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STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 147
PUBLISH DATE: HOUSE 2/3/89

FISCAL NOTE

REQUEST:

Revision Date: January 13, 1989
Title: Unemployment Insurance

Agency Affected: Revenue
BRU: Income & Excise Audit

Sponsor: Rules Committee
Requestor: Governor

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel *Steven E. Kettel* Phone: (907) 465-2320
Division: Income and Excise Audit Date: January 13, 1989

Approved by Commissioner: Hugh Malone *Hugh Malone* Date: January 13, 1989
Agency: Revenue

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Prepared by: Steven E. Kettel
Income and Excise Audit Division
Department of Revenue
January 13, 1989

Fiscal Note Analysis

The uniform unclaimed property act (AS34.45) requires agencies, such as the Department of Labor (DOL), to report and pay over to the Department of Revenue (DOR), all funds which are represented by a valid claim, but where the claimant cannot be located. DOR then advertises the names of the missing claimants and takes other steps to reunite the owner with the funds. DOR holds the funds in trust for the missing owner forever.

This legislation exempts from the reporting requirements of AS34.45 overpayments of unemployment insurance. Employers occasionally overpay the state unemployment insurance contributions and are sent a refund check. If an employer has changed addresses and not notified DOR or the USPS, the check is returned and held by DOL in the unemployment compensation fund under AS23.20.130. This bill will continue DOL practice and remove these funds from the reporting requirements of AS34.45.

SECTION-BY-SECTION ANALYSIS
House Bill 147

Section 1: [Sec. 1 of CS for HB 384 (L&C)]

The proposed amendment of AS 16.10.290(a) enhances the Department's ability to collect delinquent unemployment insurance contributions from fish processors and fish buyers. The Department's figures indicate that, as of December 1987, about 25 percent of all fish processors and buyers were delinquent in their contributions. Those delinquencies resulted in a loss to the unemployment trust fund of about \$610,000 as of that date. Under the proposed amendment, the Department may assert claims for contributions against the fish processors' and buyers' surety bonds, such claims having next priority after claims for wages and payments for raw fish.

Section 2: [New section proposed for 1989 session]

The Stewart B. McKinney Homeless Assistance Amendments Act of 1988 requires, as a condition of states receiving administrative grants under Title III of the Social Security Act, that states disclose certain information contained in employment security records, upon request, to HUD and representatives of a public housing agency. It also provides for reimbursement of costs and appropriate safeguards of the information. The proposed amendment to AS 23.20.110 would allow the Department of Labor to comply with these federal requirements. This is a federal conformity issue; as such, continued administrative funding for the Employment Security Division is contingent upon passage by September 30, 1989.

Section 3: [New section proposed for 1989 session]

This section provides for extension of the Reed Act for ten years. Title IX of the Social Security Act makes excess funds collected under the Federal Unemployment Tax Act (FUTA) available to pay benefits or for administration of the employment security programs. Federal law extended the time limits in which the funds may be used by ten years. Unless Congress increases the maximum allowable levels in these funds, we anticipate that there will be excess funds to distribute back to the states in the near future. Current statute does not permit the Employment Security Division to receive or use these funds. This proposal, by extending the Reed Act, would allow Alaska to accept our share of the funds.

Section 4: [Sec. 2 of CS for HB 384 (L&C)]

The amendment of AS 23.20.195(a) in this section provides that the ten percent penalty on delinquent employer reports and taxes may be discretionary instead of mandatory. It also increases the minimum penalty to \$10 from \$1. This provision is not presently enforced in cases for which it is not cost effective to do so. A discretionary penalty would conform the statute to current practice, and remove the requirement on the Department to assess and collect penalties regardless of whether the State actually loses money in doing so.

Sections 5, 6, 7 and 8:

[Sections 3 and 4 of CS for HB 384 (L&C)]

The amendments to AS 23.20.205(c) and AS 23.20.220(a) in these sections clarify the procedures for the appeal by an employer of the Department's assessment against the employer for unemployment contributions. The Department may extend the 30-day appeal filing deadline for circumstances beyond the control of an employer. Also, the amendments clarify that if the employer files security with the appeal, the collection of the assessment will be stayed pending determination of the appeal.

In addition, extraneous language in AS 23.20.220 is being deleted.

Section 9:

[New section proposed for 1989 session]

This amendment to AS 23.20.240 would allow the Department to use private collection agencies to collect outstanding employer contributions from employers. The Department is owed large amounts of contributions, especially by out of state employers, that are difficult to collect. This would provide a means to collect these delinquent contributions. The amendment provides for adding the collection fee to the amount of the debt owed. Federal law prohibits the use of trust fund (or employer contributions) to pay a collection agency. This would have no impact on our current operations; it would provide us a means to collect delinquent contributions not currently available to us. Current staff levels for the department's collection efforts would not change.

