) a deduction allowed in the determination of federal
adjusted gross income that is related to income that is not taxable under this
chapter;

(2) minus, if included in federal adjusted gross income,

(A) interest income or a dividend from an obligation that is
exempt from taxation by a state under federal law;

(B) a refund or credit for the overpayment of an income tax;

(C) an ordinary and necessary expense, including an interest
taxable under the Internal Revenue Code but taxable by a state;
(D) a gain recognized under 26 U.S.C. 1031 (Internal Revenue Code) that was included in federal adjusted gross income under (1) of this subsection;

(E) income exempt under 4 U.S.C. 114;

(F) compensation prohibited from state taxation by 50 U.S.C. 3901-4043 (Servicemembers Civil Relief Act);

(G) a permanent fund dividend received under AS 43.23; and

(H) $4,000 for each exemption claimed on the taxpayer's federal income tax return for the individual, an individual filing jointly with the individual, or a dependent of the individual.

(b) When calculating taxable income, a taxpayer

(1) may not carry back a net operating loss under 26 U.S.C. 172(b)(1)(A)(i) (Internal Revenue Code);

(2) may carry over a net operating loss under 26 U.S.C. 172(b)(1)(A)(ii) (Internal Revenue Code), except that a loss may not be carried over for more than five years; for a taxpayer subject to AS 43.19 (Multistate Tax Compact), the amount of a net operating loss allowed to be carried over is limited to the amount apportioned to the state in the taxable year in which the loss was generated under AS 43.19 (Multistate Tax Compact);

(3) shall include the modifications required by AS 43.20.144(b)(2), concerning intangible drilling and development costs, AS 43.20.144(b)(3), concerning percentage depletion, and AS 43.20.144(b)(3), concerning depreciation.

Sec. 43.22.035. Taxable income from partnerships and S corporations. (a)

An individual that, during the taxable year, has income from a partnership or S corporation or a gain, loss, or deduction from a partnership or S corporation shall make an adjustment to taxable income described in AS 43.22.030 in proportion to the partner's or shareholder's distributive share of the adjustment. If a partner's or shareholder's distributive share of an adjustment is not required to be accounted for separately for federal income tax purposes, the partner's or shareholder's share of the adjustment must be determined in proportion to the partner's or shareholder's share of partnership or S corporation income or losses for federal income tax purposes.
(b) In determining taxable income, a partner or shareholder shall treat income from a partnership or S corporation or a gain, loss, or deduction from a partnership or S corporation as if it has the same character as it does for federal income tax purposes. If income from a partnership or S corporation or a gain, loss, or deduction from a partnership or S corporation is not accounted for separately for federal income tax purposes, a partner or shareholder shall treat it as if the income or gain, loss, or deduction was realized directly from the source from which it was realized by the partnership or S corporation or incurred in the same manner in which it was incurred by the partnership or S corporation.

(c) If the principal purpose of a special allocation of partnership income or a partnership gain, loss, or deduction is the avoidance or evasion of tax under this chapter, the partner's distributive share is determined as if the partnership agreement did not contain the special allocation. In this subsection, "special allocation" means an allocation of the distributive share of partnership income or a partnership gain, loss, expense, or deduction made under the partnership agreement to a partner in a proportion different than the partner's partnership interest.

Sec. 43.22.040. Taxable income of an estate, trust, or beneficiary. (a) The taxable income of an estate or trust is determined as if the estate or trust were an individual and is subject to adjustments under AS 43.22.030 and reduction under section 26 U.S.C. 661 (Internal Revenue Code). The department may establish in regulation the method for determining the taxable income of an estate or trust, including the manner in which the adjustments under AS 43.22.030 will be allocated between the estate's or trust's taxable share and a beneficiary's distributive share. Unless otherwise provided by the department in regulation, an allocation must be made in proportion to the estate's or trust's taxable share or the beneficiary's distributive share of the trust or estate for federal income tax purposes.

(b) If the principal purpose for a provision of an instrument directing the distribution of income or a gain or loss of an estate or trust is the avoidance or evasion of tax under this chapter, the taxable income of the estate, trust, or beneficiary shall be determined as if the instrument did not contain that provision.

