

HB

87

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 5/16/99

FURTHER:

DATE TURNED IN TO OFFICE: 5/18/99

Finance Committee considered HOUSE BILL NO. 87

"An Act relating to money credited to the account of the state in the unemployment trust fund by the Secretary of the Treasury of the United States; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
<i>[Signature]</i>	X	<i>[Signature]</i>	✓		
<i>[Signature]</i>		<i>[Signature]</i>	✓		
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
Labor	3/5/99	φ	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

REPORTED
 B... Version: 5/18/99 HB 87
 No: 2
 (H) Publish Date: 3/5/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Revision Date/Time (Note if correction): Revised 3-1-99
 Title: Unemployment Trust Fund
 Sponsor: House Rules
 Requestor: House Labor & Commerce

Department Affected: Labor
 BRU: Employment Security
 Component: Unemployment Insurance
 COMPONENT SERIAL NO. 2276

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

OPERATING	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
CHANGE IN REVENUE	700.0	700.0	700.0			
FUND SOURCE #	1002	1002	1002			

FUNDING: (Thousands of Dollars)

	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY99) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary)
See Attached.

Prepared by: Rebecca Gomez, Director *for Harold E. Hull* Phone: 465-5933
 Division: Employment Security Division Date/Time: 3/1/99 1:37 PM
 Approved by Commissioner: Ed Flanagan, Commissioner Date: 3/1/99
 Agency: Department of Labor

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COMMITTEE COPY

ATTACHMENT
Fiscal Note for HB 87

House Bill 87 provides statutory language to allow a federal "Reed Act" distribution conditional on requirements established in the federal Balanced Budget Act of 1997.

A federal "Reed Act" distribution is a transfer of excess collections of Federal Unemployment Tax Act (FUTA) tax. When adequate funds have been collected to meet federal ceilings on sub-accounts in FUTA then the excess is made available for distribution back to the states.

Current state statute A.S. 23.20.145 (f) allows these "Reed Act" funds to be used for the payment of unemployment benefits and the administration of both the employment services and the unemployment insurance programs. The Balanced Budget Act of 1997 specified that a distribution scheduled for federal fiscal years 1999, 2000, and 2001 would be limited to the administration of the Unemployment Insurance program. The act also required that states pass enabling legislation in order to receive these funds.

The national distribution is anticipated to be \$100 million annually for the three years. Each state's share of the "Reed Act" distribution will be prorated based on the percentage of FUTA tax receipts collected from that state. Alaska's estimated share of the \$100 million is anticipated to be between \$600,000 and \$700,000.

Under federal procedures, states have two years from the time the "Reed Act" funds are appropriated by the state legislature to obligate these funds. It is expected these funds will be utilized to enhance data processing upgrades beginning in FY2001 and will likely be applied to the existing FY2000 capital budget request to redesign the automated Unemployment Insurance tax system. That request is currently before the legislature and is included in HB 52 and SB 32 in the amount of \$2,600,000.

TONY KNOWLES
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 87
P O Box 11000
Juneau, Alaska 99811-0000
(907) 465-3500
Fax (907) 465-3532

February 8, 1999

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

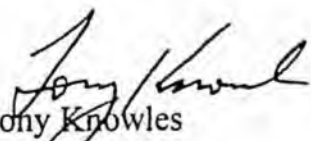
Dear Speaker ^{Brian} Porter:

This bill I transmit today provides the state with authority to receive federal funds for the administration of the unemployment insurance program as required in the Balanced Budget Act of 1997.

The 1997 Act provided for a disbursement from the federal unemployment trust fund to the state unemployment trust fund, known as "Reed Act distributions." States must enact legislation restricting the use of these distributions for administration of the unemployment insurance program, and not for unemployment benefits or employment services.

This bill complies with the federal requirement by providing the state with express authority to receive the Reed Act distributions for federal fiscal years 1999-2001 for purposes of administering the unemployment insurance program.

Sincerely,


Tony Knowles
Governor

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LABOR

ALASKA EMPLOYMENT SERVICE
DIRECTOR'S OFFICE

1111 W. 8TH STREET, SUITE 209
P.O. BOX 25509
JUNEAU, ALASKA 99802-5509
PHONE: (907) 465-2712
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May 17, 1999

The Honorable John Torgerson
Alaska State Legislature
Room 516
State Capitol
Juneau, AK 99811

Dear Senator Torgerson:

This is in response to your questions regarding House Bill 87.

Will Reed Act funds need to be appropriated annually to cover the three year (1999, 2000, 2001) Reed Act distributions?

No. The bill provides for an effective date when it is signed into law and a sunset date of September 30, 2002. The fiscal note indicates should Alaska accept the federal Reed Act distribution, it will go into capital expenditures. We expect to expend the Reed Act distributions over a three-year period on our \$2.6 million CIP project (UI Tax Redesign) that was approved by both legislative bodies this session. Should the distributions not cover the entire CIP project, the remainder will be covered by our operations budget.

Will other UI funds be available for re-appropriation if HB 87 passes?

No. All federal funds Alaska receives for the administration of the Unemployment Insurance program are strictly for the sole purpose of administration of this program. By law we have no flexibility.

Enclosed for your review, you will find the March 4, 1999, letter to Representative Rokeberg and its attachments. They are the Unemployment Insurance Program Letter (UIPL) 44-77 which refers to and describes the balanced budget act of 1997 (public law 105-33) by section. The UIPL 44-77, pages 1, 4 and 6, identifies section 5403 of the balanced budget act as the exact citation requiring the use of the "Reed Act" be limited to the

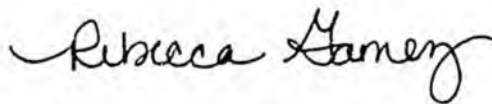
The Honorable John Torgerson
May 17, 1999

Page 2

"administration of the Unemployment Compensation program." Also enclosed is a copy of the federal Balanced Budget Act of 1997, Section 5403, entitled, "special distribution to states from Unemployment trust fund."