Section 10:

[Section 5 of CS for HB 384 (L&C)]

Under current law, an officer or employee of a corporation, or partner or employee of a partnership may be liable for delinquent unemployment taxes in a civil action if they have been determined to have the duty to pay the taxes. These individuals have no prior appeal rights regarding the determination of their duty to pay the taxes. This section provides a new section, AS 23.20.242, that allows these individuals to appeal, at an administrative level, the determination of "duty to pay," prior to civil action.

Sections 11, 12 and 13:

[Sections 5, 7, and 8 of CS for HB 384 (L&C)]

Under current law, nonprofit organizations pay 50 percent of extended benefits (the state share) with the federal share being 50 percent. Under the Gramm-Rudman-Hollings Act (the Federal Balanced Budget and Emergency Deficit Control Act of 1985), the federal share of extended benefits payments may decrease because it is subject to sequestration. This action will increase the State share of extended benefits payments. To offset the anticipated loss of some portion of the federal money, nonprofit organizations that choose to reimburse the Department for benefits paid to their former employees, instead of paying contributions under AS 23.20.165, will, under the amendments to AS 23.20.277(b), (e) and (l), be required to reimburse the Department the full amount of the State's share of the benefits paid to their former employees. The amount charged government entities will not change because they currently reimburse 100 percent of extended benefits paid.

Section 14:

[New Section proposed for 1989 session]

This section clarifies the intent of the law that the proviso for redetermining an initial claim applies only to the monetary determination. This redetermination will take place if the department finds that an error in computation or identity was made, additional wages for a claimant have become available or the initial determination resulted from the nondisclosure or misrepresentation of a material fact.

Section 15:

[HB 287 from 1988 session]

This amendment provides for the payment of benefits to individuals who have been working full time while attending school and who are laid off from work. Under present law, a person who is taking ten (10) or more credit hours of classes in an academic program is not eligible for unemployment insurance benefits, with no exceptions. Current law unfairly penalizes individuals who have demonstrated that they can attend school without affecting their availability to work full time.

Section 16:

[New section proposed for 1989 session]

This amendment would correct the language in AS 23.20.382 so the restrictions would apply only to claims under the Trade Act, as intended. Current language applies restrictions to all claimants that were only intended to apply to Trade Act claimants.

Section 17:

[New section proposed for 1989 session]

Federal law precludes states from denying benefits to individuals because they are in training approved under Title III of the Job Training Partnership Act (JTPA). This amendment provides that all individuals who are attending training approved under JTPA will not be denied their unemployment insurance benefits. Currently, this provision is addressed in regulation; however, the regulation only provides for paying benefits while the individual is in vocational training. This conforming legislation is needed to pay benefits to those individuals, regardless of whether their training is academic or vocational.

Section 18:

[New section proposed for 1989 session]

This provision disqualifies the week in which a fraudulent act occurs in addition to the period of disqualification currently imposed. Under current law, an individual can be paid for a week in which he commits fraud, because the disqualification begins the week the fraud decision is issued.

Section 19:

[Section 10 of CS for HB 384 (L&C)]

Under proposed AS 23.20.390(f), individuals who fraudulently obtain benefits incur an additional monetary penalty of 50 percent of the amount improperly received, unless the Department waives the penalty, with any penalties collected to go to the general fund. Currently, under AS 23.20.387, a person who fraudulently receives benefits is disqualified from receiving benefits for a specified period of time, and, under AS 23.20.390(a), must repay the benefits fraudulently received (a situation similar to an interest-free loan). As a further disincentive for fraud, the 50 percent penalty is proposed.

Sections 20 and 21:

[Sections 11 and 12 of CS for HB 384 (L&C)]

These amendments propose new AS 23.20.391, 23.20.393, and 23.20.394, which establish provisions for liens and attachment of property to facilitate the collection of overpayments that are caused by fraudulent receipt of benefits. The three proposed statutes are based on existing AS 23.20.200, 23.20.205 and 23.20.215, regarding liens on the property of an employer for failure to make the required contributions. Proposed AS 23.20.391(b), which tracks existing AS 23.20.200(b), refers to the lien being "constructive notice to creditors" and is intended to establish the priority of the state over unsecured and unrecorded creditors, whether prior or subsequent, as well as subsequent secured creditors.

Section 22:

[Section 13 of CS for HB 384 (L&C)]

Under current law, an individual's eligibility for unemployment insurance benefits is based upon wages paid to the individual. Thus, if an individual works for an employer who files for bankruptcy and does not pay its employees, the individual does not qualify for unemployment benefits. The proposed amendment to AS 23.20.530(a) in this section rectifies this situation. This section expands the definition of "wages" to include earnings for work that an employee performs but is not paid for because the employer files for bankruptcy.

