

**ALASKA STATE LEGISLATURE  
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

April 27, 2001

3:30 p.m.

**MEMBERS PRESENT**

Representative Lisa Murkowski, Chair  
Representative Andrew Halcro, Vice Chair  
Representative Kevin Meyer  
Representative Pete Kott  
Representative Norman Rokeberg  
Representative Harry Crawford  
Representative Joe Hayes

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 229

"An Act imposing a tax on employment; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 226

"An Act relating to the employment of persons 14 years of age or older and under 19 years of age on licensed premises, including hotels, restaurants, or eating places; and relating to hours of work of minors under 16 years of age."

- HEARD AND HELD; ASSIGNED TO SUBCOMMITTEE

**CONFIRMATION HEARINGS**

Alcoholic Beverage Control Board

Duane S. Udland - Anchorage

- CONFIRMATION ADVANCED

Board of Dental Examiners

Rena L. Anderson - Anchorage  
Dr. James Blasingame - Anchorage

Dr. Patricia Bergdahl - Fairbanks

- CONFIRMATIONS ADVANCED

State Medical Board

Dr. David Head - Nome  
Sheila Means - Juneau

- CONFIRMATIONS ADVANCED

Board of Certified Direct-Entry Midwives

Sharon Evans - Chugiak

- CONFIRMATION ADVANCED

Board of Nursing

Mary S. Nikodym - Wrangell

- CONFIRMATION ADVANCED

Occupational Safety & Health Review Board

Representative Cliff Davidson - Kodiak

- CONFIRMATION ADVANCED

HOUSE BILL NO. 258

"An Act converting the business license fee to a business license tax; adding, as an element of that tax, computation of the tax based on the taxpayer's gross receipts; establishing adjustments to that tax; and transferring administration of the levy to the Department of Revenue; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS ACTION**

BILL: HB 229

SHORT TITLE: EDUCATION TAX ON EMPLOYMENT

SPONSOR(S): REPRESENTATIVE(S) STEVENS

Jrn-Date	Jrn-Page		Action
04/02/01	0810	(H)	READ THE FIRST TIME -

			REFERRALS
04/02/01	0810	(H)	L&C, FIN
04/02/01	0810	(H)	REFERRED TO LABOR & COMMERCE
04/27/01		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 226

SHORT TITLE:EMPLOYMENT OF PERSONS UNDER AGE 19

SPONSOR(S): REPRESENTATIVE(S)HARRIS

Jrn-Date	Jrn-Page		Action
04/02/01	0809	(H)	READ THE FIRST TIME - REFERRALS
04/02/01	0809	(H)	L&C, JUD
04/02/01	0809	(H)	REFERRED TO LABOR & COMMERCE
04/17/01	1021	(H)	COSPONSOR(S): KERTTULA
04/25/01		(H)	L&C AT 3:15 PM CAPITOL 17
04/25/01		(H)	Scheduled But Not Heard
04/27/01		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 258

SHORT TITLE:CHANGE BUSINESS LIC. FEE TO RECEIPTS TAX

SPONSOR(S): REPRESENTATIVE(S)SCALZI

Jrn-Date	Jrn-Page		Action
04/25/01	1206	(H)	READ THE FIRST TIME - REFERRALS
04/25/01	1206	(H)	L&C, FIN
04/25/01	1206	(H)	REFERRED TO LABOR & COMMERCE
04/27/01		(H)	L&C AT 3:15 PM CAPITOL 17

**WITNESS REGISTER**

REPRESENTATIVE GARY STEVENS

Alaska State Legislature

Capitol Building, Room 428

Juneau, Alaska 99801

POSITION STATEMENT: Testified as the sponsor of HB 229.

CHUCK HARLAMERT, Juneau Section Chief

Tax Division

Department of Revenue

PO Box 110420

Juneau, Alaska 99811-0420

POSITION STATEMENT: Answered questions regarding HB 229.

SENATOR AUSTERMAN

Alaska State Legislature  
Capitol Building, Room 417  
Juneau, Alaska 99801

POSITION STATEMENT: Spoke as the sponsor of the companion legislation, SB 165, to HB 229.

BRETT FRIED, Economist  
Tax Division

Department of Revenue  
PO Box 110420  
Juneau, Alaska 99811-0420

POSITION STATEMENT: Answered questions regarding HB 229 and HB 258..

SEAN REILLY

1109 C Street  
Juneau, Alaska 99801

POSITION STATEMENT: Testified on HB 229.

REBECCA NANCE GAMEZ, Director  
Division of Employment Security  
Department of Labor & Workforce Development  
PO Box 25509

Juneau, Alaska 998902-5509

POSITION STATEMENT: Answered questions regarding HB 229.  
Testified that DLWD is supportive of Sections 3 and 4 of HB 226.

JOHN MANLY, Staff  
to Representative John Harris  
Alaska State Legislature  
Capitol Building, Room 513  
Juneau, Alaska 99801

POSITION STATEMENT: Testified on behalf of the sponsor of HB 226.

DOUG GRIFFIN, Director  
Alcoholic Beverage Control Board  
Department of Revenue  
550 W 7th Avenue, Suite 540  
Anchorage, Alaska 99501-3510

POSITION STATEMENT: Testified in opposition to HB 226.

REPRESENTATIVE DREW SCALZI  
Alaska State Legislature  
Capitol Building, Room 13  
Juneau, Alaska 99801

POSITION STATEMENT: Testified as the sponsor of HB 258.

PAM LaBOLLE, President  
Alaska State Chamber of Commerce  
217 2nd Street, Suite 201  
Juneau, Alaska 99801

POSITION STATEMENT: Testified in opposition to HB 258.

JAMIE PARSONS, Executive Director  
Juneau Chamber of Commerce  
3100 Channel Drive, Suite 300  
Juneau, Alaska 99801

POSITION STATEMENT: Testified in opposition to HB 258.

CATHERINE REARDON, Director  
Division of Occupational Licensing  
Department of Community & Economic Development  
PO Box 110806  
Juneau, Alaska 99811-0806

POSITION STATEMENT: Testified on HB 258.