Sec. 43.22.045. Nonresident individuals; income derived from or
connected with a source in the state. (a) The taxable income of a nonresident individual is the nonresident individual's income that is derived from or connected with a source in the state, as adjusted under AS 43.22.030. Taxable income of a nonresident individual includes

(1) a partner's distributive share of partnership income or a gain, loss, or deduction of a partnership as determined under AS 43.22.050;

(2) a shareholder's pro rata share of an S corporation's net income or loss, increased by the reductions for taxes described in 26 U.S.C. 1366(f)(2) and (3) (Internal Revenue Code), as determined under AS 43.22.050;

(3) income or loss of a business conducted by a nonresident individual, nonresident estate, or nonresident trust, other than income or loss from a partnership or S corporation, as determined under AS 43.22.050;

(4) the share of estate or trust income or a gain, loss, or deduction determined under AS 43.22.055;

(5) income or a gain, loss, or deduction from the sale or assignment of a beneficial interest, or other disposition of an interest in tangible personal property in the state, or rental income or loss from the use of tangible personal property in the state; if the income or gain, loss, or deduction is from tangible personal property used or employed both in and outside the state, the amount included in taxable income is determined by multiplying the income or gain, loss, or deduction by a fraction, the denominator of which is the total number of days during the taxable year that the property was used or employed to earn, accrue, or incur the income or gain, loss, or deduction and the numerator of which is the number of the days during which the property was used or employed to earn, accrue, or incur the income or gain, loss, or deduction in the state;

(6) income or a gain, loss, or deduction from the sale or assignment of a beneficial interest, or other disposition of an interest in real property in the state, or rental income or loss from the use of real property in the state, including the percentage of ordinary and capital gains received from a real estate investment trust, as defined in 26 U.S.C. 856 (Internal Revenue Code), that is attributable to rents from or sale or other disposition of real property located in the state; in this paragraph,
income or a gain, loss, or deduction from the sale, assignment of a beneficial interest, or other disposition of real property in the state includes income or a gain, loss, or deduction derived from the sale or assignment of a beneficial interest in a partnership, S corporation, nonpublicly traded C corporation with 100 or fewer shareholders, estate, or trust, if the entity owns real property in the state that has a fair market value equal to or exceeding 50 percent of all assets of the entity on the date of sale, assignment, or other disposition of the taxpayer's interest in the entity; for purposes of this paragraph,

(A) only assets owned for at least two years before the date of the sale, assignment, or other disposition of an interest in the entity shall be used to determine the fair market value of all of the assets of the entity on the date of sale, assignment, or other disposition; and

(B) the amount of income or a gain, loss, or deduction derived from or connected with a source in the state from the sale, assignment, or other disposition of an interest in an entity that is subject to the provisions of this paragraph is the amount recognized for federal income tax purposes related to the sale, assignment, or disposition, multiplied by a fraction, the numerator of which is the fair market value of the real property located in the state on the date of sale, assignment, or disposition and the denominator of which is the fair market value of all of the assets of the entity on the date of the sale, assignment, or disposition;

(7) income derived from a business, trade, profession, occupation, or employment carried on in the state, including

(A) compensation, salary, or wages for personal services rendered or performed in the state, including personal services, but not including a personal service that is casual, isolated, inconsequential, or ancillary to an out-of-state service that is

(i) performed in connection with presenting or receiving employment-related training or education in the state;

(ii) performed in connection with a site inspection, review, analysis, or management or any other supervision of a facility
located in the state;

(iii) performed in connection with research and development at a facility located in the state or in connection with the installation of new or upgraded equipment or systems at that facility;

(iv) performed as part of a project team working on the attraction or implementation of new investment in a facility located or planned to be located in the state;

(v) performed in connection with fishing, farming, or agriculture in the state; or

(vi) received from the federal government for services performed in the state;

(B) income received under a covenant not to compete, a severance agreement, a termination agreement, or unemployment compensation insurance attributable to a business, trade, profession, occupation, or employment previously carried on in the state, regardless of when received;