Section 23:

This provision allows the Department to participate in demonstration or pilot projects with the U.S. Department of Labor (USDOL) that test innovative ways to assist unemployed individuals to return to work. The Department may waive eligibility requirements if needed. Participation in these projects will be incumbent upon availability of administrative funds for operating the project.

Section 24:

[New section proposed for 1989 session]

This amendment provides for employer overpayments of unemployment insurance contributions that are not claimed by the employer to remain in the unemployment insurance trust fund. The Unclaimed Property Act (AS 34.45) requires state agencies to transfer unclaimed property to the Department of Revenue. These overpayments should be exempted from the Unclaimed Property Act and remain in the Unemployment Trust Fund from which unemployment insurance benefits are paid. Expenditures from the trust fund are automatically replaced by employers in the state under the contribution formula; therefore, employers should receive the indirect benefit (through lower tax rates) of the unclaimed overpayments.

Section 25:

[New section proposed for 1989 session]

This section modifies the provisions covering dependents' allowance payments. Currently, a dependent claimed by one parent cannot be claimed by another parent until the first person's benefit year has expired (even if the first parent is not claiming benefits or has no remaining benefits to receive). A portion of every parent's wages goes to support their children. UI is for temporary, partial wage replacement of every eligible claimant. It is, therefore, inequitable for any parent with children to support to be denied dependents' allowance. This proposal allows each unemployed parent in a family unit to claim dependent children. Three dependents would still be the most that could be claimed by any claimant. It also repeals outdated subsections of AS 23.20.175.

Sections 26, 27 and 28 provide for effective dates.

SECTION-BY-SECTION ANALYSIS
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Sections 26, 27 and 28 provide for effective dates.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 147 No. 1
 PUBLISH DATE: HOUSE 2/3/89

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
 Title: " An Act relating to
unemployment insurance..." BRU: Employment Security
 Sponsor: Rules Committee Components: Unemployment Insurance
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0.0	44.0	44.0	44.0	44.0	44.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	44.0	44.0	44.0	44.0	44.0

CAPITAL						
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REVENUE	0.0	150.0	150.0	150.0	150.0	150.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	30.8	30.8	30.8	30.8	30.8
FEDERAL FUNDS						
OTHER	0.0	13.2	13.2	13.2	13.2	13.2
TOTAL	0.0	44.0	44.0	44.0	44.0	44.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Judy Knight, Deputy Director Phone: 465-2712
 Division: Employment Security Division Date: 1/13/89
 Approved by Commissioner: Jim Sampson Date: 1/13/89
 Agency: Department of Labor

Distribution (by preparer) :
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Fiscal Note Analysis
for
"An Act relating to Unemployment Insurance..."

Two sections of this bill carry expenditure impact; one section will generate revenue.

Section 15 would pay unemployment benefits to individuals who attend school if they became laid off while both attending school and working at least thirty hours a week.

There would be a cost to the State if state employees were laid off and qualified under this bill for unemployment benefits. Under existing law, the State reimburses the Unemployment Insurance Trust Fund for benefits paid to its employees. We estimate that 7 employees a year would qualify for benefits. At an average benefit of \$2,000 each, this would equate to \$14,000 a year.

Section 25 would change the provisions for dependent allowance. Both parents would receive the allowance if they are unemployed at the same time. We estimate this would cost the State \$30,000 per year in benefits to unemployed state employees.

The total impact of these two provisions would be \$44,000 per year. However, since approximately 70% of the state operating budget is general funds, we estimate that \$30,800 (70% of \$44,000) of general fund money would be used while \$13,200 would be other funds. Other funds include federal, inter-agency, user fees, etc.

Section 19 of this bill provides for a penalty of 50% to be assessed claimants who are disqualified for fraudulent receipt of UI benefits. When collected, this penalty will be deposited in the General Fund as unrestricted revenue. The calculations used to arrive at estimated anticipated revenues are as follows:

- | | |
|---|------------|
| 1. Total detected fraudulent payments made per year | \$500,000. |
| 2. 50% penalty on detected fraudulent payments | \$250,000. |
| 3. A 60% collection rate on the established penalties | \$150,000. |

Assumptions:

1. An effective date for the above sections of July 2, 1989.
2. Detected fraudulent overpayments will remain at about \$500,000/year through 1994.
3. The fraud penalty must be collected in cash, therefore we have assumed a 60% collection rate on established penalties. A benefit offset cannot be used because of conflict with the federal law.