#### **ACTION NARRATIVE**

TAPE 01-69, SIDE A  
Number 0001

CHAIR LISA MURKOWSKI called the House Labor and Commerce Standing Committee meeting to order at 3:30 p.m. Representatives Murkowski, Halcro, Crawford, and Hayes were present at the call to order. Representatives Meyer, Kott, and Rokeberg arrived as the meeting was in progress.

#### HB 229-EDUCATION TAX ON EMPLOYMENT

CHAIR MURKOWSKI announced that the first order of business would be HOUSE BILL NO. 229, "An Act imposing a tax on employment; and providing for an effective date."

Number 0105

REPRESENTATIVE GARY STEVENS, Alaska State Legislature, testified as the sponsor of HB 229, which is a companion bill to SB 165. Representative Stevens paraphrased his sponsor statement, which read as follows:

Throughout the session, legislators have been approached by numerous educators requesting an

increase in K-12 education funding. Bills to increase the foundation formula have been introduced in both bodies, each requiring additional general fund dollars, but without a new source of revenue for that increase. HB 229 will solve that dilemma by creating an education head-tax.

Under HB 229, the state will impose a tax of \$100 a year on each employed individual age 19 or older, including the self-employed. HB 229 would require the employer to deduct \$50 from the employee's salary on each of their first two regular payrolls after January 1 of the calendar year. A provision has been added to prevent this tax from being taken out more than once when the employee provides proof to their new employer that the tax has already been satisfied.

Preliminary estimates by the Department of Revenue indicate that the state would collect between \$35 and \$36 million a year in new revenue generated by this legislation. Approximately \$2 million a year would be required to administer the increased workload by staff in that division if this measure becomes law. This revenue would more than fund the \$145 per student increase in the foundation formula as proposed in SB 1 and HB 105.

The tax collected under AS 43.45.021 would be deposited into the state's general fund, but accounted for separately. In turn, the legislature may then appropriate the amounts collected under the section for education.

This authorization is not intended to create a dedication of fund in violation of Article IX, Sec. 7, of the Constitution of the State of Alaska.

I urge you to join me in showing a commitment to public education in Alaska by supporting HB 229.

Number 0272

REPRESENTATIVE HAYES asked whether Representative Stevens had considered making a statutory designation in order to make more of an opportunity for this money to be used for education.

REPRESENTATIVE STEVENS answered that such wasn't part of Senator Austerman's original bill. If that is of interest, it could be reviewed.

REPRESENTATIVE HAYES inquired as to why this tax wouldn't be implemented until February 1, 2003. He related his belief that June 1, 2003, would probably be a better date because he recalled that June or July is the highest month for employment in this state.

REPRESENTATIVE STEVENS said that was a good idea. Furthermore, it may be more difficult to collect this money in January, after the holidays. Representative Stevens indicated his openness to consider various options.

CHAIR MURKOWSKI remarked that collection of this tax from the self-employed or commission-based employees would be more difficult. Therefore, she asked if the difficulties had been worked through.

REPRESENTATIVE STEVENS said that he hadn't worked through that. He noted that such would need to be handled through the Department of Revenue.

Number 0435

REPRESENTATIVE CRAWFORD said that he remembered the \$10 education tax, which he was glad to see eliminated. He related his personal experience in which he worked for many employers in a year and thus would have to wait for a specific time of year to obtain a rebate from the education tax. He asked if the financial burden this creates had been reviewed.

REPRESENTATIVE STEVENS pointed out that under HB 229 it would be a matter of proving whether the money had already been collected versus a rebate situation.

REPRESENTATIVE HAYES inquired as to how this would work for military personnel and those who work outside of the state, but claim residency in Alaska.

REPRESENTATIVE STEVENS answered that military personnel would pay this tax. However, he acknowledged the difficulty in collecting the tax from checks that are cut in Washington, D.C. Representative Stevens acknowledged the need to work on that.

REPRESENTATIVE HAYES also inquired as to why the age 19 was chosen instead of 18.

REPRESENTATIVE STEVENS said that Representative Hayes could chose 18 years of age if he wanted.

REPRESENTATIVE HALCRO asked if there is any institutional knowledge regarding how the \$10 education tax was collected then from military personnel.

Number 0763

CHUCK HARLAMERT, Juneau Section Chief, Tax Division, Department of Revenue, related his understanding that such a tax can be collected from military personnel who are legal residents of Alaska, but not from personnel that are assigned to Alaska who aren't legal residents of Alaska.

REPRESENTATIVE HALCRO asked if there is a process in place to account for such a contribution in order to avoid double dipping.

MR. HARLAMERT said in order to avoid double dipping it looks as if HB 229 places the responsibility on the employee to show a second employer that the employee had already had the tax withheld by a former employer.

REPRESENTATIVE HALCRO related his understanding then that those in the military in active service wouldn't pay the \$100 education tax.

MR. HARLAMERT answered, "Correct." In further response to Representative Halcro, Mr. Harlamert related his belief that other federal employees would have to pay the education tax.

Number 0875

REPRESENTATIVE KOTT posed a situation in which an active duty military person, who is a resident of the state, is assigned to Elmendorf. He related his understanding that the state is going to approach the federal government's Department of Finance office in Colorado and request them to withhold \$100 and send it to the state.

MR. HARLAMERT replied, "I think your understanding of it is probably as good as mine."



REPRESENTATIVE KOTT said he felt that would be problematic. He then inquired as to the difference between applying the \$100 education tax to military personnel stationed in Alaska who aren't residents of this state and any other person, nonresident of the state, who seasonally works in the state and would be taxed. He indicated that there would be an equal protection problem.

MR. HARLAMERT explained that the military personnel aren't being taxed due to a federal law.

REPRESENTATIVE KOTT asked if the working spouse of military personnel in the state would be taxed.

MR. HARLAMERT related his belief that such a spouse would be taxed.

Number 1005

SENATOR AUSTERMAN pointed out that federal military salaries are exempt from state taxes. However, if military personnel worked in a cannery, for example, as an extra job, then that person would be taxed.

REPRESENTATIVE KOTT related his understanding then that military personnel are exempt due to their federal pay rather than their military position. Therefore, federal government workers that are nonresidents would not pay the education tax.

