

CSHB 365: Income Tax & Permanent Fund Tax Credit
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Sectional Analysis – Rep. Paul Seaton

*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.*

Section 1 (page 1, line 6) – 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 in AS 37.13.140). This section does 2 things. 1) It 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 principal or for use by the legislature. With this bill, 50% stays in the Earnings Reserve, 25% now goes to pay PFDs, and the remaining 25% goes directly to the General Fund to help support state services. 2) It directs to the general fund, 2.3% of the average market value (POMV) of the permanent fund, including the earnings reserves, for the past 5 fiscal years, including the fiscal year ended.

----- **start of Income Tax section** -----

Section 2 (page 2, line 4) – creates the Individual Income Tax within AS 43.

Subsection: Sec. 43.22.010 (page 2, line 6) – Imposes an income tax and a long term capital gains tax on both residents and nonresidents. For residents it is based on all income and all long term capital gains earned both within and outside of Alaska. For nonresidents it is based on income and long term capital gains earned from a source within Alaska. The tax is equal to 15% of the taxpayer’s total federal income tax due (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% to 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 3, line 7) - 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 4, line 6) – Defines *income* and *income from sources in the state* as compensation for services rendered; salary or wages earned; income from real or tangible personal property located; income from stocks, bonds, notes, bank deposits, and other intangible personal property having a taxable or business site; rentals and royalties; patents, copyrights, trade brands, franchises, etc.

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*.”

Subsection: Sec. 43.22.035 (page 5, line 28) – 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 6, line 12) – States a person may apply their PFD as a Refundable Tax Credit to their upcoming state income tax due, less any garnishment, levy, donations to Pick Click Give or college funds, etc., and based on the amount determined under AS 43.23.092 (see Sect. 5). If a person’s Refundable Tax Credit is more than the amount of their state income tax due, any remaining amount will be reimbursed to the person as a tax refund, after the person has filed their state income taxes. Note: the Refundable Tax Credit only applies to residents because it is tied to the PFD.

Subsection: Sec. 43.22.050 (page 6, line 22) – 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 7, line 20) – 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 7, line 23) - 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 7, line 28) - 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.

----- **end of Income Tax section** -----

Section 3 (page 8, line 18) – Adds a new section: States that the PFD 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 4 (starting on page 8, line 24) – Adds a new section: States that on Feb. 1 each year the PFD-Dept. of Revenue will estimate how much money will be appropriated from PFDs to be applied to state income taxes and into the general fund. The estimate will be based on AS 43.23.092 (see Sect. 5) and the number of residents who received a PFD and chose to apply their PFD to their upcoming income tax due.

Section 5 (page 8, line 29) – Adds a new section AS 43.23.092: Directs the PFD-Dept. of Revenue to create a spot on the PFD application where an applicant may apply their PFD to their upcoming state income tax due. The amount applied to state income taxes will be what is remaining after any optional charitable donations to Pick Click Give or college funds, or any voluntary or involuntary garnishments are deducted. The section also directs the department to adopt regulations to implement this new process.

Section 6 (page 9, line 7) – Repeals:

- AS 37.13.145(c): repeals inflation proofing of the permanent fund. The majority of permanent fund investments now include inflation proofing so additional inflation proofing from the earnings reserve account is not critical.
- AS 43.20.012(b) and AS 43.20.013: these remove a former tax credit for political contributions that existed under Alaska’s prior individual income tax which was repealed in 1980.

Section 7 (page 9, line 8) – Effective date of January 1, 2017.