

ALASKA LEGISLATURE

1949

HOUSE and SENATE FINANCE COMMITTEE FILES, 1999 - 2000

STATE OF ALASKA

DEPARTMENT OF EDUCATION

Professional Teaching Practices Commission

Tony Knowles, Governor

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Patricia Clifty

Georgia Cast

May 3, 1999

The Honorable Gene Therriault
The Honorable Eldon Mulder
Co-Chair, House Finance Committee
State Capitol
Juneau, AK 99801-2197

HB 85, teacher licensing and discipline

Dear Representatives Therriault and Mulder:

I am writing in support of HB 85. This bill enhances the state's ability to protect students and the integrity of educators by strengthening, streamlining, and consolidating licensure and discipline provisions for members of the teaching profession.

The bill incorporates the direction from the Board of Education to change a teacher "certificate" to a "license." The name of the "Professional Teaching Practices Commission" would be changed to "Educator Ethics Commission," to shorten the name and more accurately reflect the commission's functions.

Among the bill's provisions are new sections governing applications and denial of applications for teaching licenses. The current regulatory provision requiring criminal history background checks for applicants would be strengthened and placed in statute. The bill would also compile, for the first time, the grounds for denial of an application or for putting conditions on a teaching license.

The bill expands the range of available disciplinary sanctions beyond suspension or license revocation, tracking powers currently available to occupational licensing boards, such as being able to summarily suspend a license if the educator poses a clear and immediate danger. The commission also would gain the authority to impose a civil fine against a person who is regulated by state law, but is not required to hold a license. The bill contains provisions that would preclude a person whose license is suspended or revoked from employment as a member of the teacher profession, even if the position does not require a license.

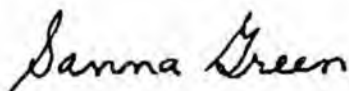
The bill also would streamline current law by consolidating regulatory and statutory grounds for discipline into one statutory provision; allowing reciprocal discipline of an educator who was disciplined in another jurisdiction; and clarifying the procedure for revoking the license of a

person convicted of certain sex crimes. In addition, the bill adds misrepresentation of a material fact on an employment application as a ground for discipline.

In rewriting the procedures and requirements for reinstatement of a suspended or revoked license, the bill would expand from one year to five years the waiting period for reinstatement. Finally, the bill contains new provisions to protect the confidentiality of minors and of investigatory files, and provides immunity from liability for persons who participate in good faith in certain investigations and proceedings of the commission or the Department of Education. My communications with the Alaska Association of School Administrators and the Association of Alaska School Boards indicate that they both support the bill.

Teresa Williams, in the Department of Law, is separately providing a sectional analysis of the bill. Both she and I will be available to testify at your hearing on the bill.

Sincerely,



Sanna Green
Executive Director

cc: Beth Lape, Department of Education Legislative

HB

87

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 5, 1999

FURTHER REFERRALS:

Date of Committee Action: 3/17/99

The FINANCE Committee considered:

HB 87

HOUSE BILL NO. 87

UNEMPLOYMENT TRUST FUND

"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."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) Labor # 315/99

zero fiscal note(s) _____ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Gene Therriault</i> Therriault	X			
<i>Gene Mulder</i> Mulder	X			
<i>Alan Auster</i> Austerman	X			
<i>Barbara Grussendorf</i> Grussendorf	X			
<i>John Davis</i> DAVIS	X			
<i>Walter Moses</i> Moses	X			
<i>William Williams</i> Williams	X			
<i>Victor Kohring</i> Kohring	X			

CO- CHAIR'S SIGNATURE *Gene Therriault* *Gene Mulder*
Therriault Mulder

FISCAL NOTE

No: 2

STATE OF ALASKA
1999 LEGISLATIVE SESSION

b... Version: HB 87
(H) Publish Date: 3/5/99

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)

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:

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 Gamez, Director *for Ronald E. Hull* Phone: 465-5933
 Division: Employment Security Division Date/Time: 3/1/99 1:37 PM

Approved by Commissioner: Ed Flanagan, Commissioner
 Agency: Department of Labor Date: 3/1/99

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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.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

LABOR & COMMERCE COMMITTEE, CHAIRMAN
JUDICIARY COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON UTILITY RESTRUCTURING, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &
TOURISM, MEMBER

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Representative Norman Rokeberg

SPONSOR STATEMENT

Committee Substitute for House Bill 69 (L&C)

RELATING TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

SPONSOR STATEMENT:

HB 69 would extend the termination date of the Alcoholic Beverage Control Board (ABC) until June 30, 2003. During the last Legislature, the termination date was extended to June 30, 1999, and if legislation does not pass extending the termination date this year, the board will be in its wind down year.

The Board consists of five members and is responsible for control, manufacture, barter, possession, and sale of alcoholic beverages in the state. The Legislative Audit, dated September 8, 1997, indicated that the Board was fulfilling its responsibility by licensing establishments to manufacture, distribute or sell alcoholic beverages to the public and enforcing the alcohol control laws in Title 4. At the time the Audit was issued, the Auditor recommended extending the Board to June 30, 2002.

In addition to extending this Board, the bill also makes other revisions to Alaska's liquor laws:

1. Adds limited liability organizations (i.e., limited liability companies and limited liability partnerships) to come under the licensing authority of the Board. This addition was requested by the Board.
2. Permits the holder of a beverage dispensary/brewpub license to sell their beer at another licensed premises of the same licensee.
2. Permits the holder of a beverage dispensary/brewpub license to sell the holder's manufactured beer to a wholesaler licensed under AS 04.11.160
3. Permits the holder of a brewpub license who formerly held a brewery license and a restaurant or eating place license and who, under the former license, manufactured beer at a location other than the premises licensed under the former restaurant or eating place license to: manufacture not more than 75,000 gallons of beer; provide small sample of beer; sell the manufactured beer on premises licensed to the licensee, to a wholesaler, or to an individual present on the

premises where the beer is manufactured (not more than five gallons a day to the individual).

4. Permits a package store licensee to deliver not more than two bottles of wine or champagne in a gift basket with a floral arrangement to a cruise ship passenger or hotel guest.

