

**CS FOR HOUSE BILL NO. 189(W&M)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

Offered: 5/6/21

Referred: Education, Finance

Sponsor(s): HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act imposing an education tax on net earnings from self-employment and wages;**  
2 **relating to the administration and enforcement of the education tax; and providing for**  
3 **an effective date."**

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

5 \* **Section 1.** AS 43.45 is amended by adding new sections to read:

6 **Chapter 45. Education Tax.**

7 **Sec. 43.45.011. Tax imposed.** (a) A tax is imposed on wages and on net  
8 earnings from self-employment of every

9 (1) resident individual; and

10 (2) nonresident and part-year resident individual with income from a  
11 source in the state.

12 (b) For an individual whose wages, net earnings from self-employment, or  
13 combined wages and net earnings from self-employment are

14 (1) less than \$30,000, the tax is \$25 a year;

- 1 (2) \$30,000 or more, but less than \$60,000, the tax is \$100 a year;  
 2 (3) \$60,000 or more, but less than \$90,000, the tax is \$200 a year;  
 3 (4) \$90,000 or more, but less than \$120,000, the tax is \$400 a year;  
 4 (5) \$120,000 or more, the tax is \$600 a year.

5 (c) For purposes of (b) of this section, the wages and the net earnings from  
 6 self-employment of a

7 (1) resident are the total annual wages and the net earnings from self-  
 8 employment of the resident;

9 (2) nonresident or part-year resident are the annual wages and the net  
 10 earnings from self-employment of the nonresident or part-year resident that are  
 11 attributable to a source in the state.

12 **Sec. 43.45.021. Collection of tax by employer.** (a) An employer shall deduct  
 13 and withhold one-half of the estimated taxes due under AS 43.45.011 from an  
 14 employee's wages subject to withholding under 26 U.S.C. 3401 - 3406 from each of  
 15 the third and fourth regular payrolls of the calendar year. If the employee's third and  
 16 fourth payrolls are insufficient to cover the estimated tax due, the employer shall  
 17 continue to deduct and withhold from subsequent payrolls until the tax due under this  
 18 chapter is fully withheld. The employer shall withhold any outstanding amount of tax  
 19 due under AS 43.45.011 from the final regular payroll of the calendar year.

20 (b) An employer is liable for the tax required to be withheld from an employee  
 21 unless the employer can demonstrate that the employer relied on proof provided by the  
 22 employee that the total tax for the calendar year imposed under AS 43.45.011 had  
 23 already been withheld under this section or paid under AS 43.45.031. A deduction of  
 24 the tax may not be made from the wages of an individual who provides proof to the  
 25 employer that the entire tax imposed under AS 43.45.011 on that individual for the  
 26 calendar year has already been withheld or paid under AS 43.45.031. The department  
 27 may impose a civil penalty on an employer in an amount up to five times the amount  
 28 of tax due from employees but not remitted to the department. The penalty shall be  
 29 imposed in the manner provided by AS 43.05.245.

30 (c) Tax withheld by an employer becomes due and shall be paid by an  
 31 employer to the department in accordance with regulations adopted by the department.

1 (d) An employer shall maintain a record of the amount deducted from the  
2 wages of each employee and shall furnish an annual statement of the deductions to  
3 each employee and to the department in accordance with regulations adopted by the  
4 department.

5 (e) The department shall, if it will result in cost savings for the state in the  
6 administration of the tax, for employers in the administration of the tax, or for both,  
7 coordinate collection and reporting of the tax imposed in this chapter with the  
8 collection and reporting of employment security contributions by the Department of  
9 Labor and Workforce Development, including permitting the Department of Labor  
10 and Workforce Development to collect the tax payments and remit them to the  
11 department.

12 **Sec. 43.45.031. Payment of tax by self-employed individual.** A self-  
13 employed individual shall remit to the department the tax due under AS 43.45.011 in  
14 accordance with regulations adopted by the department until the entire tax has been  
15 paid.

16 **Sec. 43.45.041. Refund of overpayments.** (a) If an individual pays to the  
17 department, directly or through withholding by an employer, an amount exceeding the  
18 total tax imposed under this chapter during a calendar year and the individual applies  
19 for a refund in accordance with regulations adopted by the department, the department  
20 shall refund the overpayment to the individual.

21 (b) Interest on an overpayment may not be allowed under AS 43.05.280 if the  
22 department refunds the overpayment within 90 days after the date the individual  
23 correctly files the refund claim.

24 (c) The Department of Revenue may adopt regulations to coordinate refunds  
25 of overpayments under this section with refunds of employment security contributions  
26 under AS 23.20.165.

27 (d) An individual may apply for a refund under this section only during the  
28 calendar year immediately following the calendar year in which the excess was paid.

29 **Sec. 43.45.051. Report of payments to self-employed individuals.** A person  
30 required to report a payment to a self-employed individual to the federal government  
31 under 26 U.S.C. shall also report that payment to the department in accordance with

1 regulations adopted by the department.

2 **Sec. 43.45.061. Disposition of tax proceeds.** (a) The tax and penalties  
3 collected by the department under this chapter shall be deposited into the general fund  
4 and accounted for separately.

5 (b) The legislature may appropriate the estimated amounts to be collected and  
6 separately accounted for under (a) of this section to the public education fund under  
7 AS 14.17.300. Nothing in this section creates a dedicated fund.

8 **Sec. 43.45.099. Definitions.** In this chapter,

9 (1) "employee" has the meaning given in 26 U.S.C. 3401;

10 (2) "employer" has the meaning given in 26 U.S.C. 3401;

11 (3) "net earnings from self-employment" has the meaning given in 26  
12 U.S.C. 1402;

13 (4) "wages" has the meaning given in 26 U.S.C. 3401.

14 \* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to  
15 read:

16 REGULATIONS. The Department of Revenue may adopt regulations to implement  
17 sec. 1 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act),  
18 but not before the effective date of sec. 1 of this Act.

19 \* **Sec. 3.** Section 2 of this Act takes effect immediately under AS 01.10.070(c).

20 \* **Sec. 4.** Except as provided in sec. 3 of this Act, this Act takes effect January 1, 2022.