I trust this will clarify the concerns of your committee. Please let me know if I may provide further information or clarification.

Sincerely,

A handwritten signature in cursive script that reads "Rebecca Gamez".

Rebecca Gamez
Director

RNG:ec

Enclosure

cc: Members, Senate Finance Committee

DEPARTMENT OF LABOR
OFFICE OF THE COMMISSIONER

P.O. BOX 21149
JUNEAU, ALASKA 99802-1149
PHONE: (907) 485-2700
FAX: (907) 485-2784

March 4, 1999

The Honorable Norman Rokeberg
Alaska State Legislature
Room 24
State Capitol
Juneau, AK 99811

Dear Representative Rokeberg:

This is in response to your request for documentation of the federal legislation requiring HB87. This bill puts a limitation on the use of federal "Reed Act" distributions to the State of Alaska based on requirements in the federal Balanced Budget Act of 1997.

Attached is the Unemployment Insurance Program Letter (UIPL) 44-77 which refers to and describes the balanced budget act of 1997 (public law 105-33) by section. The UIPL 44 -77, pages 1, 4 and 6, identifies section 5403 of the balanced budget act as the exact citation requiring the use of the "Reed Act" be limited to the "administration of the Unemployment Compensation program." Also enclosed is a copy of the federal Balanced Budget Act of 1997, Section 5403, entitled, "special distribution to states from unemployment trust fund.

If you need any further information, please let me know.

Sincerely,



Dwight Perkins
Deputy Commissioner

Attachments

Date: 3/4/99
Sender: Dan Kanouse
To: Dwight Perkins
Priority: Normal
Subject: draft letter to Rokeberg - re:fed citations for HB87



hb87Info.doc

Bill Summary & Status for the 105th Congress

[NEW SEARCH](#) | [HOME](#) | [HELP](#)

* **H.R.2015** (Major Legislation)

* Public Law: 105-33 (08/05/97) [Text](#), [PDF](#), [Line Item Veto](#): See [Actions](#)

SPONSOR: [Rep Kasich](#) (introduced 06/24/97)

A bill to provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998.

[All Bill Summary & Status Info](#) (except Bill Text)

[Titles](#)

Status:

- [Detailed Legislative Status](#)
- [Floor/Executive Actions](#)
- [Congressional Record Page References](#)

Committees:

- [Referral, Reporting, Origin, Subcommittees](#)
- [Other Committee Information](#)

[Amendments](#)

[Subjects](#)

[Cosponsors](#) (None)

[Summary](#)

[Text of Legislation](#)

THE FOLLOWING LANGUAGE WAS INCLUDED IN THE FINAL BUDGET RECONCILIATION BILL THAT WAS SIGNED INTO LAW BY THE PRESIDENT ON AUGUST 5, 1997.

H.R.2015

← P.L. 105-33

Balanced Budget Act of 1997 (Enrolled Bill (Sent to President))

Subtitle E--Unemployment Compensation

SEC. 5403. SPECIAL DISTRIBUTION TO STATES FROM UNEMPLOYMENT TRUST FUND.

(a) IN GENERAL- Subsection (a) of section 903 (42 U.S.C. 1103(a)) is amended by adding at the end the following new paragraph:

(3)(A) Notwithstanding any other provision of this section, for purposes of carrying out this subsection with respect to any excess amount (referred to in paragraph (1)) remaining in the employment security administration account as of the close of fiscal year 1999, 2000, or 2001, such amount shall--

(i) to the extent of any amounts not in excess of \$100,000,000, be subject to subparagraph (B), and

(ii) to the extent of any amounts in excess of \$100,000,000, be subject to subparagraph (C).

(B) Paragraphs (1) and (2) shall apply with respect to any amounts described in subparagraph (A)(i), except that--

(i) in carrying out the provisions of paragraph (2)(B) with respect to such amounts (to determine the portion of such amounts which is to be allocated to a State for a succeeding fiscal year), the ratio to be applied under such provisions shall be the same as the ratio that--

(I) the amount of funds to be allocated to such State for such fiscal year pursuant to the base allocation formula under title III, bears to

(II) the total amount of funds to be allocated to all States for such fiscal year pursuant to the base allocation formula under title III,

as determined by the Secretary of Labor, and

(ii) the amounts allocated to a State pursuant to this subparagraph shall be available to such State, subject to the last sentence of subsection (c)(2).

Nothing in this paragraph shall preclude the application of subsection (b) with respect to any allocation determined under this subparagraph.

(C) Any amounts described in clause (ii) of subparagraph (A) (remaining in the employment security administration account as of the close of any fiscal year specified in such subparagraph) shall, as of the beginning of the succeeding fiscal year, accrue to the Federal unemployment account, without regard to the limit provided in section 902(a).

(b) CONFORMING AMENDMENT- Paragraph (2) of section 903(c) of the Social Security Act is amended by adding at the end, as a flush left sentence, the following:

* Any amount allocated to a State under this section for fiscal year 2000, 2001, or 2002 may be used by such State only to pay expenses incurred by it for the administration of its unemployment

compensation law, and may be so used by it without regard to any of the conditions prescribed in any of the preceding provisions of this paragraph.'

by Rep. Dir.
 J. UTPM
 X ASD Budget
 P Admin. Mgr.
 X ASD Fiscal
 X UI Techs

U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUL
	DATE October 9, 1997

DIRECTIVE : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 44-97

TO : ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM : *David Hansen for*
 GRACE A. KILBANE
 Director
 Unemployment Insurance Service

SUBJECT : The Balanced Budget Act of 1997 and the
 Taxpayer Relief Act of 1997

1. Purpose. To advise the States of amendments made to Federal law by the Balanced Budget Act of 1997 and the Taxpayer Relief Act of 1997 affecting the Federal-State Unemployment Compensation (UC) program.