5. Permits a package store licensee to deliver alcoholic beverages to a responsible adult at a social event (i.e., wedding reception). Delivery must be made between the hours of 8:00 a.m. and 5:00 p.m.

6. Permits a "corkage" policy to be adopted by the licensee. "Corkage" is where a person is permitted to bring a bottle or bottles of fine wine into a restaurant, with the permission of the licensee. The wine is then turned over and served by employees of a licensee and a fee is charged ("corkage fee") for stem ware, etc.

The Board does serve public safety, health and welfare purposes. Your support of this legislation would be appreciated.

ED2:03/09/99

Sectional Analysis of HB 87.

Section 1: Intent

The Legislature intends for Alaska to be eligible to receive, in the Alaska account of the federal Unemployment Trust Fund, a share of a federal "Reed Act" distribution of the \$100 million being distributed for each of the federal fiscal years ending in 1999, 2000, 2001.

Section 2: Unemployment Trust Fund

Despite language in the current statute, AS 23.20.145(f) funds received under this special distribution are to be used solely for the purpose of administering the UI program (a condition of receipt). Existing language passed to allow receipt of regular Reed Act distributions allowed expanded use of the funds including direct payment of UI benefits and administrative costs of the Employment Services program. As these limited provisions apply only to the special distributions capped at \$100 million for the federal fiscal years ending in 1999, 2000, 2001 it is anticipated that all distributions will have been made well in advance of the Federal fiscal year ending September 30, 2002.

Section 3: Definitions

Self-explanatory

Section 4: Repeal

As the special limitations relating to the distributions limited to these three years will not apply to future distributions, the Attorney General's office felt that a "sunset" clause for this legislation set for the day after the last possible distribution date would be appropriate. Hence this section repeals the earlier provisions of this Act on October 1, 2002.

Section 5: Effective date

This act to take affect immediately.

DEPARTMENT OF LABOR
OFFICE OF THE COMMISSIONER

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

March 4, 1999

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

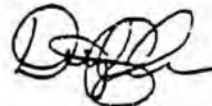
Dear Representative Rokeberg:

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

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* **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
 UTPM
 X ES Budget
 P Admin Lg.
 X ASD Fiscal
 X UT Tech

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), S&A, 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

X
 *
 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.

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. *

limitations

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

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 raising the "statutory ceilings" of the various accounts within the federal Unemployment Trust Fund on four separate occasions (most recently in 1998).

TONY KNOWLES
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 87
P O Box 110001
Juneau, Alaska 99811 0001
(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

OFFICE OF THE COMMISSIONER

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

FEB 23 1999

February 22, 1999

The Honorable Norman Rokeberg
Chair, House Labor & Commerce Committee
Alaska State Legislature
Room 24, State Capitol
Juneau, AK 99802

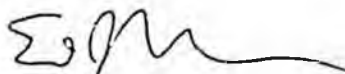
Dear Representative Rokeberg:

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

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

PREVIOUS FISCAL NOTE(S):*

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)

FUNDING	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:

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
 Agency: Department of Labor Date: 3/1/99

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
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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

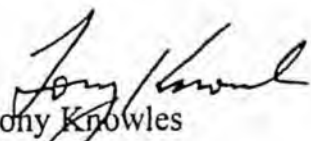
Dear Speaker ^{Brian} Porter:

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
FAX: (907) 465-4537

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

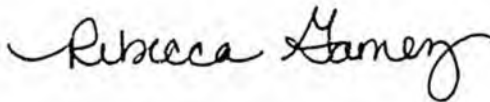
The Honorable John Torgerson
May 17, 1999

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 Tech

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

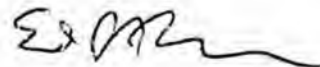
Dear Senator Ward:

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

DWIGHT 2702
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.

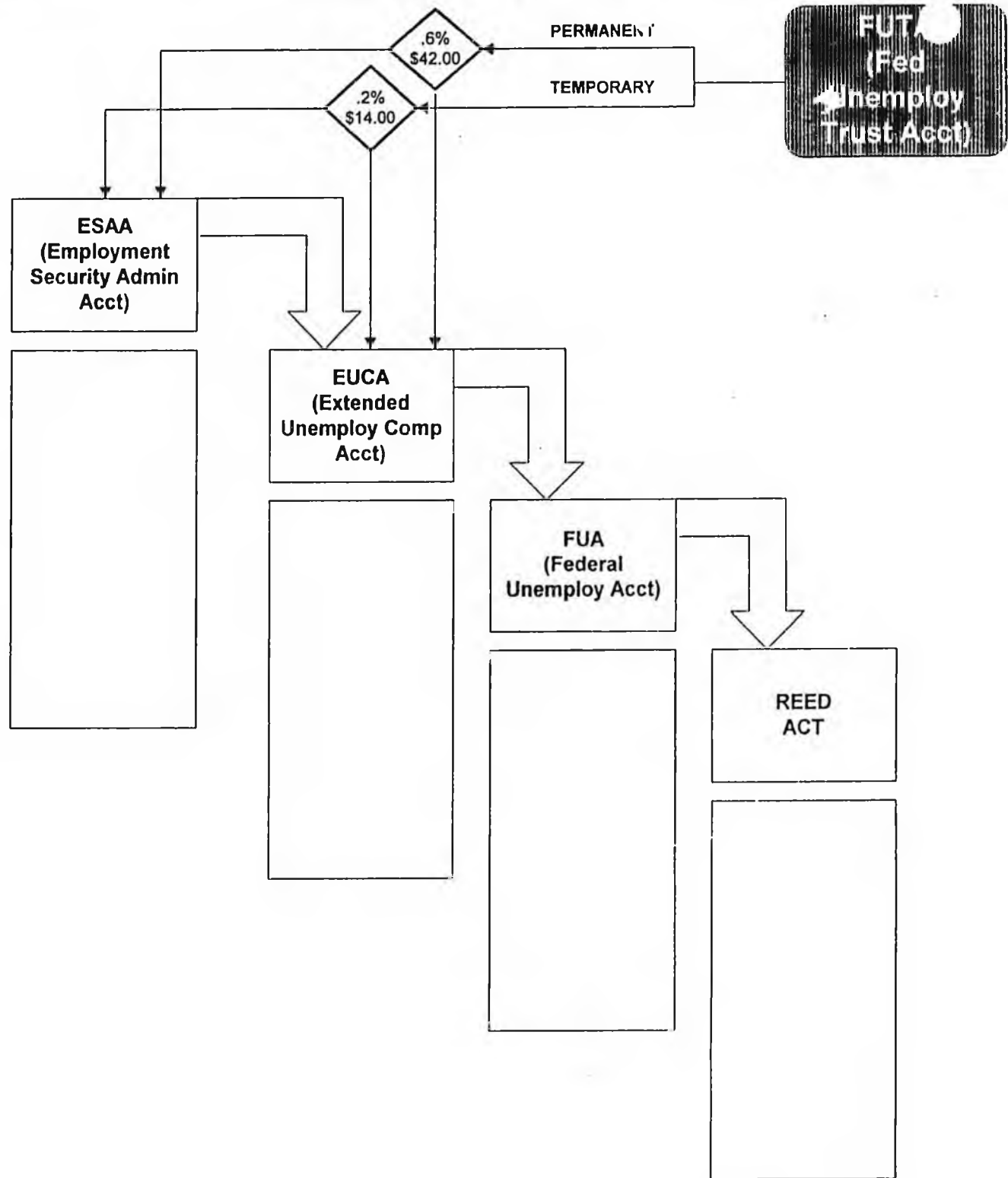
On November 30, 1998, a Reed Act distribution of \$15,934,986.93 occurred. In addition, the Balanced Budget Act of 1997 provides for in Reed Act distributions capped at \$100 million for the fiscal years ending in 1999, 2000, and 2001. These "special" distributions may only be used to fund administration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