(C) income derived from a business, trade, profession, occupation, or employment carried on in the state by an individual who maintains or operates an office, shop, store, warehouse, boat, plane, factory, agency, or other place where the individual's affairs are systematically and regularly carried on, regardless of other transactions carried on outside the state; this subparagraph does not include income from an activity of an individual whose presence in the state is casual, isolated, inconsequential, or ancillary to out-of-state activities, except that, if a business, trade, profession, occupation, or employment is carried on partly in and partly outside the state, other than for the rendering of purely personal services by the individual, the taxable income derived from or connected with a source in the state is determined under AS 43.19 (Multistate Tax Compact) and AS 43.22.030;

(8) income from the management or investment function or activities conducted in the state from intangible property;

(9) dividends, interest, payments received under an annuity, gains, or
other intangible income received from, or attributable to, intangible personal property, including stock, bonds, notes, bank deposits, or annuities, if the intangible personal property is employed in a business, trade, profession, occupation, or employment carried on in the state;

(10) a gain derived by a nonresident individual from a statutory stock option, restricted stock, nonstatutory stock option, or stock appreciation right, who, at the time the gain is received, performs services in the state for or is employed in the state by the corporation granting the option, stock, or right, as determined in regulations adopted by the department;

(11) income from nonqualified deferred compensation plans attributable to services performed in the state, including compensation included in federal gross income under 26 U.S.C. 457A (Internal Revenue Code);

(12) proceeds from a gambling activity conducted in the state or lottery tickets purchased in the state, including payments received from a third party for the transfer of the rights to future proceeds related to a gambling activity in the state or lottery tickets purchased in the state;

(13) for an S corporation that terminates its taxable status in the state during the tax year, income or a gain recognized on the receipt of payments from an installment sale contract entered into at the time the S corporation was subject to tax in the state, allocated consistent with the applicable methods and rules under this chapter;

(14) royalties or other compensation received for the use of a patent, copyright, secret process or formula, good will, mark, trade brand, franchise, or other property having a taxable or business situs in the state;

(15) royalties or other compensation received for the use of a patent if the patent is employed in production, fabrication, manufacturing, or other process in the state;

(16) income or a gain from the disposition of an asset if the acquisition, management, or disposition of the asset constitutes an integral part of the nonresident individual's regular trade or business operation;

(17) income from the transmission, broadcast, distribution, or dissemination of a service directly or indirectly attributable to the performance in the
state of an athlete, entertainer, singer, musician, dancer, comedian, magician, performing artist, actor, actress, or similar person, including syndication fees.

(b) A deduction included in taxable income that results from a capital loss, passive activity loss, or net operating loss must be based solely on income or a gain, loss, or deduction derived from or connected with a source in the state. A nonresident individual shall treat a deduction under this subsection in the same manner as the corresponding federal deduction, unless the department requires otherwise in regulation.

Sec. 43.22.050. Business conducted by a nonresident individual, trust, or estate; income derived from or connected with a source in the state. The department shall adopt regulations governing the amount of income or a gain, loss, or deduction from a business conducted by a nonresident individual, trust, or estate that is derived from or connected with a source in the state for purposes of determining taxable income. Regulations adopted under this subsection must be consistent with AS 43.19 (Multistate Tax Compact) and AS 43.22.045 and include adjustments under AS 43.22.030. The department may by regulation require a taxpayer to allocate rather than apportion income or a gain, loss, or deduction under this section.

Sec. 43.22.055. Nonresident trust, estate, or beneficiary; income derived from or connected with a source in the state. (a) The department shall adopt regulations governing whether the income or a gain or loss of a nonresident estate or nonresident trust is taxable income derived from or connected with a source in the state. Regulations adopted under this subsection must be consistent with the remainder of this section and AS 43.22.045.

(b) A nonresident beneficiary shall include in taxable income derived from or connected with a source in the state a distribution from an estate or trust as if the nonresident beneficiary earned or incurred the income, gain, or loss attributable to the distribution directly from the source. For purposes of this subsection, the department may establish one or more methods for a nonresident beneficiary to determine the income or a gain or loss attributable to a distribution. The department shall consistently apply a method from year to year and apply the same method to other nonresident beneficiaries of the same trust or estate. Nothing in this subsection
requires the department to give effect to a provision of an instrument creating an estate or trust if the department reasonably believes that the principal purpose of the provision is to avoid or evade the tax imposed under this chapter.