CHAIR MURKOWSKI interjected her belief that this relates to the Soldiers & Sailors Civil Relief Act, which says that specific taxes aren't paid as long as the persons income is from military employment. She agreed with Senator Austerman that military personnel who have a job separate from military service would pay the education tax through that separate job.

REPRESENTATIVE KOTT requested a copy of the aforementioned Soldiers & Sailors Civil Relief Act.

REPRESENTATIVE HAYES inquired as to which month is the highest month of employment for the State of Alaska.

MR. HARLAMERT remarked that he wasn't sure that would matter because the bill calls for withholding \$50 per paycheck from the first two paychecks of the year. Therefore, it would be dependent upon the effective date of the law. Regardless of

whether an employee starts work on January 1 or July 1, the employee would pay the same.

REPRESENTATIVE KOTT posed a situation in which an employee begins work December 1 and thus would receive the first two checks in December. He asked how much time the employer has to submit that [withheld education tax] to the Department of Revenue. He also asked if there is enough time built into HB 229 that would allow the department to make the disbursement on February 1.

MR. HARLAMERT explained that in Representative Kott's situation, the withholding would be payable in February 1 of the following year. Therefore, he didn't foresee that being a problem. A more problematic scenario is one in which an full-year employee has the [education tax] withheld in January, but it isn't turned over to the department until February of the following year.

REPRESENTATIVE KOTT asked if 30 days is enough time.

MR. HARLAMERT answered that the department didn't see it as problem. The money collected in February 2002 would be fiscal year 2002 money and would be appropriated by the legislature in the 2003 budget, he suspected.

Number 1313

BRETT FRIED, Economist, Department of Revenue, explained that withholding would begin January 1, 2002, and continue for that entire calendar year. However, the department wouldn't receive the returns with the payments until February 1, 2003.

REPRESENTATIVE HALCRO remarked that the aforementioned didn't make much sense to him because allowing an employer to hold onto payments doesn't make sense for the state. Furthermore, there are seasonal employers. Representative Halcro felt that once the money is withheld from the employee, it should be filed in conjunction with some monthly report, which would help the cash flow side of this.

MR. HARLAMERT said that the department drew the same observations and felt that the delay from the point of withholding and the point of payment was unusual and subjects the state to the risk of loss. However, a monthly withholding would result in a more expensive tax to administer. One suggestion within the department was to have a payment date of

February of the same year the employer withheld, [the tax]. A monthly report is of concern.

Number 1444

REPRESENTATIVE HALCRO related his belief that waiting an entire year for every employer's education tax was due on February 1, then it seems to indicate that auditing and enforcing of this will be tremendous. Therefore, he suggested having multiple reporting times throughout the year. It seems that the employer holding the receipts for a year lends itself to fraud and nonpayment.

MR. HARLAMERT acknowledged that [the department] shared Representative Halcro's observations when reviewing the bill. In regard to the risk of loss, Mr. Harlamert felt that Representative Halcro was on target. However, Mr. Harlamert wasn't sure that more routine filings would result in better compliance. He mentioned that seasonal employers represent compliance issues. Therefore, Mr. Harlamert viewed the cash flow issue as the most valid point and thus it was thought that the collection would occur February 1 for money withheld on January 1.

REPRESENTATIVE HALCRO reiterated concern over the seasonal workforce in Alaska. He felt that it would be beneficial to the employer to have an additional box for the education tax on the ESC [Employment Security Cost] report. Therefore, the first quarter that the ESC taxes are done, the education deduction would be submitted with it and then the next quarter, the employer can check a box indicating that the contribution has already been made. From a reporting standpoint from the employer, such would seem more convenient.

Number 1669

REPRESENTATIVE CRAWFORD asked whether an employee showing the employer an original pay stub illustrating that they had already paid the education tax would suffice.

MR. HARLAMERT explained that the bill actually requires that the department supply a form that enables the employee to prove to a subsequent employer that the education tax has already been withheld.

REPRESENTATIVE KOTT posed a scenario in which an individual opens a business in mid-June and closes it in mid-July. This

employer has two or three employees. In such a situation Representative Kott inquired as to the mechanisms that the state currently has in place to identify these employees. Furthermore, what assurance is there that this employer would deliver the education tax deductions to the department. He also inquired as to the provisions in law that would penalize the employer if the employer didn't forward the education tax to the department.

MR. HARLAMERT noted that the Department of Labor would have the wherewithal to know who is employed and who isn't. Mr. Harlamert pointed out that there isn't a provision at this time that would hold the employer who withheld the money responsible. However, there is a penalty if the employer fails to forward the money to the department. Essentially, the employee's money is held in trust by the employer to be turned over to the department and thus there should be some enforcement and penalty provisions placed on the employer to pay for this. In further response to Representative Kott, Mr. Harlamert said that HB 229 doesn't include a penalty. However, a reference to existing penalties under Title 43 could be inserted.

REPRESENTATIVE KOTT asked if the department has taken a position on HB 229.

MR. HARLAMERT answered that the department has not taken a position on HB 229.

Number 1919

REPRESENTATIVE MEYER related his understanding that this education tax will collect about \$35-\$36 million.

MR. FRIED noted that was a preliminary estimate. However, the fiscal note actually estimates that \$38.2 million will be collected. In further response to Representative Meyer, Mr. Fried explained that it would cost \$822,000 to collect this education tax in the first year.

REPRESENTATIVE MEYER pointed out that Representative Stevens' sponsor statement estimates a cost of \$2 million for the collection cost and thus there seems to be a discrepancy between that [and the department's fiscal note]. Representative Meyer inquired as to why the collection costs so much.

MR. HARLAMERT said that the education tax is a reasonably simple tax to collect. The difficulty lies in the volume,

predictability, and seasonality. He informed the committee that about 28,000 returns are received per year and he expected [HB 229] to generate about 50,000 as well as 50,000 payments.

REPRESENTATIVE MEYER related his assumption that the money collected from the education tax goes to the general fund to be allocated to the schools through the foundation formula in order to be equitable.

Number 2101

REPRESENTATIVE HAYES asked if more than eight folks would be necessary to perform the computing. He assumed that people will attempt to "play the system" and thus he wondered if the department had enough people to perform enforcement if someone decides not to pay.