Extended Unemployment Compensation Account *EUCA*

Finances Federal-State extended benefits programs.

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

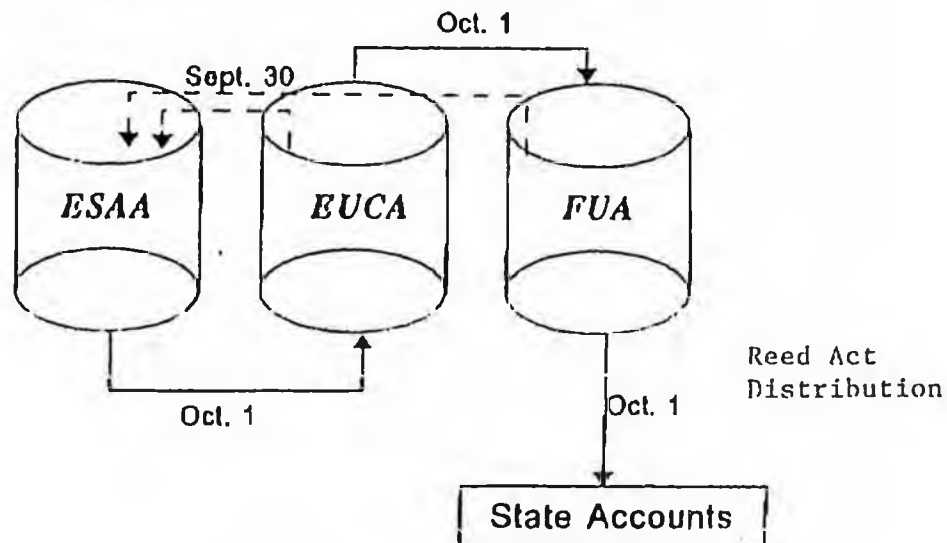
Statutory ceiling is 0.5% of total wages in covered employment in the preceding calendar year.

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.

If Account balance exceeds ceiling:



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

Bill History/Action Display



BILL: SB 63 SHORT TITLE: UNEMPLOYMENT TRUST FUND
BILL VERSION:
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

CURRENT STATUS: (S) STA STATUS DATE: 2/10/99
 THEN FIN

TITLE: "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."

Bill/Resolution has Zero Fiscal Note(s).

Jrn-Date	Jrn-Page	Action
2/10/99	206	(S) READ THE FIRST TIME - REFERRAL(S)
2/10/99	206	(S) STA, FIN
2/10/99	206	(S) ZERO FISCAL NOTE (LABOR)
2/10/99	206	(S) GOVERNOR'S TRANSMITTAL LETTER

Similar Subject Match or Exact Subject Match

- EMPLOYMENT
- FUNDS
- LABOR
- PUBLIC FINANCE
- UNEMPLOYMENT

Bill Root:

[Return to BASIS Main Menu\(21th Legislature\)](#)
BASIS Last Updated 3/24/99 9:00 AM

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: _____
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

HB

92

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 5, 1999

FURTHER REFERRALS:

Date of Committee Action: 4/19/99

The FINANCE Committee considered:

HB 92

HOUSE BILL NO. 92

MUNICIPAL TAXATION OF ALCOHOL

"An Act relating to municipal taxation of alcoholic beverages."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____ fiscal note(s) DOR (#3)

zero fiscal note(s) _____ zero fiscal note(s) DCRA, DOR (#2)

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gene Theriault</i>	Theriault			X	
<i>Edon Mulder</i>	Mulder	✓			
<i>(Van Bunde)</i>	Bunde	✓			
<i>Vic Kohring</i>	Kohring		X		
<i>John Quistman</i>	Quistman			X	
<i>Sal Davies</i>	Davies	X			
<i>Ben Grussendorf</i>	Grussendorf			X	
<i>David Davis</i>	Davis	X			
<i>W. Williams</i>	Williams			X	
<i>Foster</i>	Foster		X		

CHAIR'S SIGNATURE *Gene Theriault* *Edon Mulder*
 CO *Theriault* *Mulder*

STATE OF ALASKA
1999 LEGISLATIVE SESSION

FISCAL NOTE

Bill Version: HB 92
(H) Publish Date: 3/5/99

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: An Act relating to municipal taxation BRU: _____
of alcoholic beverages Component: _____
 Sponsor: REPRESENTATIVE DAVIS
 Requestor: House CRA Committee COMPONENT SERIAL NO. _____