**Sec. 43.22.060. Part-year resident individual, trust, or estate; residency income; income derived from or connected with a source in the state.** (a) Except as otherwise provided in this section, the taxable income of a part-year resident individual, trust, or estate is the sum of

1. the taxable income of the part-year resident individual, trust, or estate during the period of residency; and

2. the taxable income derived from or connected with a source in the state for the period of nonresidency of the individual, trust, or estate.

(b) The department shall adopt regulations to determine the taxable income of a part-year resident taxpayer who is granted a statutory stock option, restricted stock, nonstatutory stock option, or a stock appreciation right and who, during the grant period, performs services in the state for, or is employed in the state by, the corporation granting the option, stock, or right.

**Sec. 43.22.065. Determination of taxable year and method of accounting.**

(a) For purposes of the tax imposed under this chapter, a taxpayer's

1. taxable year is the same as the taxpayer's taxable year for federal income tax purposes; and

2. method of accounting is the same as the taxpayer's method of accounting for federal income tax purposes.

(b) The department shall adopt regulations to determine the taxable income of a taxpayer whose method of accounting changes during a taxable year or between taxable years.

**Sec. 43.22.070. Returns and payment of taxes.** (a) A person required to pay tax under this chapter shall file with the department a return setting out

1. the amount of tax due under this chapter; and

2. other information necessary to carry out this chapter, as required by the department in regulation.

(b) A return filed under this chapter must be made under oath and on penalty
of perjury.

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

(d) A taxpayer, upon request by the department, shall furnish to the department a true and correct copy of a return that the taxpayer has filed with the United States Internal Revenue Service.

(e) A taxpayer shall notify the department in writing of an alteration in, or modification of, the taxpayer's federal income tax return and of a recomputation of tax or determination of deficiency, whether with or without assessment. A full statement of the facts must accompany the notice. A taxpayer shall file the notice not later than 60 days after the final determination of the alteration, modification, recomputation, or deficiency and shall pay any additional tax due under this chapter at that time. In this subsection, "final determination" means the time that an amended federal return is filed, 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.

(f) 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, in regulation, 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, the refund may be paid out of the general fund on a warrant issued under a voucher approved by the department.

(g) A partnership, S corporation, estate, or trust shall provide to its partners, beneficiaries, or shareholders, and to the department, all information necessary for its partners, beneficiaries, and shareholders to comply with this chapter.

(h) A taxpayer is not required to file a return under this section electronically, but a person employed to prepare and file income tax returns shall file the returns for those taxpayers electronically.

Sec. 43.22.075. Tax withholding on wages of individuals and independent contractors. (a) Every employer making payment of wages or salaries
(1) shall deduct and withhold an amount of tax computed in a manner to approximate the amount of tax due on those wages and salaries under this chapter for that taxable year;

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

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

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

(A) the name and taxpayer identification number of the employer;

(B) the name and social security number of the employee;

(C) the total amount of wages and salary for the taxable year;

and

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

(b) The department shall publish the rate of withholding required by this section. Regulations adopted under this section shall require a person paying an independent contractor to withhold a portion of the amount paid to the independent contractor.

Sec. 43.22.080. Withholding on nonresident partners; composite returns. (a) Unless otherwise provided by this section, a partnership that is required to file an annual information return under subchapter K of the Internal Revenue Code (26 U.S.C. 701 - 777) shall file a partnership return as prescribed by the department and shall report any items of income or gain, loss, or deduction that are derived from or connected with a source in the state, as determined under this chapter.

(b) A partnership that is required to file a return under (a) of this section shall
withhold income tax from a nonresident partner's distributive share of the partnership's items of income or gain, loss, or deduction derived from or connected with a source in the state at the highest marginal income tax rate applicable to individuals for the taxable year.

**Sec. 43.22.085. Permanent fund tax payment.** The department shall adopt regulations establishing procedures for an individual eligible for a dividend under AS 43.23.005 to direct the department to hold all or a part of the amount of the dividend to pay the tax due under this chapter. The amount held under this section may not exceed the dividend amount after contributions, garnishments, levies, fees, attachments, assignments, or other reductions or donations allowed under AS 43.23. The department shall apply the amount held under this section to tax owed in the taxable year in which the taxpayer applies for the dividend. The department shall refund the amount of the dividend not applied against taxes under this section to the individual who appears on the application for the dividend.

