

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 165
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Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title: Education Tax on Employment BRU: Revenue Operations
 Component: Tax Division
 Sponsor: Senator Austerman
 Requester: Senate Labor and Commerce Component Number: 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	432.5	535.3	535.3	535.3	535.3	535.3
Travel	21.0	21.0	21.0	21.0	21.0	21.0
Contractual	282.7	122.7	122.7	122.7	122.7	122.7
Supplies		10.0	10.0	10.0	10.0	10.0
Equipment	86.3	7.5				
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	822.5	696.5	689.0	689.0	689.0	689.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (increase)	0.0	38,216.1	38,216.1	38,216.1	38,216.1	38,216.1
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	822.5	696.5	689.0	689.0	689.0	689.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	822.5	696.5	689.0	689.0	689.0	689.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	7	8	8	8	8	8
Part-time						
Temporary	8	8	8	8	8	8

ANALYSIS: (Attach a separate page if necessary)

Revenue projection assumes taxpayers will not pay until Feb 1, 2003. See attached bill analysis for more information.

The department projects it will need eight full-time permanent workers to operate the new tax program, and eight temporary clerks during the tax season. The personnel would range from clerks at Range 8 to a section chief, a Revenue Auditor V, at Range 22.

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 Division: Tax Division Date/Time April 11, 2001, 4 p.m.
 Approved by: Larry Persily, Deputy Commissioner Date 04/11/2001
 Agency: Department of Revenue

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Department of Revenue Fiscal Note

Education Tax on Employment - SB 165

Prepared April 11, 2001

Discussion

Section 1 amends AS 43 by adding a new chapter to impose an education tax.

AS 43.45.011 provides that the tax is \$100 a year on each individual 19 years of age or older who is employed or self-employed in the state.

AS 43.45.021 provides that every employer is to deduct \$50 from each employee's wages in each of the first two regular payrolls of the tax year, or the first two payrolls following employment. The employer must then remit the tax deducted to the department. A taxpayer remits the tax before February 1 of the year following the year for which the tax is imposed. No deduction may be made if the employee can prove to the employer that the \$100 tax has previously been paid. The department is to provide a return form for the employer to remit the tax.

AS 43.45.031 provides that an employer, upon request of the employee, shall furnish a record of the tax withheld from the employee. The department is to provide a form for this purpose.

AS 43.45.041 provides that the tax shall be deposited into the state General Fund, accounted for separately, and may be appropriated by the legislature for education. The deposit and appropriation is not intended to create a dedicated fund.

Section 2 provides that the tax takes effect on January 1, 2002.

Analysis

We presume the intent of the bill is not to apportion the tax based upon days or months worked during the year, but rather to levy the full \$100 tax on an individual who is either employed or self-employed on any day during the tax year. Therefore, it is possible for the tax to exceed the wages if an individual works only a day or two during the tax year.

It is also possible that the \$50 required to be withheld in the first two payroll periods will exceed the actual amount of the earned wages. Since the employer is only required to deduct the tax from the first two payrolls of the employee, it is unclear whether the employer must continue to withhold in subsequent payrolls or whether the employee must remit the additional tax. However, we note there is no provision in the bill for an employee to make payment of any tax owing.

Generally, taxpayers will have use of the tax for a period of one year from the time the tax liability is incurred before it is required to be remitted to the department. This could place uncollected tax at risk if a taxpayer becomes insolvent or leaves the state.

The bill requires an employer to deduct the tax and send it to the department on a return form provided by the department. There is no express due date in the bill for the remittance of the tax withheld, other than February 1, 2003.

An individual working two jobs at the beginning of the year will have both employers withhold \$50 in tax in the first payroll period. Since the two jobs cover the same time period, the employee will not be able to prove to either employer that the tax has already been paid. The employee may then establish in the second payroll period that the entire tax has already been paid so that neither employer needs to withhold any further tax.

We see no compelling reason why the department needs to provide a form for an employer to furnish to an employee showing the amount of tax withheld. The payroll check issued to the employee should show all amounts withheld from compensation and that should be a sufficient record of withholding.

The department interprets "employed in the state" to include individuals who receive compensation for personal services rendered in the state but who otherwise may be considered employed in another state for such things as unemployment insurance, as well as self employed individuals who engage in business activities in the state.

The bill as written would appear to apply to United States military personnel on active duty in the state but who retain a legal residence in another state. The Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C.) may preclude the application of the tax to these individuals.

The bill provides that the tax liability is that of the individual and the employer only has the obligation to deduct the tax and remit it to the department. The tax liability is not that of the employer as the employer is not the taxpayer. If the employer fails to meet the remittance obligation, or fails to do so timely, the state may proceed under AS 43.05.220 to collect the amount required to be deducted and remitted, but there does not appear to be any civil penalty or interest provisions that would apply to the employer. The department believes that AS 43.05.220(a) and AS 43.05.225 should apply to the amounts required to be remitted by the employer.

Revenue Projection

The Alaska Department of Labor estimates that in 1999 the number of resident and nonresident workers with unique Social Security numbers was 358,729. This differs from the 1999 Alaska Department of Labor annual average monthly employment

estimate of 274,570 because it is a measurement of the number of unique workers not jobs. For example, in any given year a business might employ more than one worker for the same job. However, this does not include the estimated 16,829 federal government workers or 32,298 self-employed workers.

The data on self-employed workers is from the Internal Revenue Service and is adjusted for individuals who might have more than one job or not have any earnings in a particular year. The number of federal workers comes from the Department of Labor. The total number of workers is then reduced by 25,695 to account for workers under the age of 19.

prepared by Carl Meyer and Michael Williams