Expenditures/Revenues:		(Thousands of Dollars)					
OPERATING	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05	
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	0.0	0.0	0.0	0.0	0.0	0.0	

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING:		(Thousands of Dollars)					
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1006 GF/MHTIA							
Other							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	

POSITIONS:							
FULL-TIME							
PART-TIME							
TEMPORARY							

Estimate of current (FY99) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Enactment of this legislation would not have significant fiscal impact on the department.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4709
 Division: Division of Administrative Services Date: 2/22/99
 Approved by Commissioner: *Miss Durin* Date: 2/22/99
 Agency: Community & Regional Affairs

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FISCAL NOTE

Bill Version: HB 92

(H) Publish Date: 3/5/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Revenue
 Title Municipal taxation of alcoholic beverages BRU ABC Board
 Component ABC Board
 Sponsor Rep. Davis
 Requester House C&RA Committee Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	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 EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Dorg Griffin, Director
 Division ABC Board
 Approved by Wilson L. Condon
 Commissioner
 Agency Department of Revenue

Phone 465-2301
 Date/Time February 22, 1999 10:15 AM
 Date 2/22/99

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COMMITTEE COPY

FISCAL NOTE

L Version: HB 92

(H) Publish Date: 3/5/99

STATE OF ALASKA 1999 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) March 3, 1999 Dept. Affected Revenue
 Title Municipal Taxation of Alcohol BRU Revenue Operations
 Component Income and Excise Audit
 Sponsor Representative Davis
 Requester CRA Component Serial No. 113

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	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 EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES (decrease)	**	**	**	**	**	**
-------------------------------	----	----	----	----	----	----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

** The proposed legislation may cause the state to lose a small amount of state alcohol tax revenues. This revenue loss would be due to the decrease in consumption because of an increase in price. The percentage change in quantity consumed as a result of a percentage change in price is called the price elasticity of demand. If we assume that some municipalities that currently have no sales tax on alcohol enact one, prices would most likely increase. There are many different estimates of the price elasticity demand for alcohol. They usually differ by the type of alcohol with the lowest elasticity being for beer. I have seen elasticity's that range from -.12 to -1.07 for beer, from -.13 to -1.8 for liquor and from -.27 to -2.37 for wine. One publication suggests the use of -.35 for all alcohol types. This would imply that for a 1% increase in price consumption would decrease by 1/3 of 1%. Given the uncertainties involved and not knowing which if any municipalities will increase their alcohol tax, DOR cannot estimate the loss of revenue.

Prepared by Brett Fried, Economist
 Division Income and Excise Audit
 Approved by Wilson L. Condon
 Commissioner
 Agency Department of Revenue

Phone 465-3682
 Date/Time March 3, 1999
 Date March 3, 1999

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COMMITTEE COPY

Greater tax on alcohol is sorely needed

By MATT FELIX

It appears that \$30 million is a lot of money to everyone but politicians. That's how much money a dime-a-drink tax on alcohol would bring into the state treasury. Adding a quarter to a drink would bring in about \$50 million.

To date, no one in a position of power has made this simple proposal to increase state income despite our revenue shortfall.

State taxes on alcohol haven't been raised since 1983, and that was the only increase since statehood. The federal tax hasn't been adjusted but once since the Korean war. Both tax increases were very small and did not keep up with inflation during that period.

The present state tax on alcohol amounts to 3.3 cents for a beer, 4 cents for a glass of wine, and 4.5 cents for a mixed drink. This minimal excise tax brings in approximately \$15 million to the Alaskan treasury. A dime-a-drink is not adequate in light of the expenses that alcohol abuse causes in our state. The estimated yearly costs to the state taxpayer range from \$90 million to as much as \$150 million.

Whatever the cost is, it clearly appears that the state is not taxing the liquor industry, but is instead supporting it with public funds.

The dime-a-drink proposal considered three years ago now appears inadequate to bring this situation into a better balance. Perhaps a quarter-a-drink increase should be considered to bring relief to the taxpayers of Alaska. The alcohol industry cries foul when discussing a tax increase saying its product is taxed at a greater rate than other products. That's true, but the type of tax applied to them is a special tax called an excise tax, which is often

Whatever the cost is, it clearly appears that the state is not taxing the liquor industry, but is instead supporting it with public funds.

applied to non-essential items such as alcohol, jewelry or items of little necessity. In fact, the excise tax first was applied to alcohol by the English parliament during the gin epidemic of the 1740s as a way of curbing abuse while providing for the increased policing costs.

Perhaps Alaska could take a lesson from this history. Excise taxes, when used this way, are not taxes but more like user fees. Individuals who don't drink pay no taxes, but those who drink a lot pay the most excise taxes.

This is as it should be, for those who drink excessive amounts cause the most problems and subsequent expenses to the public. Studies show that heavy drinkers make up 15 percent of the total drinking population, but they drink 78 percent of all the alcohol consumed.

The Legislature has taken the view of "no tax at any cost." Lawmakers may want to reconsider this unique imbalance of revenue to expenditures.

The cost of alcohol abuse in Alaska will continue to be extremely high due to the high rate of consumption. We Alaskans drink more than most populations and drink nearly a gallon more of pure alcohol than the national average. During the 1980s, Alaskans drank an average of more than

four gallons annually of pure alcohol per person over the age of 14 years.

This extreme drinking has come down some over the last 10 years but it still is one of the highest levels in the country.

One only needs to ask a policeman, prosecutor, or judge about the costs associated with this level of drinking. Check the police report printed daily in the Empire. Research shows that 74-80 percent of all crime is committed while under the influence of alcohol.

Consequently, 75 percent of the prison population committed their crime while intoxicated. The health care system, including Medicare and Medicaid, are similarly impacted. It is estimated that one third of all general hospital admissions in Alaska are exacerbated by alcohol.

The governor recently stated that 7 out of 10 child-abuse calls to the state are alcohol related, and Alaska's high rate of divorce is influenced greatly by excessive drinking. However one measures the cost, in dollars or lives destroyed, the costs of alcohol abuse in Alaska are unacceptable.