**Sec. 43.22.090. Administration.** (a) The department shall adopt necessary regulations and forms to implement and interpret this chapter, including regulations and forms for the electronic filing and payment of tax due under this chapter. Federal regulations issued under the Internal Revenue Code shall be considered persuasive authority in interpreting any provision of the Internal Revenue Code on which the tax imposed by this chapter relies, whether or not a federal regulation has been specifically incorporated into a department regulation, unless the federal regulation

(1) conflicts with a provision of this chapter;
(2) conflicts with a regulation adopted by the department; or
(3) is inconsistent with the purposes of this chapter.

(b) A transaction or payment between related parties must have economic substance, must serve a bona fide business purpose, and must not have occurred for the primary purpose of lowering the tax due under this chapter. The department, upon review or audit of a taxpayer's return, may determine whether there is sufficient documentation or whether a transaction or payment meets the requirements of this subsection. If the department determines that the documentation or the transaction or payment fail to meet the requirements of this subsection, the department may adjust
the amount of a payment or transaction, disregard the payment or transaction, or make another adjustment necessary for determining the tax under this chapter. If a payment in an amount greater than $500,000 is made, or is required to be made, from one party to a related party, the parties shall submit documentation substantiating that the amount of the payment is consistent with 26 U.S.C. 482 (Internal Revenue Code). Payments subject to this subsection include payments for interest, royalties, management fees, services, inventory, tangible personal property, intangible property, and real property.

(c) A tax deficiency assessed by the department under this section is assumed to be correct, and a taxpayer has the burden of proving that the tax deficiency is erroneous.

(d) The department shall adjust the income bracket amounts in AS 43.22.010(b) and (c) and the amount of the exemption under AS 43.22.030(a)(2)(H) biennially for inflation from calendar year 2018 using the Consumer Price Index for all urban consumers for Anchorage prepared by the Bureau of Labor Statistics, United States Department of Labor. The department shall round amounts under this subsection to the nearest $100 and publish the adjusted amounts.

Sec. 43.22.095. References to Internal Revenue Code. (a) Unless the provision is inconsistent with this chapter or a regulation adopted under this chapter, the provisions of the Internal Revenue Code as now in effect or hereafter amended that are mentioned in this chapter are incorporated in this chapter by reference and have effect as though fully set out in this chapter.

(b) When provisions of the Internal Revenue Code incorporated by reference as provided in (a) of this section refer to rules and regulations adopted by the United States Commissioner of Internal Revenue, or hereafter adopted, they are regarded as regulations adopted by the department under and in accordance with the provisions of this chapter, unless and until the department adopts specific regulations in their place conformable with this chapter.

Sec. 43.22.150. Definitions. In this chapter,

(1) "domicile" means an individual's true, fixed, principal, and permanent home, to which the individual intends to return even though currently
living elsewhere; if an individual has two or more homes, "domicile" means the one that the individual regards and uses as the individual's more permanent home; once established, a domicile remains as such until an individual demonstrates a real change of intent and moves to a new domicile; indications of domicile include the

(A) location of the place of employment of the individual;
(B) location of real property owned by the individual;
(C) registration and physical location of motor vehicles, planes, boats, and snow machines owned by the individual;
(D) location of a bank account or active checking account of the individual;
(E) address where the individual receives mail;
(F) location of a school where the individual or a member of the individual's immediate family
   (i) attends; or
   (ii) receives resident tuition;
(G) location of an organization of which the individual is a member;
(H) location of a parent, child, grandchild, or great grandchild;
(I) location of dental and medical personnel that provide services to the individual on a regular or consistent basis;
(J) filing of a prior year tax return by the individual as a resident or nonresident;
(K) location where an individual is registered to vote;
(L) location where an individual holds a resident fishing, hunting, or trapping license;
(2) "federal adjusted gross income" has the meaning given to "adjusted gross income" in 26 U.S.C. 62;
(3) "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or a person, whether individual or corporate, acting in a similar position of special confidence toward another;
(4) "Internal Revenue Code" means the Internal Revenue Code of 1986
(26 U.S.C. 1 et seq.), as amended, and regulations issued thereunder, if the regulations are consistent with this chapter;