2. References. The Balanced Budget Act of 1997 (BBA), P.L. 105-33; the Taxpayer Relief Act of 1997 (TPRA), P.L. 105-34; the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-193; the Internal Revenue Code of 1986 (IRC), including the Federal Unemployment Tax Act (FUTA); the Social Security Act (SSA); and Unemployment Insurance Program Letters (UIPLs) Nos. 28-87, 45-89, 12-91, 11-92 and 37-96. *

3. Background. The BBA and the TPRA, both enacted on August 6, 1997, made several changes affecting the UC program. This UIPL provides information on eleven amendments made by the BBA and four amendments made by the TPRA. The amendment discussed in item 4.a., related to disclosure of UC information, may require States to amend their laws to meet Federal UC law requirements. In addition, States will need to amend their laws to implement the special Reed Act transfers discussed in item 6.b. Finally, States will need *

RESCISSIONS None	EXPIRATION DATE Continuing
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to determine whether they need to amend their laws to permit the continuous levy discussed in item 12.

4. Sections 5201 and 5533, BBA: National Directory of New Hires ("National Directory").

a. Section 5201, BBA, Disclosure to National Directory. Section 303(h)(1), SSA, as amended by the PRWORA, requires States, as a condition of receiving UC administrative grants, to disclose wage and claim information to the Secretary of Health and Human Services for purposes of the National Directory. Section 303(h)(1)(C), as amended by the PRWORA, also required States to establish such safeguards as the Secretary of Labor determines are necessary to insure that such information is used "only for purposes of section 453(i)(1) [SSA] in carrying out the child support enforcement program under title IV" of the SSA. (Emphasis added.) The BBA deleted the underscored language and substituted "subsections (i)(1), (i)(3) and (j) of section 453." This amendment makes clear that States must authorize the disclosure of UC information to the National Directory for:

- o Use by programs funded under the Transitional Assistance to Needy Families program, the child support enforcement program, and any "other purposes" specified in Section 453. (Section 453(i)(1), SSA.) The "other purposes" are specified in Sections 453(i)(3) and (j), SSA, described below.
- o Use in the administration of the earned income tax credit by the Internal Revenue Service (IRS). (Section 453(i)(3), SSA.)
- o Verification of information in the National Directory by the Social Security Administration; comparisons with the Federal Case Registry of Child Support Orders and other child support enforcement purposes; use by the Social Security Administration; and research related to Transitional Assistance to Needy Families or child support enforcement. In the case of research, personal identifiers may not be used. (Section 453(j), SSA.)

As no effective date is provided, this amendment is effective as of the date of enactment of the BBA. However, as discussed in UIPL 37-96, pages 6 and 7, the effective date of the disclosure requirements in Section 303(h), SSA, for

UC conformity purposes is either October 1, 1997, or, if the State qualifies for a grace period, January 1, 1998.

States will need to review their UC laws and regulations to determine if their laws permit disclosure in view of the above requirement concerning redisclosures of information provided to the National Directory. Each State must take all actions necessary to ensure that it will make such disclosures by the effective date discussed in the previous paragraph.

b. Section 5533, BBA: Technical Amendment. Section 453A, SSA, requires each State to establish a Directory of New Hires. Section 453A(g)(2)(B), SSA, as added by PRWORA, specifically cited a provision of Federal UC law:

WAGE AND UNEMPLOYMENT COMPENSATION INFORMATION.--The State Directory of New Hires shall, on a quarterly basis, furnish to the National Directory of New Hires extracts of the reports required under section 303(a)(6) [SSA] to be made to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals, by such dates, in such format, and containing such information as the Secretary of Health and Human Services shall specify in regulations. [Emphasis added.]

Since the Secretary of Labor does not require the submittal of data on individuals under Section 303(a)(6), SSA, this provision created a technical problem. The BBA deleted the underscored language and substituted "information." This amendment does not affect what information must be provided to the Secretary of Health and Human Services. Nor does it change the fact that both the FUTA and the SSA continue to require UC agencies to provide wage and claim information to the State directory. See UIPL 37-96.

5. Section 5401, BBA: Base Periods and the Pennington Case. In 1994 and 1997, the U.S. Court of Appeals for the Seventh Circuit issued two opinions in litigation commonly known as Pennington. 22 F.3d 1376 (7th Cir. 1994), 110 F.3d. 502 (7th Cir. 1997). In its 1994 decision, the Court decided that a State's base period was not an eligibility requirement, but instead was a "method of administration" under Section 303(a)(1), SSA, and, therefore, subject to Federal jurisdiction. In its 1997 decision, the Court ruled that Illinois' base period, consisting of the first four of the last five completed calendar quarters, was not consistent with the "methods of administration" requirement. This

was because the existence of the lag period between the base period and benefit year meant some claimants had to wait for their recent wages to fall within the base period to qualify for UC. As a result of these decisions, States anticipated that they might be required to provide for alternative base periods to reduce the lag.