The single most important act to reduce this tragedy is to raise the price of alcohol. This is a lesson known to researchers and confirmed in Alaska through the to-

bacco tax.

With an increase in price, the reduction in consumption of alcohol would occur most among our youth just as it has with tobacco. Alcohol is a major factor in the three leading causes of death for young people ages 15-24 - accidents, homicides, and suicides. According to the National Bureau of Economic Research, the higher the taxes on alcohol the more lives saved in the young age groups.

Many politicians now in office campaigned on family issues. They should know that over half the domestic violence in Alaska is attributed to alcohol abuse.

Raising money is a major concern for the state right now but my personal issue is improving the health and safety of Alaskans.

The single most influential action to improve the health and public safety in this state would be to lower the per-capita consumption of alcoholic beverages by raising the price. The legal debates involving divorces, homicides, assaults, drunk driving, rape, and alcohol commitments have left me convinced that the Legislature, not the courts, must find solutions to these crises. There may be a shortage of political will. It will take a great deal of political will to overcome the moneyed liquor lobbyists entrenched in Alaska politics. Someone out there must think that \$25 million to \$50 million is a lot of money.

♦♦♦♦

Matt Felix is the clinical director at Gastineau Human Services. He developed the Department of Health and Social Services for the City of Juneau and was the state director of Alcohol and Drug Services for seven years.

4-14-9



ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

HOUSE BILL 92

SPONSOR STATEMENT

"An Act relating to municipal taxation of alcoholic beverages"

In these days of declining revenues and increasing costs, local governments are looking for different avenues to pay for local services. House Bill provides a new option to do this, but only if approved by a majority vote of the local citizenship.

House Bill 92 amends the statutes to allow--NOT require--municipalities to impose a sales tax on alcoholic beverages regardless of whether there is a tax on other kinds of sales. The interpretation of current statutes is that only municipalities with a sales tax on other sales may impose a sales tax on alcohol and then only at the general sales tax rate. This legislation would allow municipalities to impose a sales tax that is equal to, lower than, or higher than, the general sales tax rate.

Local voters would have to decide whether to impose a sales tax on alcohol. As with other municipal taxes, the sales tax on alcoholic beverages and its rate cannot be imposed without approval of the voters in the municipality.

Laws are continually passed that have a direct financial impact on municipalities. For example, state and federal laws require municipalities to care for and protect public inebriates; however, sufficient funding is not always provided for these activities. Such costly services can include public safety, care for inebriates, and alcohol-related social and health problems. This legislation enables municipalities to address these budgeting problems along with others. It provides them with a new option.

HB92/SS/2/10/99



ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

SECTIONAL ANALYSIS

House Bill 92

"An Act relating to municipal taxation of alcoholic beverages"

Section 1: Amends AS 04.21.010(c)(2), regarding municipal regulation, to allow municipalities to impose a sales tax on alcoholic beverages regardless of whether they have a sales tax on other sales. Current statute allows a sales tax on alcoholic beverages only if a sales tax exists on other sales. It also allows the municipality to set the sales tax on alcoholic beverages at a rate equal to, higher or lower than, the sales tax on other sales.

Deletes AS 04.21.010(c)(3), which allows municipalities having sales taxes on alcoholic beverages prior to July 1, 1985, to continue to tax alcoholic beverage sales. This section is no longer needed as all municipalities may impose a sales tax on alcoholic beverages.

Section 2: Amends AS 29.45.650(a), regarding borough sales and use tax, by removing the reference to AS 04.21.010(c) in the exceptions. Because municipalities would no longer be restricted in placing a sales tax on alcoholic beverages, this exception is no longer needed.

H 92/SA2/10/99

ferred to the municipality in which the property was seized" in the third sentence of subsection (b).

NOTES TO DECISIONS

For *per law construed.* — See Territory of Alaska v. 186 Cases of Mixed Intoxicating Liquors, 10 Alaska 414 (1944).

Collateral references. — 45 Am. Jur. 2d, Intoxicating Liquors, §§ 486-532.
48A C.J.S., Intoxicating Liquors, §§ 365-397.
Forfeiture of property used in connection with intoxicating liquor before trial of individual offender, 3 ALR2d 738.

Lawfulness of seizure of property used in violation of law as prerequisite to forfeiture action or proceeding, 8 ALR3d 473.

Chapter 20. General Provisions.

[Repealed, § 12 ch 131 SLA 1980. For current law, see AS 04.21.]

Chapter 21. General Provisions.

Section

- 10. Municipal regulation
- 15. Private manufacture of alcoholic beverages
- 20. Civil liability of persons providing alcoholic beverages
- 25. Alcohol server education course
- 30. Responsibility of licensees, agents, and employees

Section

- 40. Sales on federal reservations
- 50. Proof of age
- 55. Refusal of service
- 60. Warehousing of alcoholic beverages
- 65. Posting of warning signs
- 70. Enforcement
- 80. Definitions

Sec. 04.21.010. Municipal regulation. (a) A municipality may adopt ordinances governing the importation, barter, sale, and consumption of alcoholic beverages within the municipality and may ban possession of alcoholic beverages under AS 04.11.491(a)(5). An ordinance adopted under this section may not be inconsistent with this title or regulations adopted under this title. In a municipality that has adopted a local option under AS 04.11.491(a)(1), (2), or (3), an ordinance is not inconsistent with this title if it limits

(1) the monthly amounts of alcoholic beverages a person may import into the municipality;

(2) the percent of alcohol by volume that an alcoholic beverage may contain; a limit imposed under this paragraph may not be less than 40 nor more than 76 percent alcohol by volume; or

(3) the type of alcoholic beverage container that may be possessed in the municipality.

(b) After the adoption of a local option under AS 04.11.491(a), a municipality may adopt an ordinance making the sale, importation, or possession of alcoholic beverages a misdemeanor to the extent prohibited under the local option. The ordinance may not be inconsistent with this title or the regulations adopted under this title.

(c) A municipality may not impose taxes on alcoholic beverages except a

(1) property tax on alcoholic beverage inventories;

(2) sales tax on alcoholic beverage sales if sales taxes are imposed on other sales within the municipality;

(3) sales tax on alcoholic beverage sales that was in effect before July 1, 1985; and

(4) sales and use tax on alcoholic beverages if the sale of alcoholic beverages within the municipality has been prohibited under AS 04.11.491(a)(1), (4), or (5).