(5) "irrevocable trust" means a trust or portion of a trust that is not subject to a power to revest title in a person whose property constitutes the trust or a portion of the trust;

(6) "nonresident corporation" means a corporation whose place of management and control is outside the state;

(7) "nonresident estate" means an estate other than a resident estate or part-year resident estate;

(8) "nonresident individual" means an individual who is not a resident of the state for any portion of the taxable year;

(9) "nonresident trust" means a trust other than a resident trust or a part-year resident trust;

(10) "partner" means a partner as defined in 26 U.S.C. 7701(a) (Internal Revenue Code) and includes a member of a limited liability company or similar entity that is treated as a partnership for federal income tax purposes;

(11) "partnership" means an entity as defined in 26 U.S.C. 7701(a) (Internal Revenue Code) and includes a limited liability company and a similar entity treated as a partnership for federal income tax purposes;

(12) "part-year resident estate" means an estate that is a resident of the state for a portion of and not the entire taxable year;

(13) "part-year resident individual" means an individual who is a resident of the state for a portion of and not the entire taxable year;

(14) "part-year resident trust" means a trust that is a resident of the state for a portion of and not the entire taxable year;

(15) "related parties" means any parties that satisfy the definition of a related party in 26 U.S.C. 144, 147, or 267 (Internal Revenue Code);

(16) "resident corporation" means a corporation whose place of management and control is in the state;

(17) "resident estate" means the estate of a

(A) decedent who at the time of death was a resident of the
state, regardless of the residence of the fiduciary or beneficiary, if the disposition or administration of the estate is, or will be, subject to state law; or

(B) person who, at the time of commencement of a bankruptcy proceeding under Title 11 of the United States Code, was a resident of the state;

(18) "resident individual" means an individual who

(A) receives a permanent fund dividend under AS 43.23.005; 

(B) receives a tax benefit available only to an individual domiciled in the state; or

(C) is domiciled in the state for the entire taxable year unless the individual maintains a permanent place of abode outside the state and spends, in the aggregate, not more than 30 days during the taxable year in the state;

(19) "resident trust" means

(A) a trust, or a portion of a trust, consisting of property transferred by will of a decedent who at the time of death was a resident of the state if the disposition or administration of the property is, or will be, subject to state law;

(B) a trust consisting of the property of a person who was a resident at the time the property was transferred to the trust and, at the time of the transfer, the trust was

(i) an irrevocable trust;

(ii) a revocable trust and the trust has not later become irrevocable;

(iii) a revocable trust and later became irrevocable at a time the person transferring property to the trust was a resident;

(C) a trust consisting of property that is or will be disposed of or administered under state law;

(D) a trust with a fiduciary or beneficiary, other than a beneficiary whose interest in the trust is contingent, that is a resident of the state, and the laws of the state will govern the administration of the trust; the
residence of a corporate fiduciary means the principal place where the corporation transacts the administration of the trust; or

(E) a trust that is administered primarily in the state and governed by the laws of the state;

(20) "revocable trust" means a trust or portion of a trust that is subject to a power, exercisable immediately or at a future time, to revest title in a person whose property constitutes the trust or portion of the trust;

(21) "S corporation" means a corporation that has elected to file a federal income tax return under 26 U.S.C. 1361 - 1379 (Internal Revenue Code);

(22) "taxable income" means income taxable under this chapter;

(23) "taxable year" means the calendar year or a fiscal year ending during the calendar year;

(24) "taxpayer" means an individual, trust, or estate subject to a tax imposed by this chapter.

* Sec. 18. AS 43.23.025 is amended by adding a new subsection to read:

(c) Notwithstanding (a) of this section, the amount of each permanent fund dividend for fiscal years 2018 and 2019 shall be at least $1,250. If the amount of appropriations is not sufficient to provide the dividend amount in this subsection, the commissioner shall reduce the dividend amount under this subsection by an equal amount for each eligible individual.