The BBA clarifies that the base period is not subject to the "methods of administration" requirement. Therefore, in the Department's view, this legislation frees States to determine their base periods without regard to the "methods of administration" requirement. Section 5401, BBA, provides as follows:

(a) In General. No provision of a State law under which the base period for such State is defined or otherwise determined shall, for purposes of section 303(a)(1) of the Social Security Act (42 U.S.C. 503(a)(1)), be considered a provision for a method of administration.

(b) Definitions. For purposes of this section, the terms "State law", "base period", and "State" shall have the meanings given them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 [EUCA] (26 U.S.C. 3304 note.)

(c) Effective Date. This section shall apply for purposes of any period beginning before, on, or after the date of the enactment of this Act.

"State law," as defined in Section 205(10), EUCA, "means the unemployment compensation law of the State, approved by the Secretary under section 3304" of the FUTA. "Base period," as defined in Section 205(6), EUCA, "means the base period as determined under applicable State law for the benefit year." "State," as defined in Section 205(8), EUCA, includes the 50 States, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

This amendment does not require States to amend their laws.

6. Sections 5402 and 5403, BBA: Increase in Federal Unemployment Account (FUA) Ceiling and Special Distribution to States from the Unemployment Trust Fund. Section 903, SSA, provides that when, among other things, three accounts in the Unemployment Trust Fund reach their statutory limits, the excess amounts will be transferred to the States. These are called "Reed Act" distributions. The three accounts are

*
*Special
 need
 Act
 distribution*

the Employment Security Administration Account (ESAA), which pays for the administration of the UC and employment service programs; the Extended Unemployment Compensation Account, which pays for the Federal share of extended benefits; and the FUA, which provides for advances to States for the payment of UC.

a. Section 5402, BBA: Increase in FUA Ceiling. Prior to amendment, the balance in the FUA as of the end of any Federal fiscal year (September 30) could not exceed 0.25 percent of the total wages subject to contributions under all State UC laws. The BBA changes this maximum balance to 0.5 percent effective October 1, 2001.

b. Sections 5403, BBA: Special Distribution to States from the Unemployment Trust Fund. The BBA amended Section 903 of the SSA to cap the amount of Reed Act transfers made with respect to the Federal fiscal years ending in 1999, 2000 and 2001 at \$100,000,000 per year. Each State's share of these transfers will be based on the ratio of the amount of "funds to be allocated to such State for such fiscal year pursuant to the base allocation formula under title III", SSA, to "the total amount of funds to be allocated to all States for such fiscal year pursuant to the base allocation formula under title III." Any amounts in excess of the \$100,000,000 which, but for the BBA amendments, would have been transferred to the States "shall, as of the beginning of the succeeding fiscal year, accrue to the Federal unemployment account, without regard" to its statutory limit. *

Reed Act moneys transferred with respect to these fiscal years may be used "only to pay expenses incurred by [the State] for the administration of its" UC law. Unlike previous Reed Act transfers, States are prohibited from using the amounts transferred with respect to these three years for the payment of UC or the administration of State public employment offices. However, among other uses, States may, as in the past, use these Reed Act moneys for purchasing real property for UC purposes. These purchases could be amortized against UC grant funds consistent with the UC grant agreement.
 * Limitations

Finally, the restrictions applicable to Reed Act transfers in Section 903(c)(2), SSA, are not applicable to the transfers made with respect to fiscal years 1999, 2000 and 2001. This means the amounts transferred to the States may be used without obtaining an appropriation from the State's legislative body.

State UC laws usually contain provisions addressing the use of Reed Act moneys transferred under Section 903, SSA. These laws usually mirror the requirements of Section 903(c)(2), SSA, including a requirement that the moneys be used for the payment of UC unless appropriated by the legislative body. States **must** amend these provisions to prohibit the use of transfers made with respect to fiscal years 1999, 2000, and 2001 for the payment of UC. States **may** further amend these provisions to authorize use for administrative purposes without a specific appropriation from the State legislature. Nothing prohibits a State legislature from appropriating such money or from attaching conditions to the use of such money, provided the money is used for UC administration.

Draft language for State Reed Act provisions was provided in UIPL 12-91. We recommend that, using that language as a basis, States insert the following language in State law:

(4) Notwithstanding paragraph (1), moneys credited with respect to Federal fiscal years 1999, 2000 and 2001, shall be used solely for the administration of the UC program and are not subject to appropriation by the legislature. [Emphasis added.]

The underscored language is necessary only if the State chooses to avoid the appropriation process. As an alternative, a State could appropriate the moneys without subjecting them to the various restrictions found in Section 901(c)(3), SSA. (For example, under Section 901(c)(2), SSA, Reed Act moneys may be used only for expenses incurred after the date of enactment of the State appropriation.) In this case, the following language is recommended:

(4) Notwithstanding paragraph (1), money credited with respect to Federal fiscal years 1999, 2000 and 2001, shall be used solely for the administration of the UC program, and such money shall not otherwise be subject to the requirements of paragraph (1) when appropriated by the legislature.

c. Reasons for Change. The House Report describes the reason for ~~increasing the~~ EUA ceiling and providing for the special transfers:

This provision has two main effects: (1) raising the ceiling in the Federal Unemployment Account whole [sic] limiting Reed Act transfers allows for further buildup of funds pending a future recession

requiring increased administrative resources; and (2) allowing \$100 million in Reed Act transfers will assist States in the administration of their UI programs. (H. Rep. No. 105-149, 104th Cong. 1st Sess. 106 (1997).)

7. Section 5404, BBA: Interest-Free Advances from the Unemployment Trust Fund. Under Section 1202(b)(2), SSA, advances made from the FUA during a calendar year are interest free if the following conditions are met:

- o The advance is repaid in full before the close of September 30 of the calendar year in which the advances were made, and
- o Following this repayment, no other advance was made to the State during the calendar year.