(d) At least 10 days before the date set for municipal action on an application for the issuance, renewal, relocation, or transfer of ownership of a proposed license, the

municipality shall provide written notice of the proposed action and the time and place for a hearing to a community council that

(1) is established by municipal charter or ordinance to advise the municipal governing body; and

(2) has jurisdiction over the area affected by the proposed action. (§ 4 ch 131 SLA 1980; am § 20 ch 74 SLA 1985; am § 19 ch 93 SLA 1985; am § 9 ch 80 SLA 1986; am §§ 11, 12 ch 156 SLA 1988; am §§ 50 — 52 ch 101 SLA 1995)

Effect of amendments. — The 1995 amendment, effective July 1, 1995, made section reference substitutions in subsections (a) and (c); in subsection (a), added the last sentence in the introductory language and added paragraphs (1)-(3); and rewrote subsection (b).

Legislative history reports. — For sectional analysis of CS SSSB 239, the predecessor of FCCSSB 239 (ch. 131, SLA 1980), see 1980 Senate Journal Supplement No. 23, April 1, 1980.

For Senate letter of intent relating to the amendments to (a) and (c) of this section by secs. 11 and 12,

ch. 156, SLA 1988 (HCS CSSB 371 (Jud) am H., see 1988 Senate Journal 2939).

Opinions of attorney general. — Anchorage Municipal Code 10.50.030 and 10.50.035, which established guidelines for when the Assembly will exercise its protest authority under AS 04.11.480, are not inconsistent with this title, are not in excess of the municipality's authority, and are not unreasonable. February 25, 1986, Op. Att'y Gen.

Ordinance regulating where licenses may be located did not exceed the borough's authority. October 23, 1991, Op. Att'y Gen.

NOTES TO DECISIONS

Sales tax. — Paragraphs (c)(2) and (c)(3) of this section, when read together, bar a municipality from taxing only the sale of alcoholic beverages and further require that if sales taxes are imposed on other commodities, then the rate of taxation on the sale of alcoholic beverages may not exceed the rate of taxation imposed upon such other commodities sales.

Lagos v. City & Borough of Sitka, 823 P.2d 641 (Alaska 1991).

A Sitka ordinance which taxed the sales of alcoholic beverages at a four percent higher rate than sales made on other commodities within the city and borough of Sitka violated this section. *Lagos v. City & Borough of Sitka*, 823 P.2d 641 (Alaska 1991).

Collateral references. — 45 Am. Jur. 2d, Intoxicating Liquors, § 27.

46 C.J.S., Intoxicating Liquors, § 213.

Provision as to sale of liquor to women as affecting validity of regulatory statute. 9 ALR2d 541.

Validity and construction of measure prohibiting retail alcoholic beverage seller from furnishing free food or drink. 66 ALR2d 758.

Validity and construction of statute or ordinance requiring or prohibiting posting or other publication of price by liquor dealer. 89 ALR2d 901; 80 ALR3d 740.

Validity and construction of statute or ordinance

respecting employment of women in places where intoxicating liquors are sold. 46 ALR3d 369

Validity of municipal regulation more restrictive than state regulation as to time for selling or serving intoxicating liquor. 51 ALR3d 1061.

Validity, construction, and effect of statutes, ordinances, or regulations prohibiting or regulating advertising of intoxicating liquors. 20 ALR4th 600

Validity and construction of statute or ordinance making it offense to have possession of open or unsealed alcoholic beverage in public place. 39 ALR4th 668

Sec. 04.21.015. Private manufacture of alcoholic beverages. (a) Except as provided in (b) of this section, the provisions of this title do not apply to the private manufacture of alcoholic beverages.

(b) This section does not apply to AS 04.16.050, 04.16.051, 04.16.080; AS 04.21.010, 04.21.020; alcoholic beverages manufactured in a quantity that exceeds the limit imposed on private manufacture under federal law; or an area that has adopted a local option law under AS 04.11.491. (§ 1 ch 88 SLA 1989; am § 53 ch 101 SLA 1995)

Effect of amendments. — The 1995 amendment, effective July 1, 1995, made a section reference substitution in subsection (b).

Sec. 04.21.020. Civil liability of persons providing alcoholic beverages. (a) A person who provides alcoholic beverages to another person may not be held civilly liable for injuries resulting from the intoxication of that person unless the person who provides the alcoholic beverages holds a license authorized under AS 04.11.080 — 04.11.220, or is an agent or employee of such a licensee and

"other property taxable by the municipality." City of Valdez v. State, Dep't of Community & Regional Affairs, 793 P2d 532 (Alaska, 1990).

Sec. 29.45.590. Limited property taxing power for second class cities. A second class city may by referendum levy property taxes as provided for first class cities. However, levy of an ad valorem tax by a second class city may not exceed two percent of the assessed value of the property taxed, except that the limit does not apply to a levy necessary to avoid a default upon payment of principal and interest of bonded or other indebtedness that is secured by a pledge to levy ad valorem or other taxes without limit to meet debt payments. (§ 12 ch 74 SLA 1985; am § 1 ch 123 SLA 1994; am § 8 ch 40 SLA 1995)

Effect of amendments. — The 1994 amendment, effective September 26, 1994, substituted "two percent" for "one-half of one percent" near the beginning of the second sentence.

The 1995 amendment, effective August 23, 1995, inserted "of an ad valorem tax" near the beginning of the second sentence.

Sec. 29.45.900. Combining property tax with incorporation of a second class city. A petition for second class city incorporation may request that a property tax proposal be placed on the same ballot. The petition must state the proposed tax rate. The petition may request that incorporation be dependent on the passage of the property tax proposition. If so, the incorporation proposition fails if the property tax fails. (§ 12 ch 74 SLA 1985)

Article 4. Borough Sales and Use Tax.