* Sec. 19. AS 43.23.055 is amended to read:

Sec. 43.23.055. Duties of the department. The department shall

(1) annually pay permanent fund dividends from the dividend fund, without further appropriation;

(2) subject to AS 43.23.011 and paragraph (8) of this section, adopt regulations under AS 44.62 (Administrative Procedure Act) that establish procedures and time limits for claiming a permanent fund dividend; the department shall determine the number of eligible applicants by October 1 of the year for which the dividend is declared and pay the dividends by December 31 of that year;

(3) adopt regulations under AS 44.62 (Administrative Procedure Act) that establish procedures and time limits for an individual upon emancipation or upon
reaching majority to apply for permanent fund dividends not received during minority because the parent, guardian, or other authorized representative did not apply on behalf of the individual;

(4) assist residents of the state, particularly in rural areas, who because of language, disability, or inaccessibility to public transportation need assistance to establish eligibility and to apply for permanent fund dividends;

(5) use a list of individuals ineligible for a dividend under AS 43.23.005(d) provided annually by the Department of Corrections and the Department of Public Safety to determine the number and identity of those individuals;

(6) adopt regulations that are necessary to implement AS 43.23.005(d);

(7) adopt regulations that establish procedures for the parent, guardian, or other authorized representative of a disabled individual to apply for prior year permanent fund dividends not received by the disabled individual because no application was submitted on behalf of the individual;

(8) adopt regulations that establish procedures for an individual to apply to have a dividend disbursement under AS 37.25.050(a)(2) reissued if it is not collected within two years after the date of its issuance; however, the department may not establish a time limit within which an application to have a disbursement reissued must be filed;

(9) provide any information, upon request, contained in permanent fund dividend records to the child support services agency created in AS 25.27.010, or the child support enforcement agency of another state, for child support purposes authorized under law; if the information is contained in an electronic data base, the department shall provide the requesting agency with either

   (A) access to the data base; or

   (B) a copy of the information in the data base and a statement certifying its contents;

(10) establish a fraud investigation unit for the purpose of assisting the Department of Law in the prosecution of individuals who apply for or obtain a permanent fund dividend in violation of a provision in
AS 11, by detecting and investigating those crimes; and

(B) commissioner to detect and investigate the claiming or paying of permanent fund dividends that should not have been claimed by or paid to an individual and to impose the penalties and enforcement provisions under AS 43.23.035.

* Sec. 20. AS 43.23 is amended by adding a new section to read:

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

In accordance with AS 43.22.085, the department shall prepare the Alaska permanent fund dividend application to allow an applicant to direct the department to hold all or part of the amount of the individual's permanent fund dividend for application against the individual income tax imposed under AS 43.22.

* Sec. 21. AS 37.13.145(c) is repealed July 1, 2017.

* Sec. 22. AS 43.05.085; AS 43.20.012(b), and 43.20.013 are repealed January 1, 2019.

* Sec. 23. AS 37.13.145(f) and AS 43.23.025(c) are repealed June 30, 2020.

* Sec. 24. The uncodified law of the State of Alaska is amended by adding a new section to read:

FISCAL YEAR 2017. Notwithstanding another provision of law, the legislature may appropriate from the earnings reserve account for fiscal year 2017 the amount by which 5.25 percent of the average market value of the fund for fiscal years 2011, 2012, 2013, 2014, and 2015, computed annually for each fiscal year in accordance with generally accepted accounting principles, exceeds $695,650,000. In this section, "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. 25. The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 43.22, added by sec. 17 of this Act, applies to income received on or after the effective date of sec. 17 of this Act.

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

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

(b) The commissioner of revenue and the Alaska Permanent Fund Corporation may adopt regulations, policies, and procedures necessary to implement this Act. The regulations, policies, or procedures may not take effect before the effective date of the law implemented by the regulation, policy, or procedure.

* Sec. 27. The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY. If sec. 24 of this Act takes effect after June 29, 2017, sec. 24 of this Act is retroactive to June 29, 2017.

* Sec. 28. Sections 1, 24, 26, and 27 of this Act take effect immediately under AS 01.10.070(c).

* Sec. 29. Sections 2 and 3 of this Act take effect January 1, 2018.

* Sec. 30. Sections 16, 17, 20, 22, and 25 of this Act take effect January 1, 2019.

* Sec. 31. Section 9 of this Act takes effect July 1, 2019.

* Sec. 32. Section 13 of this Act takes effect June 30, 2020.

* Sec. 33. Except as provided in secs. 28 - 32 of this Act, this Act takes effect July 1, 2017.