The BBA adds a third condition to Section 1202(b)(2). States must now meet "funding goals, established under regulations issued by the Secretary of Labor, relating to the accounts of the States in the Unemployment Trust Fund." The amendment applies to calendar years beginning after the date of enactment of the BBA. The Department is commencing work on the required regulations.

According to the House Committee report, this amendment is intended to encourage solvency of State unemployment funds:

Should a State account become insolvent during an economic downturn, adverse conditions can result for the State and its employers. Borrowing Federal funds imposes a cost on the State at a time when it may face other financial difficulties. The State may react by raising taxes on its employers, thereby discouraging economic activity during a period when its economy is already in decline. . . . The provision would encourage States to maintain sufficient unemployment trust fund balances to cover the needs of unemployed workers in the event of a recession. (H. Rep. No. 105-149, 104th Cong. 1st Sess. 108 (1997).)

8. Sections 5405 and 5407, BBA: Election Workers and Employees of Schools Operated Primarily for Religious Purposes. Section 3304(a)(6)(A), FUTA, requires, as a condition for employers in a State to receive credit against

the Federal unemployment tax, that UC be payable based on services performed for State and local governmental entities, their instrumentalities, and certain nonprofit organizations. The BBA amended FUTA to provide for two new exceptions to this required coverage.

Section 5405 of the BBA added new subparagraph (F) to Section 3309(b)(3), FUTA, to permit States to exclude services performed:

as an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than \$1,000.

Section 5407 of the BBA added new subparagraph (C) to Section 3309(b)(1) to permit States to exclude services performed for:

(C) an elementary or secondary school which is operated primarily for religious purposes, which is described in section 501(c)(3), and which is exempt from tax under section 501(a).

States were not previously permitted to exclude services performed for a religiously-oriented school from coverage where the school was not operated, supervised, controlled, or principally supported by a church or convention or association of churches. See UIPL 28-87. Since the new exclusion is limited to elementary and secondary schools, services performed by employees of other nonaffiliated religiously-oriented entities are still required to be covered. (For example, day-care centers, post-secondary schools or cemetery associations.) Both exclusions "apply with respect to service performed after the date of the enactment of" the BBA. With respect to election workers, this means that, if the individual earned less than \$1,000 in calendar year 1997, the services are not required to be covered after August 6, 1997.

States are not required to exclude these services. The Department recommends that States choosing to do so follow the language in Federal law verbatim. However, the language following "religious purposes" in subparagraph (C) of Section 3309(b)(1) may be omitted if, as is commonly the case, State law provisions relating to coverage of nonprofit organizations are already limited to those organizations described in Section 501(c)(3), IRC, which are exempt from tax under Section 501(a), IRC.

9. Section 5406, BBA: Coverage of Services Performed by Inmates. The BBA added an exclusion to the definition of employment in Section 3306(c), FUTA, for:

(21) service performed by a person committed to a penal institution.

This exclusion applies only for purposes of the FUTA tax. However, as a result of this new exclusion, States may elect to amend their laws to exclude these services without the employers for whom the services are performed losing credit against the FUTA tax.

The effective date of this amendment applies "with respect to service performed after January 1, 1994." Should State law be amended retroactively, amounts previously paid into the State's unemployment fund with respect to these services under the State law in effect at that time may not be refunded to employers. This prohibition is explained in UIPL 11-92.

10. Section 5608, BBA: State Program Integrity Activities for Unemployment Compensation. Section 901(c)(1)(A), SSA, authorizes appropriations from the ESAA for assisting States in the administration of their UC laws. (Henceforth, these amounts will be called the "regular" grant.) The BBA amended this section to create a special authorization for State program integrity activities. Specifically, a new paragraph was added to Section 901(c):

(5)(A) There are authorized to be appropriated out of the employment security administration account to carry out program integrity activities, in addition to any amounts available under paragraph (1)(A)(i)--

- (i) \$89,000,000 for fiscal year 1998;
- (ii) \$91,000,000 for fiscal year 1999;
- (iii) \$93,000,000 for fiscal year 2000;
- (iv) \$96,000,000 for fiscal year 2001; and
- (v) \$98,000,000 for fiscal year 2002.

(B) In any fiscal year in which a State receives funds appropriated pursuant to this paragraph, the State shall expend a proportion of the funds appropriated pursuant to paragraph (1)(A)(i) to carry out program integrity activities that is not less than the proportion of the funds appropriated under such paragraph that was expended by the State to carry out program integrity activities in fiscal year 1997.

(C) For purposes of this paragraph, the term "program integrity activities" means initial claims

review activities, eligibility review activities, benefit payments control activities, and employer liability auditing activities.

This amendment merely authorizes amounts for appropriation for integrity purposes; Congress must still appropriate the amounts. If and when "integrity" moneys are received by the States, their use is limited to the integrity activities described in 901(c)(5)(C), SSA.

Since Section 901(c)(5)(B), SSA, provides that the State must expend the same proportion of "regular" granted funds on integrity activities as was expended in fiscal year 1997, States may not use these integrity moneys to reduce integrity costs to the "regular" grant as determined by fiscal year 1997 expenditures.

11. Section 221, TPRA: Employer-Provided Educational Assistance. Section 3306(b)(13), FUTA, excludes from the definition of wages "any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127 . . ." of the IRC. Section 127, IRC, excludes from gross income of the employee certain amounts paid, or expenses incurred, up to \$5,250 in a calendar year, by the employer for educational assistance to the employee. Section 127 did not apply to taxable years beginning after May 31, 1997. In the case of tax year 1997, only expenses paid with respect to courses beginning before July 1, 1997, could be taken into account.