Section

650. Sales and use tax

660. Notice of sales and use tax

670. Referendum, adoption, and modification

Section

680. Combining sales and use tax with incorporation of a borough

Sec. 29.45.650. Sales and use tax. (a) Except as provided in AS 04.21.010(c) and in (f) and (h) of this section, a borough may levy and collect a sales tax on sales, rents, and on services provided in the borough. The sales tax may apply to any or all of these sources. Exemptions may be granted by ordinance.

(b) A borough levying a sales tax may also by ordinance levy a use tax on the storage, use, or consumption of tangible personal property in the borough. The use tax rate must equal the sales tax rate and the use tax shall be levied only on buyers.

(c) A person who furnishes proof, in the form required by the borough tax collector, that the person has paid a sales tax on the source on which a use tax is levied by the borough is required to pay the use tax only to the extent of the difference between the amount of the sales tax paid and the amount of the use tax levied by the borough. This subsection applies to a sales tax levied in any taxing jurisdiction whether inside or outside the state.

(d) If the assembly charges interest on sales taxes not paid when due, the rate of interest may not exceed 15 percent a year on the delinquent taxes and shall be charged from the due date until paid in full. This subsection applies to home rule and general law municipalities.

(e) A borough may provide for the creation, recording, and notice of a lien on real or personal property to secure the payment of a sales and use tax, and the interest, penalties, and administration costs in the event of delinquency. When recorded, the sales tax lien has priority over all other liens except (1) liens for property taxes and special assessments; (2) liens that were perfected before the recording of the sales tax lien for amounts actually advanced before the recording of the sales tax lien; (3) mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the sales tax lien. This subsection applies to home rule and general law municipalities.

(f) A borough may not levy and collect a sales tax on a purchase made with (1) food coupons, food stamps, or other type of certificate issued under 7 U.S.C. 2011 — 2025 (Food Stamp Act); or (2) food instruments, food vouchers, or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants, and Children). This subsection applies to home rule and general law municipalities.

(g) [Repealed, § 2 ch 159 SLA 1990.]

(h) A borough may not levy or collect a sales tax on sales, rents, and services, or a use tax on the storage, use, or consumption of personal property on the following activities:

(1) the sale, lease, rental, storage, consumption, or distribution in this state of or the provision of services relating to an orbital space facility, space propulsion system, or space vehicle, satellite, or station of any kind possessing space flight capacity, including the components of them;

(2) the sale, lease, rental, storage, consumption, or use of tangible personal property placed on or used aboard an orbital space facility, space propulsion system, or space vehicle, satellite, or station of any kind, regardless of whether the tangible personal property is returned to this state for subsequent use, storage, or consumption; an exemption under this paragraph is not affected by the failure of a launch to occur, or the destruction of a launch vehicle or a component of a launch vehicle. (§ 12 ch 74 SLA 1985; am §§ 3, 4 ch 38 SLA 1986; am § 1 ch 20 SLA 1987; am § 2 ch 30 SLA 1988; am §§ 1, 2 ch 96 SLA 1989; am §§ 1, 2 ch 159 SLA 1990; am §§ 4, 5 ch 88 SLA 1991)

NOTES TO DECISIONS

Annotator's notes. — The cases cited in the note below were decided under former, similar provisions.

Evolutionary development of present language of subsection (a). — See *Liberati v. Bristol Bay Borough*, 584 P.2d 1115 (Alaska 1978).

Subsection (a) of this section permits a selective sales tax. *Liberati v. Bristol Bay Borough*, 584 P.2d 1115 (Alaska 1978).

This section states no limits on what may be exempted. *Liberati v. Bristol Bay Borough*, 584 P.2d 1115 (Alaska 1978).

And there is nothing in the statute which expressly requires a general tax. *Liberati v. Bristol Bay Borough*, 584 P.2d 1115 (Alaska 1978).

The term "sales tax" carries no connotation of generality. *Liberati v. Bristol Bay Borough*, 584 P.2d 1115 (Alaska 1978).

The city of Homer bed tax, based upon the actual

rental of a room, and imposed, computed and collected according to traditional sales tax methods, is a sales tax within the meaning of this section. *City of Homer v. Gangl*, 650 P.2d 396 (Alaska 1982).

A real property lien is beyond the scope of what may be "necessarily or fairly implied" as incident to the authority to collect a sales tax. *Fairbanks N. Star Borough v. Howard*, 608 P.2d 32 (Alaska 1980).

Successor liability. — Subsection (e) of this section does not provide for successor liability, unless done through a lien on the real and personal property of a "seller," i.e. the business. Municipalities' attempt by ordinance to hold successor owners personally liable for delinquent sales taxes would effectively eliminate paragraph (e)(2) of this section lien priority and was, therefore, invalid. *Kenai Peninsula Borough v. Associated Grocers*, 889 P.2d 604 (Alaska 1995).

Collateral references. — 63 Am. Jur. 2d, Sales and Use Taxes, § 1 et seq.

Sec. 29.45.660. Notice of sales and use tax. (a) If the borough levies and collects only a sales tax and use tax, the assembly shall provide a notice substantially in the form set out in AS 29.45.020. In providing notice under this subsection, the assembly shall substitute for the millage equivalency its estimate of the equivalent sales tax rate for each of the categories of financial assistance set out in AS 29.45.020. Notice shall be provided

(1) by publishing in a newspaper of general circulation in the borough a copy of the notice once each week for a period of three successive weeks, with publication to occur not later than 45 days after the final adoption of the borough's budget; or

(2) if there is no newspaper of general circulation in the borough, by posting a copy of the notice for at least 20 days in at least two public places in the borough, with posting to occur not later than 45 days after the final adoption of the borough's budget.

(b) Compliance with the provisions of this section is a prerequisite to receipt of municipal tax resource equalization under AS 29.60.010 — 29.60.080 and priority revenue sharing for municipal services under AS 29.60.100 — 29.60.180. The department shall withhold annual allocations under those sections until municipal officials demonstrate that the requirements of this section have been met. (§ 12 ch 74 SLA 1985; am § 5 ch 75 SLA 1997)

Effect of amendments. — The 1997 amendment, effective July 1, 1997, rewrote the first sentence of subsection (b).