MR. HARLAMERT answered that in the department's preliminary review, the principle enforcement types were included at some level. That is, either reviewing returns for reasonableness or going out in the field examining returns. He indicated that the hope was to achieve compliance goals through technology.

REPRESENTATIVE HAYES expressed his fear is that there wouldn't be enough people doing enforcement and thus people will slip through the cracks, which is what happened with the ABC Board. Representative Hayes didn't believe three [enforcement] folks for the state would be enough. Representative Hayes inquired as to how this education tax would work for those that are self-employed.

MR. HARLAMERT said that he thinks that the paycheck provision would be ignored for self-employed people and the self-employed would pay the \$100 for the year, if they qualify. Mr. Harlamert noted that there would be no way to pick up the self-employed under the ESC rules. "This tax base really doesn't fit perfectly with any existing program that the state has, that I'm aware of," he said.

Number 2186

SEAN REILLY highlighted that thus far the committee has focused on how people would potentially be able to fall through the cracks. Although there have been some valid questions, he expressed the need to emphasize the positive aspects of this bill. Mr. Reilly said that a large portion of the revenue that would be generated from this bill would come from out of state

to earn money and return home, where their state has the opportunity to tax them. Therefore, this legislation would provide the state with an opportunity to obtain a portion of that tax.

MR. REILLY pointed out that this session the legislature has given the Department of Education & Early Development (EED) a strong dictate to implement a program for an exit exam. He expressed the need to provide EED with the tools to implement such a program. One tool would be to fund the programs. Additionally, Mr. Reilly remarked that school board members request additional funds due to declining enrollment, which he felt was partially due to the lack of services. Therefore, funding the schools would alleviate that problem. This legislation is a wonderful way to implement that funding, which would give EED a clear indication of support. In conclusion, Mr. Reilly said that HB 229 is a step forward in addressing a long-term fiscal planning.

MR. REILLY recalled an earlier question regarding going after employers that didn't report for their employees. He recalled that AS 23 addresses action regarding the reporting of wages and workers' compensation and thus perhaps similar wording could be utilized with this.

MR. REILLY, in response to Representative Meyer, recalled that the school tax, \$10 at that time, was eliminated around 1980.

REBECCA NANCE GAMEZ, Director, Division of Employment Security, Department of Labor & Workforce Development, responded to Representative Halcro. She said that the Division of Employment Security receives the ESC reports. She explained that employer taxes are due to the division 30 days after each quarter.

TAPE 01-69, SIDE B

MS. NANCE GAMEZ continued by explaining that the division verifies wages and investigates possible fraudulent failure to report taxes. Although she knew that there are penalties, she wasn't sure of the specifics.

REPRESENTATIVE HALCRO asked if the division's staff is proactive in ensuring that people are compliant.

MS. NANCE GAMEZ informed the committee that the division has auditors that audit employers. Furthermore, the division proactively works with the employer community in helping them

understand the best tax rate that the employer could achieve. There is also the fraud detection unit.

Number 2400

CHAIR MURKOWSKI announced her intention to hold HB 229 while recognizing that this is a piece of a larger puzzle. She indicated the need to address some of the details discussed today.

REPRESENTATIVE HALCRO indicated agreement that this education tax is one way to get out-of-state residents to contribute. Furthermore, he felt that a very easy reporting system could be created in conjunction with the ESC by working with various departments and utilizing existing infrastructure.

REPRESENTATIVE MEYER asked if this education tax would be deductible from the federal income tax.

[REPRESENTATIVE CRAWFORD] indicated that this could be deducted from one's federal tax, if one itemizes their deductions.

There seemed to be agreement with Representative Crawford's remark from members of the Department of Revenue.

REPRESENTATIVE ROKEBERG pointed out that there are constitutional provisions preventing poll taxes and other types of head taxes.

REPRESENTATIVE KOTT related his belief that this is an ingenious way to generate revenue for the state. Certainly, the revenue could be applied to education. He wondered whether the department would be interested in developing an exception for the working poor.

Number 2253

REPRESENTATIVE STEVENS related his belief that the meeting was a fruitful discussion that has highlighted some issues that need further attention. Representative Stevens reminded the committee that the education tax worked in Alaska in the past. He informed the committee that the companion bill is in the Senate Finance Committee.

REPRESENTATIVE KOTT remarked that perhaps the department may want to review the possibility of filing this tax on-line with a credit card.

REPRESENTATIVE HAYES reiterated the need to review how this would relate to the self-employed.

[HB 229 was held.]

HB 226-EMPLOYMENT OF PERSONS UNDER AGE 19

CHAIR MURKOWSKI announced that the next order of business would be HOUSE BILL NO. 226, "An Act relating to the employment of persons 14 years of age or older and under 19 years of age on licensed premises, including hotels, restaurants, or eating places; and relating to hours of work of minors under 16 years of age."

Number 2133

REPRESENTATIVE KOTT moved to adopt CSHB 226, Version 22-LS0368\0, Cramer, 4/27/01, as the working document before the committee. There being no objection, Version 0 was before the committee.

JOHN MANLY, Staff to Representative John Harris, Alaska State Legislature, testified on behalf of the sponsor. Mr. Manly paraphrased the following sponsor statement:

House Bill 226 was introduced with the objective of making it easier for minors to obtain summer and after school employment, especially in hotels, restaurants and other eating establishments. Many more kids could get jobs as dishwashers, hotel maids, busboys, etc., if not for the fact that most of the businesses where they might be employed have beverage dispensary licenses.

Current state law also makes it unnecessarily difficult for employers, as well as the job-seeking youth. Finding workers willing to take jobs that typically are not high-paying becomes more difficult if high school-age kids are not eligible. And it becomes a real problem during the short but intense tourist season when kids on summer vacation are required to get their parents' permission before they can start working. This is a process that can take days or weeks, during which time the youth lose income and employers go without help.



HB 226 seeks to streamline this process by allowing youth 16-18 years of age to work in these jobs without having to obtain their parents' permission. Provisions in current law are retained that prevent minors from serving, mixing, delivering or dispensing alcoholic beverages, and requiring the employer to notify the Department of Labor and Workforce Development of the fact that a minor is working for them. HB 226 also extends state law to allow 14- and 15-year-olds to work in these hotels, restaurants, resorts, and other eating places, with their parents' permission.