The TPRA extends this exclusion. It now applies to expenses paid with respect to courses beginning through May 31, 2000. The amendment applies to taxable years beginning after December 31, 1996. The IRS is responsible for administering this provision.

12. Section 921, TPRA: Securities Brokers. For purposes of determining whether an individual is an "employee," Section 3306(i), FUTA, references Section 3121(d), IRC. That section provides that, among other things, an "employee" is "any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of employee."

The TPRA provides a clarification concerning the employment tax status of registered representatives of a securities broker-dealer. It provides that "no weight shall be given

to instructions from the service recipient which are imposed only in compliance with investor protection standards imposed by the Federal Government, any State government, or a governing body pursuant to a delegation by a Federal or State agency." The IRS is responsible for administering this provision.

The provision is effective for "services performed after December 31, 1997."

13. Section 1024, TPRA: Continuous Levy on Payments of UC. Federal UC law provides that payments of UC may not be subjected to levy. See UIPL 45-89. (A levy is the seizure of a person's property or rights to property to pay a debt.) Although the TPRA did not amend these UC provisions, it authorized the IRS to impose a continuous levy on certain payments, including UC, until the levy is released. This continuous levy may be imposed on any individual who is liable for an internal revenue tax and who does not pay such tax within 10 days of notice and demand by the IRS. Specifically, the TPRA added new subsection (h) to Section 6331, IRC--

(1) IN GENERAL.--The effect of a levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such continuous levy shall attach to up to 15 percent of any specified payment due to the taxpayer.

(2) SPECIFIED PAYMENT.--For the purposes of paragraph (1), the term "specified payment" means--

(A) any Federal payment other than a payment for which eligibility is based on the income or assets (or both) of a payee,

(B) any payment described in paragraph (4) [pertaining to unemployment benefits], (7) [workers compensation], (9) [wages, salary and other income], or (11) [certain public assistance] of section 6334(a), and

(C) any annuity or pension payment under the Railroad Retirement Act or benefit under the Railroad Unemployment Insurance Act.

Under new Section 6331(h)(2)(C), any payment described in paragraph (4) of Section 6334(a), IRC, may be continuously levied up to 15 percent. Paragraph (4) applies to any "amount payable to an individual with respect to his unemployment (including any portion thereof payable with

respect to dependents) under an unemployment compensation law of the United States, or any State, or of the District of Columbia or of the Commonwealth of Puerto Rico." Under this authority, the IRS may levy any payment under State or Federal UC law, including payments under the UC for Federal employees (UCFE), UC for Ex-servicemembers (UCX) and the Disaster Unemployment Assistance (DUA) programs as well as trade readjustment allowances (TRA) under the Trade Adjustment Assistance and NAFTA-Transitional Adjustment Assistance programs.

The IRS may continuously levy up to 15 percent of "any specified payment." The amendment applies to levies issued after the August 6, 1997, date of the enactment of the TPRA.

The continuous levy is administered by the IRS. The IRS may implement the continuous levy through computer crossmatches with State UC agencies. The UC agencies will be responsible for deducting amounts levied from UC, UCFE, UCX, DUA, and TRA and for forwarding such amounts to the IRS. As the IRS does not pay for costs of levies, the Department is examining the funding implications for the UC system.

Since, in accordance with Federal UC law, all State laws currently prohibit the levy of UC, the Department recommends that States amend their laws to specifically authorize continuous levy in accordance with Section 6331, IRC. Alternatively, States may view Section 6331, IRC, as superseding State law.

14. Section 1035, TPRA: Extension of Temporary Tax. Section 3301, FUTA, imposes a tax of 6.2 percent on wages paid in employment by employers. This tax was to have dropped to 6.0 percent beginning in calendar year 1999.

Under the TPRA amendments, the 6.2 percent tax will remain in effect through calendar year 2007. The tax is now scheduled to drop to 6.0 percent beginning with calendar year 2008.

15. Action. Appropriate staff should be advised of these amendments.

16. Inquiries. Please direct inquiries to the appropriate Regional Office.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P.O. BOX 21149
JUNEAU, ALASKA 99802-1149
PHONE: (907) 465-2700
FAX: (907) 465-2784

April 5, 1999

The Honorable Jerry Ward
Chair, Senate State Affairs Committee
Alaska State Legislature
Room 423, State Capitol
Juneau, AK 99801

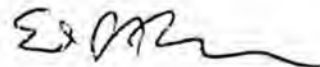
Dear Senator Ward:

I respectfully ask that you hold a hearing on HB 87, An Act Relating to the Unemployment Trust Fund. This legislation provides the state authority to receive federal funds for the administration of the unemployment insurance program as required in the Balanced Budget Act of 1997.

The 1997 Act provided for a disbursement from the federal unemployment trust fund to the state unemployment trust fund, known as "Reed Act Distributions." States must enact legislation restricting the use of the Reed Act funds to the administration of the unemployment insurance program, and not for unemployment benefits or employment services.

This bill complies with the federal requirement by providing the state express authority to receive the Reed Act distributions for federal fiscal years 1999 - 2001 for purposes of administering the unemployment insurance program.

Sincerely,



Ed Flanagan
Commissioner

EF/DP:ets

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PAGE# 789 8384

Alaska Department of Labor

Employment Security Division

FACT SHEET

REED ACT

BACKGROUND:

The Social Security Act requires that the Secretary of the U.S. Department of Labor (USDOL) provide each state with adequate funding for proper and efficient administration during the fiscal year of the state's Unemployment Insurance (UI) program. Despite this mandate, funding ultimately depends upon what the Congress agrees to appropriate.