This bill also makes changes to state law governing the number of hours and time of day a minor can work, while school is in session and when it is not, mainly to align Alaska law with current federal limits.

MR. MANLY turned to the proposed CS, which attempts to cleanup one of the statutes that was left on the books when the state changed the legal drinking age from 19 to 21.

Number 1980

REPRESENTATIVE KOTT said that this seems to head in the direction that "we" have been trying not to go. That is, "we" have been trying to disassociate kids from alcohol. Representative Kott asked whether there is a potential problem with this legislation regarding the ability of a 16-year-old busboy bussing tables where alcohol was left on the table.

MR. MANLY acknowledged that such may be a potential problem. Clearly, in the past the legislature didn't want kids working near [alcohol].

REPRESENTATIVE KOTT remarked that perhaps the delivering portion of the legislation would cover this potential problem; however, he wasn't sure. Representative Kott surmised that the restaurant owner will have to establish drinking and nondrinking sections in the restaurant. He recalled that under current law, a person under age 21 can't even lift an alcoholic beverage.

MR. MANLY pointed out that it may be a matter of segregating duties and training staff that employees under age 21 aren't allowed to bus tables with alcohol or the [of age employee] removes the alcohol before [the underage employee] buses the table.

Number 1816

REPRESENTATIVE HALCRO said that as an employer he wasn't sure that he would place himself in a position of risk by hiring a 14- or 15-year old to bus tables in a place where there is alcohol. Representative Halcro inquired as to who is requesting this legislation.

MR. MANLY answered that this legislation was introduced upon the request of one of Representative Harris' constituents who has a combination hotel restaurant lounge in Valdez. This constituent has difficulty obtaining even dishwashers due to the way the law is written. Mr. Manly related his understanding that the current law says that minors cannot sell alcoholic beverages and thus restaurants that serve beer would not be able to have a [minor] run the cash register because that constitutes selling the alcoholic beverage.

MR. MANLY, in response to Chair Murkowski, said that he believes that an employer of a combination hotel restaurant lounge wouldn't be able to hire a 15-year-old as a maid because the building houses a place where alcohol is sold.

REPRESENTATIVE ROKEBERG pointed out that the licensing law requires a diagram of a licensed premise, which may limit service to a specific area. However, he acknowledged that there may be room service.

REPRESENTATIVE CRAWFORD said that he wasn't clear on the current law.

REPRESENTATIVE MEYER related his understanding that if a business has a full dispensary license, then all employees must be 21. However, if the business has a beer and wine license, then there can be employees that are under 21.

Number 1621

DOUG GRIFFIN, Director, Alcoholic Beverage Control Board, Department of Revenue, testified via teleconference. Mr. Griffin explained that places that have beverage dispensary licenses [such as a Red Robin] are allowed to employ people under 21 years of age if a restaurant designation permit has been received. The restaurant designation permit requires approval by the local governing body and review of the floor plan. An [underage] employee in such a location can engage in

duties that don't involve the serving, dispensing, or selling of alcoholic beverages. For example, a Red Robin could have [an employee under the age of 21 as a] hostess, kitchen staff, or busboy. Mr. Griffin agreed with Representative Kott that the bussing of tables is one area in which it is possible for an underage individual to come into contact with alcoholic beverages that are unconsumed on the table. In such situations, [the ABC Board] encourages the contents of the beverages to be dumped into a bin at the table in order to avoid consumption by the underage employee. Mr. Griffin noted that an [underage] employee, perhaps a cashier, is allowed to carry the bill even though the bill may contain alcoholic beverages. Mr. Griffin emphasized that in all cases the establishment has to have a restaurant designation permit [in order to employ underage people]. He clarified that under current law [an underage employee in a location that serves alcohol] has to be at least 16 years of age. In regard to the maid example, Mr. Griffin said that Representative Rokeberg was correct in that a hotel with room service would be part of the licensed premises, which has been problematic and thus even a 14- or 15-year-old hasn't been allowed to be employed as a maid on such a premises.

Number 1403

MR. GRIFFIN confirmed that the [ABC Board] is opposed to lowering the age limit from 16 years of age to 14. Although Mr. Griffin was sympathetic to a brief "labor shortage" in isolated areas in Alaska, he didn't feel that it's good policy to lower the age to 14 in an attempt to deal with that issue. He felt that there are other areas that the employer could explore in order to deal with a "labor shortage." Furthermore, he expressed concern with regard to the lack of parental permission. Mr. Griffin related his belief that things are liberal enough now and the system is working. Moreover, this legislation may have some unintended consequences. Mr. Griffin also agreed with Representative Kott in that this legislation seems, by allowing younger and younger people to be involved in jobs that serve alcohol, to send a mixed message. Therefore, the ABC Board is opposed to HB 226.

CHAIR MURKOWSKI referred to Section 2 of HB 226 that refers to an exception outlined under AS 04.16.049(c), which doesn't allow a minor to consume, possess, or control alcohol. She asked if she was missing something.

MR. GRIFFIN replied no and explained that "we're" saying that there are some jobs that can be performed on a liquor license

premises, assuming the restaurant designation permit is in place, by [the designated age group of minors]. Mr. Griffin reiterated the ABC Board's position that the age of 16 for these jobs is liberal enough. He pointed out that 14- and 15-year-olds are middle kids versus 16-year-old high school kids and there is a difference between the maturity level of those ages.

REPRESENTATIVE CRAWFORD returned to the exceptions and asked if these [employees that are minors] would be allowed to stock the bar after hours and perhaps even carry in beer to stock the bar. Such actions don't seem to fall under serving, mixing, delivering, or dispensing.

MR. GRIFFIN answered that the general rule would be that such wouldn't be allowed and would probably be considered delivering.

Number 1001

MR. GRIFFIN, in response to Representative Rokeberg, answered that if the establishment is in an unorganized area, the restaurant designation permit can be obtained directly from the ABC Board. Mr. Griffin indicated that this permit involves a more detailed diagram than that existing in the liquor license file because the board is interested in employment as well as the circumstances under which an individual under the age of 21 may be able to enter a restaurant that serves alcohol for the purpose of dining. In further response to Representative Rokeberg, Mr. Griffin clarified that [when there is a local governing body] that local governing body has to approve the permit.

Number 0842

REBECCA NANCE GAMEZ, Director, Division of Employment Security, Department of Labor & Workforce Development (DLWD), referred to Sections 3 and 4 of HB 226 to which DLWD would be supportive. Those sections place the state in compliance with federal regulations by clearly defining the hours and days that minors under the age of 16 may work. The department has no opinion on the other sections of the bill.

There was discussion regarding a CS [Version L] that was never before the committee. The discussion concluded that Version O merely lowers the age while the process remains the same.

MR. MANLY agreed that the main difference in the legislation and the current law is the lowering of the age as well as the fact

that 16- to 20-year-olds wouldn't have to obtain their parent's written permission to start work. However, if their parents don't want them to work at a particular place, there is still the common law fundamental that these children are wards of their parents and thus the parents could notify the employer that they don't want their children working at the establishment.

MR. MANLY, in response to Chair Murkowski, agreed that this legislation would repeal subsection (d), which will allow young people to now work the cash register where alcoholic beverages may be sold.

The committee took a brief at-ease from 4:57 p.m. to 5:02 p.m.

Number 0345

REPRESENTATIVE ROKEBERG noted that the committee has a number of issues before it involving youth employment and thus he thought the committee should research those issues, including this topic. Representative Rokeberg wasn't sure that this legislation addresses an issue that is applicable statewide. He expressed the need to develop a streamlined youth employment system.

CHAIR MURKOWSKI noted that Representative Rokeberg had been chairing the subcommittee on HB 128 and thus she asked if he would be willing to take on a subcommittee on HB 226 and other related issues. She appointed herself and Representative Crawford to be members of this subcommittee.

[HB 226 was heard and held.]

#### CONFIRMATION HEARINGS

CHAIR MURKOWSKI announced that the committee would now turn to the governor's appointments that have been assigned to this committee. She noted that the committee packet should include the resume of every nominee.

#### Alcoholic Beverage Control Board

Number 0022

REPRESENTATIVE HALCRO moved that the House Labor and Commerce Standing Committee forward the name of Duane S. Udland for the

Alcoholic Beverage Control Board to the entire legislature for consideration. There being no objection, it was so ordered.

TAPE 01-70, SIDE A

REPRESENTATIVE ROKEBERG reminded members that signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees, and that the nominations are merely forwarded to the full legislature for confirmation or rejection.

REPRESENTATIVE KOTT asked if someone had reviewed the requirements in order to ensure that the nominee is filling the appropriate position.

CHAIR MURKOWSKI said that she had done so.

#### Board of Dental Examiners

Number 0109

REPRESENTATIVE HALCRO moved that the House Labor and Commerce Standing Committee forward the name of Rena L. Anderson for the Board of Dental Examiners to the entire legislature for consideration. There being no objection, it was so ordered.

REPRESENTATIVE HALCRO moved that the House Labor and Commerce Standing Committee forward the name of Dr. James Blasingame for the Board of Dental Examiners to the entire legislature for consideration. There being no objection, it was so ordered.

REPRESENTATIVE HALCRO moved that the House Labor and Commerce Standing Committee forward the name of Dr. Patricia Bergdahl for the Board of Dental Examiners to the entire legislature for consideration. There being no objection, it was so ordered.

#### State Medical Board

Number 0166

REPRESENTATIVE HALCRO moved that the House Labor and Commerce Standing Committee forward the name of Dr. David Head for the State Medical Board to the entire legislature for consideration. There being no objection, it was so ordered.

REPRESENTATIVE HALCRO moved that the House Labor and Commerce Standing Committee forward the name of Shelia Means for the

State Medical Board to the entire legislature for consideration. There being no objection, it was so ordered.

Board of Certified Direct-Entry Midwives

Number 0198

REPRESENTATIVE HALCRO moved that the House Labor and Commerce Standing Committee forward the name of Sharon Evans for the Board of Certified Direct-Entry Midwives to the entire legislature for consideration. There being no objection, it was so ordered.

Board of Nursing

Number 0216

REPRESENTATIVE HALCRO moved that the House Labor and Commerce Standing Committee forward the name of Mary S. Nikodym for the Board of Nursing to the entire legislature for consideration. There being no objection, it was so ordered.

Occupational Safety and Health Review Board

Number 0234

REPRESENTATIVE HALCRO moved that the House Labor and Commerce Standing Committee forward the name of former Representative Cliff Davidson for the Board of Nursing to the entire legislature for consideration. There being no objection, it was so ordered.

HB 258-CHANGE BUSINESS LIC. FEE TO RECEIPTS TAX

CHAIR MURKOWSKI announced that the final order of business before the committee would be HOUSE BILL NO. 258, "An Act converting the business license fee to a business license tax; adding, as an element of that tax, computation of the tax based on the taxpayer's gross receipts; establishing adjustments to that tax; and transferring administration of the levy to the Department of Revenue; and providing for an effective date."

Number 0343

REPRESENTATIVE DREW SCALZI, Alaska State Legislature, testified as the sponsor of HB 258. Representative Scalzi noted that HB 258 is before the committee for discussion purposes only and he

hoped to gather some comments from both business and the general public during the interim before attempting to finalize a statewide tax. This legislation would transfer the business licensing function and enforcement from the Department of Community & Economic Development (DCED) to the Department of Revenue. The current fee for the annual business license is \$25 a year. In addition to the \$25 license tax, each business would be required to pay a 2 percent gross receipts tax up to \$2,000 per item.

REPRESENTATIVE SCALZI pointed out that a gross receipts tax is easier to calculate and verify than a sales tax. Furthermore, a gross receipts tax would be on every level of sell, but wouldn't require a separate listing on sales receipts. The gross receipts tax would be invisible to the consumer because the business owner would review the total sales of business and calculate a 2 percent tax. For those items over \$2,000, the business owner would need to separate those sales and add a \$40 tax for each item. This legislation has a limited number of exemptions as it exempts gross receipts from educational, religious, many nonprofit activities, hospitals, and municipally owned and operated utilities. Additionally, home handicraft sales would be exempted up to \$500 annually. He informed the committee that Alaska had a gross receipts sales tax from 1949 to 1979.