Though Congress had determined that the Federal government had responsibility for funding the administration of the UI program, no direct link was established between Federal Unemployment Tax Act (FUTA) receipts and grants to the states. The gap between taxes collected under the FUTA and the amount appropriated by Congress became apparent in the early years of the program. By 1952, approximately \$1 billion more in FUTA taxes had been collected than had been appropriated for administration.

As a result, Congress passed the Reed Act in 1954 providing that funds collected from FUTA taxes must be used for federal and state administration of the UI or Employment Service (ES) programs. If more funds were collected than were needed for administration, the excess funds were to be returned to the states. Such Reed Act distributions of excess funds were made in 1956, 1957, and 1958. Conformity legislation passed by each state guaranteed, as a condition of eligibility for a share of the distribution, that these funds would be used only for administration of UI or ES, or directly for the payment of UI benefits.

Subsequent Reed Act distributions were, in effect, prevented by congressional action limiting the "statutory ceilings" of the various accounts within the federal Unemployment Trust Fund on four separate occasions (most recently in 1998).

STATUS:

In FFY 98, \$6.24 billion was collected in FUTA taxes; just \$3.6 billion was returned to the states for administration. The balance of the federal Unemployment Trust Fund has grown from a 1986 balance of \$2.8 billion to \$23.09 billion in 1998. The disparity between taxes collected under FUTA and the administrative funds returned to the states is at the core of the current national debates regarding administrative funding reform.

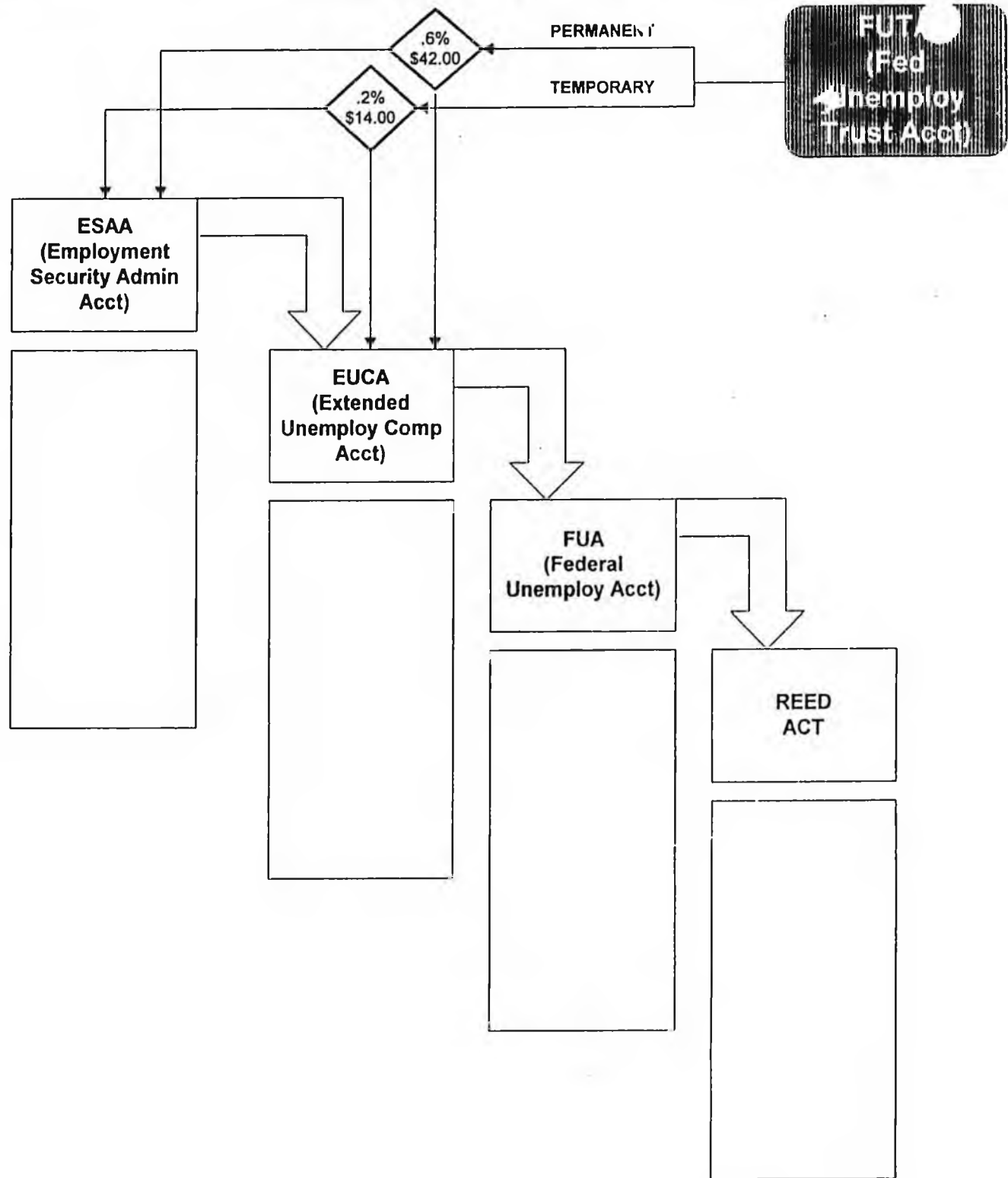
On November 30, 1998, a Reed Act distribution of \$15,934,986.93 occurred. In addition, the Balanced Budget Act of 1997 provides for in Reed Act distributions capped at \$100 million for the fiscal years ending in 1999, 2000, and 2001. These "special" distributions may only be used to fund administration of the Unemployment Insurance program, unlike regular Reed Act distri-

butions which could also be used to fund the administration of Employment services or the actual payment of UI benefits. Because of this special restriction, states must pass enabling legislation agreeing to the limited use of these funds in order to be eligible to receive a share of the \$100 million distribution. *

Had the transfers not been "capped," it is estimated that about \$3 billion would have been made available. These distributions are being made to ameliorate the impact of reduced administrative funding appropriations in recent years. An additional \$5.2 billion is estimated for distribution in FFY 2002 once the legislative cap is lifted.