REPRESENTATIVE SCALZI pointed out that HB 258 has two fiscal notes, which he wanted to explain. One fiscal note is for approximately \$261,000 for the five personnel that currently operate the business licensing. The fiscal note shows a negative for the positions [currently within DCED] because their duties would be moved to the Department of Revenue. The other fiscal note addresses what this tax would collect, which is estimated at about \$320 million. However, this is difficult to calculate because of the \$2,000 cap.

REPRESENTATIVE SCALZI informed the committee that the packet includes information regarding Vermont's gross receipts tax analysis. This information should be helpful in analyzing the host of options available and thus he encouraged members to read this information. In response to Chair Murkowski, Representative Scalzi reiterated that there was a gross receipts tax from 1949-1979. In 1979 the income tax was eliminated as well. Representative Scalzi related a discussion he had with Representative James in which Representative James said that there needs to be a validation of the gross receipts tax, which the income tax helped provide. He explained that an income



reporting system would validate what one's gross receipts were. Therefore, implementing this tax would probably necessitate regulations requiring a Schedule C to accompany this tax in order to demonstrate the annual revenue.

Number 0800

REPRESENTATIVE CRAWFORD related his understanding that Representative Scalzi views the fact that people wouldn't notice a gross receipts tax as a positive aspect. However, Representative Crawford did not because the gross receipts tax is a hidden tax that people don't realize they are paying. Representative Crawford said that he had a problem with people not being able to recognize what they are paying in taxes.

REPRESENTATIVE SCALZI remarked that it didn't bother him when the [gross receipts tax] was in place before. He indicated that when the municipality implements a tax, people have [concerns]. Representative Scalzi noted that the Alaska Municipal League (AML) has announced its opposition to a state sales tax, as encompassed in HB 233, because it believes that a state sales tax would hinder municipalities from collecting sales taxes. Therefore, [a gross receipts tax] wouldn't preclude a municipality from adding a sales tax if the municipality didn't already have one. In the case of Juneau, if there was a 7 percent [sales tax] and there was the need to add more, then he believes the municipality would be less reluctant to add more than if the state had a visible sales tax.

REPRESENTATIVE ROKEBERG recalled that the old [gross receipts] tax had a significant number of exemptions, which can become problematic. He asked if there was review of the total amount of revenue generated by the 2 percent sales tax versus the gross receipts tax.

REPRESENTATIVE SCALZI answered that the 2 percent sales tax would generate approximately \$200 million, without the \$2,000 cap. This legislation, HB 258, would implement a 2 percent tax with a \$2,000 cap for which the department estimated would generate over \$300 million. However, Representative Scalzi pointed out that the gross receipts tax would be pyramiding in that each time there is a sale, the item is taxed. Therefore, by the time the item comes to the consumer, there have been multiple taxes and thus the consumer is probably really paying a 2.3 or 2.4 percent tax. Representative Scalzi related his belief that in this case, the gross receipts tax would generate more money than a flat 2 percent sales tax. Furthermore, the 2

percent sales tax would probably include other exemptions, which is why he included the \$2,000 cap in HB 258. He remarked that when a tax is visible, people come to lobby for exemptions. However, when a tax that isn't visible, there is less pressure for exemptions.

Number 1108

REPRESENTATIVE ROKEBERG likened this to a European-style added value tax. He posed a situation in which a purchase from a wholesaler would be a taxable event and if those items are sold at retail that would be another taxable event. Therefore, he surmised that the same commodity would have a 4 percent tax.

REPRESENTATIVE SCALZI replied no. He reiterated that it is a pyramid tax that would amount to more than 2 percent but not 4 percent. He pointed out that the original [gross receipts tax] in Alaska had no tax up to \$20,000, after which the tax was .5 percent and over \$100,000 in gross receipts had a .75 percent tax. Therefore, it was similar to an income tax because it was graduated.

REPRESENTATIVE MEYER asked if he would be charged an additional \$2,000 if he purchased a car.

REPRESENTATIVE SCALZI answered that in such a situation Representative Meyer would be charged an extra \$40. Therefore, if one purchases a \$30,000 car, that person would be taxed on the first \$2,000.

REPRESENTATIVE MEYER inquired as to who a gross receipts tax would impact the most.

REPRESENTATIVE SCALZI said that such a tax would impact everyone. He pointed out that a gross receipts tax is less regressive than a sales tax because the gross receipts tax more fairly taxes all businesses, not just point of sale items.

REPRESENTATIVE MEYER expressed concern with regard to whether such a tax would hurt Alaska commerce in the sense that people may purchase items out of state or over the Internet in order to avoid the markup for the gross receipts tax.

REPRESENTATIVE SCALZI remarked that anytime one implements a tax or increases the sales price, there will be competitive disadvantages whether it's a hidden sales tax or specified sales tax. He said that it is all dependent upon the level and how

well the entire taxing scheme in Alaska is balanced. In further response to Representative Meyer, Representative Scalzi indicated that the gross receipts tax would include services such as engineering and consulting services.

Number 1308

REPRESENTATIVE HALCRO related his understanding that a gross receipts tax is only paid by the business who pays a tax based on their annual sales. For instance, a retailer with a \$28 hammer can't build in the 2 percent gross receipts tax into the price because the business is paying 2 percent on \$28.50. Representative Halcro emphasized that the problem with the gross receipts tax is that the consumer doesn't bear any part of it. He inquired as to how such a tax could be passed on to the consumer.

REPRESENTATIVE SCALZI said that the business could markup the item.

REPRESENTATIVE HALCRO posed the following example:

If I have a \$28 hammer and I know that at the end of the day, I'm going to have to pay a 2 percent gross receipts tax on that. I can't pass that through to you [the consumer] because that means I would have to charge \$28.20 for that hammer to you [the consumer]. But ... I'm going to pay 2 percent on \$28.20 not on \$28. So, there is no way you can pass ... to the consumer.

REPRESENTATIVE SCALZI clarified that the business wouldn't be adding 2 percent to the \$28 hammer because the business would have already paid the 2 percent when the hammer was purchased. Therefore, the price to the consumer is marked up. The 2 percent is absorbed in the initial purchases. There is no 2 percent that is added at the end.

REPRESENTATIVE HALCRO reiterated that a gross receipts tax is a tax on the businesses gross receipts, which is defined as the total revenue done by a business in a given time. Therefore, a hardware store purchases a \$20 hammer from a wholesaler, the hardware store doesn't pay tax on that. The wholesaler will pay tax on the \$20 and that's on the gross receipts at the end. There is no way to pass that along. He pointed out that the [wholesaler] will have to pay the same percentage on whatever amount [the purchaser] is charged.

REPRESENTATIVE ROKEBERG agreed with Representative Halcro that at the end of the day, the business is at the top of this tax pyramid. Therefore, if competitive pressures are such that the business has to lower the cost of its good, then the business would have to absorb it. Representative Rokeberg remarked that the playing field is fairly level because everyone is in the same situation.

REPRESENTATIVE MEYER inquired then why anyone would do business in Alaska.

Number 1576

REPRESENTATIVE KOTT expressed similar concerns as Representative Meyer. He said he was concerned about in-state businesses such as VECO, whom the state has encouraged to use in-state contractors.

REPRESENTATIVE CRAWFORD related the following question he had received via e-mail. He asked if a travel agent sold a \$1,500 plane ticket, how would the gross receipts be calculated since the travel agent only receives \$25.

REPRESENTATIVE SCALZI estimated that it would amount to about \$30 worth of tax. He remarked that the travel agent could charge \$1,530 in order to absorb the tax. He agreed that the consumer may then decide to book on the Internet.

Number 1752

BRETT FRIED, Economist, Department of Revenue, turned to an earlier question regarding the department's estimates of the sales tax raising 1 percent per \$100 million while the gross receipts tax would raise \$160 million. The department viewed the sales tax as a traditional sales tax that would exempt sales for resale. However, the gross receipts tax didn't exempt sales for resale and thus accounts for the additional revenue.

MR. FRIED, in response to Representative Rokeberg, confirmed that the 2 percent gross receipts tax without exemptions would raise \$320 million with the \$2,000 cap. The sales tax would raise \$100 million on 1 percent tax with very few exemptions and no cap. There was indication that the department had not taken a position on HB 258.

Number 1874

PAM LaBOLLE, President, Alaska State Chamber of Commerce, testified in opposition to HB 258. In response to Representative Meyer's earlier question regarding who a gross receipts tax would hurt the most, Ms. LaBolle said that those having the lowest profit margin would be hurt the most. The only people in Alaska who pay taxes to the state are businesses. The Alaska State Chamber of Commerce has said that it would support broad-based taxes that all Alaskans would pay. This proposed gross receipts tax would place the onus on the business to pay the tax and then determine how to get it from someone else. Such a tax will not be seen or appreciated by consumers. This tax will be detrimental to business.

REPRESENTATIVE MEYER said that HB 258 seems to be anti-Alaska commerce legislation.

MS. LaBOLLE pointed out that many businesses in this state operate on a 2 percent profit margin. For example, the travel agency industry and the mining industry.

REPRESENTATIVE ROKEBERG pondered the gross receipts of the Red Dog Mine.

MS. LaBOLLE remarked that this would be very far-reaching and not something that the state needs to look at for revenue.

REPRESENTATIVE HALCRO related a personal experience in which his family had a business in Hawaii for years. When Hawaii's economy slumped and tourism declined in the early 1990s, Hawaii raised the gross receipts tax. That action placed the economy in a faster spiral. Therefore, he felt that a gross receipts tax is the fastest way to ruin a local economy, especially in isolated economies such as Alaska.

Number 2097

JAMIE PARSONS, Executive Director, Juneau Chamber of Commerce, informed the committee that he is also a business owner. Mr. Parsons said that this legislation is not a good idea. The gross receipts tax is a hidden substitute for a sales tax. Mr. Parsons remarked that the consumer will ultimately pay for this and those impacted the most will be families and lower income people. He pointed out that much of this gross receipts tax will come from grocery stores, which impact those purchasing food. Mr. Parsons agreed with earlier comments that this gross

receipts tax would add to the impetus for folks to purchase goods from the Lower 48 and the Internet.

Number 2214

CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Community & Economic Development, pointed out that the Division of Occupational Licensing currently administers the business licensing program that would be moved to the Department of Revenue with the implementation of the gross receipts tax. At this point, Ms. Reardon saw the issue as whether the gross receipts tax is appropriate. Once that is determined and if it does go forward, Ms. Reardon said that she would discuss the technical matters involving moving the business licensing program. She noted that there is a tobacco endorsement program that is associated with the business licensing program and thus she assumed the intent of the legislation would be to move that program with the business licensing program.

REPRESENTATIVE ROKEBERG inquired as to the reason the division administers the business licensing program rather than the Department of Revenue.

MS. REARDON remarked that there are a variety of departments in which the business licensing program could be housed. She noted that the business licensing program was housed in the Department of Revenue when the gross receipts tax was in place before. She related her understanding that once there wasn't a tax and the program became more of a licensing procedure, it was moved to her division because it didn't fit well with the Department of Revenue's mission.

REPRESENTATIVE ROKEBERG asked if it is really a tax or an information gatherer for various purposes.

MS. REARDON viewed it as both. It charges a \$50 fee for a 2-year business license, which amounts to about \$2 million per year. Furthermore, it provides information regarding what businesses exist and their primary activities. Ms. Reardon pointed out that the program has been appropriately housed in the division because it is a flat amount of money. The division doesn't need staff to determine whether businesses are calculating their taxes properly and the associated details, which she felt would be best for the Department of Revenue to handle. In further response to Representative Rokeberg, Ms. Reardon noted that the Division of Banking, Securities & Corporations registers business names and deals with the

incorporation of businesses as well as partnerships. Therefore, the two divisions work with each other. Although she felt that the program is currently in the appropriate place, the administration would probably want to discuss where this function should be placed if a gross receipts tax is implemented.

CHAIR MURKOWSKI announced that HB 258 would be held.

**ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:50 p.m.