Each state's share of the Reed Act distribution will be prorated based on the percentage of FUTA tax receipts from that state. Alaska's estimated share of the \$100,000,000 distributions is anticipated to be between \$600,000 and \$700,000.

* HB 87 & SB 63 were both introduced before the Alaska Legislature on 2/20/99. These the bills provide the language required by the federal government to allow Alaska to receive its share of the \$100 million being distributed over the three year period.



Flow of FUTA Funds Under Existing Federal Statutes

0.8% Employer Tax *

Employment Security Administration Account *ESAA*

Finances administrative costs of the employment security program.

Monthly .64% of the 0.8% employer tax is retained.

Statutory ceiling is 40% of the appropriation for the prior fiscal year.

Federal Unemployment Account *FUA*

Finances repayable advances to States with depleted reserves

Statutory ceiling is 0.25% of total wages in covered employment in the preceding calendar year.

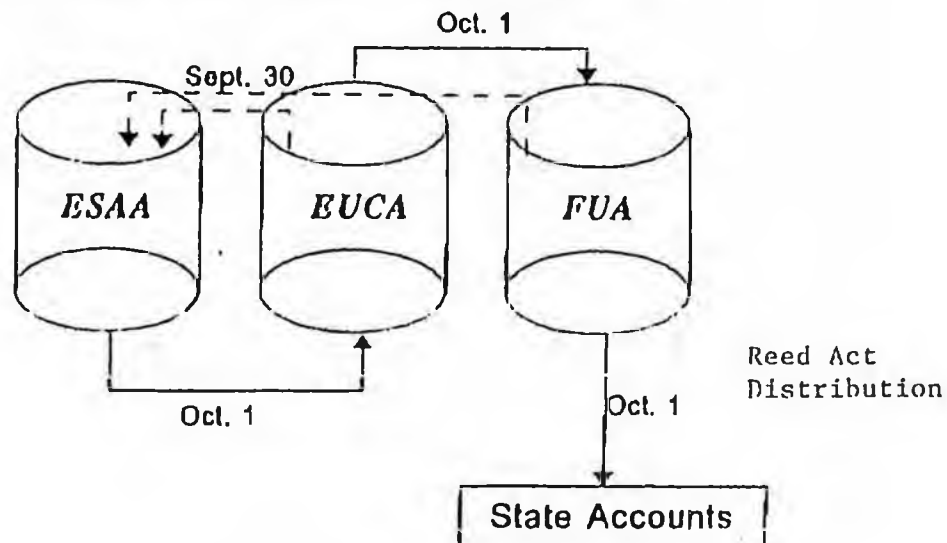
Extended Unemployment Compensation Account *EUCA*

Finances Federal-State extended benefits programs.

Monthly .16% of the 0.8% employer tax is retained.

Statutory ceiling is 0.5% of total wages in covered employment in the preceding calendar year.

If Account balance exceeds ceiling:



* Effective tax rate, after 5.4% is offset against 6.2% Federal tax.

HB 87

SENATE BILL NO. 63

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/10/99
Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to money credited to the account of the state in the
2 unemployment trust fund by the Secretary of the Treasury of the United States;
3 and providing for an effective date."

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

5 * **Section 1. INTENT.** It is the intent of the legislature that the state be eligible under the
6 Balanced Budget Act of 1997, P.L. 1005-33 and 42 U.S.C. 1103 (sec. 903, Social Security
7 Act) to have the Secretary of the Treasury of the United States credit the state's
8 unemployment trust fund with money for the purpose of administering the unemployment
9 compensation program.

10 * **Sec. 2. UNEMPLOYMENT TRUST FUND.** Notwithstanding AS 23.20.145(f), money
11 credited to the account of this state in the unemployment trust fund by the Secretary of the
12 Treasury of the United States from the effective date of this Act through September 30, 2002
13 under 42 U.S.C. 1103 (sec. 903, Social Security Act) shall be used, after enactment of an
14 appropriation law, solely for the administration of the unemployment compensation program.

1 Money credited under this section is not otherwise subject to the requirements of
2 AS 23.20.145(f)(1) - (3).

3 * **Sec. 3. DEFINITIONS.** In this Act,

4 (1) "unemployment trust fund" means the fund established in
5 AS 23.20.135(a)(2);

6 (2) "administering the unemployment compensation program" and
7 "administration of the unemployment compensation program" mean the Department of Labor's
8 activities relating to the collection of contributions and the payment of unemployment
9 compensation benefits under AS 23.20.165 - 23.20.530.

10 * **Sec. 4. REPEAL.** Sections 1 - 3 of this Act are repealed October 1, 2002.

11 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).

SENATE FINANCE COMMITTEE

SIGN-IN

HB 87-UNEMPLOYMENT TRUST FUND

NAME: DWIGHT PERKINS Sub./Bill No: HB 87
Co./Dept./Title: DEPT. OF LABOR / Deputy Comm. Phone: 2700
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond to Questions

NAME: _____ Sub./Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond to Questions

NAME: _____ Sub./Bill No: _____
Co./Dept./Title: _____ Phone: _____
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Address: _____ Zip: _____

Do you wish to testify? Yes No Respond to Questions