Sec. 29.45.670. Referendum, adoption, and modification. A new sales and use tax or an increase in the rate of levy of a sales tax approved by ordinance does not take effect until ratified by a majority of the voters at an election. (§ 12 ch 74 SLA 1985)

Sec. 29.45.680. Combining sales and use tax with incorporation of a borough. A petition for incorporation of a borough may request that a sales and use tax proposition be placed on the same ballot. The petition must state the proposed tax rate. The petition may request that incorporation be dependent on the passage of the tax proposition; so, the incorporation proposition fails if the tax proposition fails. (§ 1 ch 3 SLA 1989)

Editor's notes. — Section 2, ch. 3, SLA 1989 provides that this section is retroactive to January 1, 1987.

Legislative history reports. — For governor's transmittal letter, see 1989 Senate Journal 46.

Article 5. City Sales and Use Tax.

Section

700. Power of levy.

710. Combining sales and use tax with incorporation of a second class city

Sec. 29.45.700. Power of levy. (a) A city in a borough that levies and collects areawide sales and use taxes may levy sales and use taxes on all sources taxed by the borough in the manner provided for boroughs. Except as provided in (d) of this section, the assembly may by ordinance authorize a city to levy and collect sales and use taxes on other sources.

(b) A city in a borough that does not levy and collect sales and use taxes for areawide borough functions may levy and collect sales and use taxes in the manner provided for boroughs.

(c) A city outside a borough may levy and collect sales and use taxes in the manner provided for boroughs.

(d) A city that levies and collects sales and use taxes under (a) of this section may not levy and collect a sales tax on a purchase made with (1) food coupons, food stamps, or other types of certificates issued under 7 U.S.C. 2011 — 2025 (Food Stamp Act); or (2) food instruments, food vouchers, or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants, and Children). This subsection applies to home rule and general law municipalities. (§ 12 ch 74 SLA 1985; am § 5 ch 38 SLA 1986; am §§ 51, 52 ch 14 SLA 1987; am § 2 ch 20 SLA 1987)

Legislative history reports. — For an analysis of the amendments to this section made by §§ 51 and 52, ch. 14, SLA 1987, see 1987 House Journal Supplement No. 11, May 17, 1987, p. 7.

Sec. 29.45.710. Combining sales and use tax with incorporation of a second class city. A petition for incorporation of a second class city may request that a sales and use tax proposal be placed on the same ballot. The petition must state the proposed tax

CITY OF KING COVE

P.O. Box 37
King Cove, Alaska 99612

March 4, 1999

Representative Gary Davis
State Capitol - Room 513
Juneau, AK 99801-1182

(faxed to 465-3835)

Dear Representative Davis:

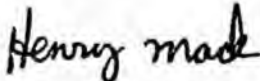
I am very pleased to learn of your sponsorship of House Bill 92. I am very supportive of this measure and am willing to help advocate it to other local governments.

About a year ago, I requested the King Cove City Council to impose an increase (i.e. higher than our 3% general sales tax) in local sales tax on alcoholic beverages only to learn that it wasn't allowed under State statute.

It is very clear to me that alcohol related activities have a direct relationship to the magnitude of services provided by our City police and clinic departments. A higher alcohol tax rate would help us offset the adverse impacts to the City budget in dealing with the alcohol related costs.

We would welcome the opportunity to have local voters decide on whether to impose such a tax. Thank you for taking action on this very important issue.

Sincerely,



Henry Mack
Mayor

Alex & Mattie Samuelson Office Building
907-497-2340 (phone)
907-497-2594 (fax)
Email - kingcove@pobox.alaska.net





MAYOR AND CITY COUNCIL
POST OFFICE BOX 1397, KODIAK, ALASKA 99615

TELEPHONE (907) 486-8635
FAX (907) 486-8600

February 28, 1999

Representative Gary Davis
State Capitol
Juneau, Alaska 99811

Dear Representative Davis:

Thank you for the foresight to sponsor legislation to address alcohol related social and law enforcement costs incurred by local government. The City of Kodiak supports HB 92. Although some may view this as a revenue source the City of Kodiak views it as one alternative to address costs of alcohol abuse and misuse now absorbed by the general taxpayer. The provision requiring a vote of the people is prudent and a reasonable protection to the liquor industry.

The statistics on alcohol related crime and social problems more than justify a method to tax the cause.

Sincerely,

CITY OF KODIAK


Carolyn L. Floyd
Mayor

cc: City Council
Senator Jerry Mackie
Representative Alan Austerman



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907)586-1325, Fax (907)-453-5480

February 19, 1999

Representative Gary Davis
State Capitol
Juneau, AK 99811

Dear Representative Gary Davis:

Thank you for your introduction of HB 92, "An Act relating to municipal taxation of alcoholic beverages." This issue has been a top priority for the Alaska Municipal League and the Alaska Conference of Mayors for several years, and given the current state budget situation, it is even more important than ever. As pressure increases more and more on local sales and property taxes, municipalities need additional tools to pay for public services.

Under state statute adopted years ago, a special exemption on alcohol sales was granted which prohibited local voters from establishing a higher level on sales tax on alcohol in their community. We would like to stress that **this is not a new tax**, but only removes that restriction, and could only be done with the **approval of local voters**. Alcohol abuse is the number one health and public safety problem in Alaska and alcohol sales should not receive a special exemption.

As you are aware, costs to local taxpayers related to the use of alcohol are stunning. Some of the alcohol-related costs include:

- Police costs for alcohol-related felonies and misdemeanors
- Police costs to transport public inebriates
- Emergency medical services
- Hospital emergency care costs
- Prosecutions
- Direct treatment and rehabilitation of alcohol abusers
- Increase costs of youth and family services related to alcohol use
- Repair to property damage to public facilities
- Health insurance costs paid by local governments and school districts to treat alcohol-related health problems

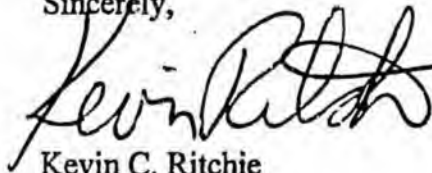
According to a fact sheet provided by Anchorage's Community Health Promotion Program last year, alcohol is involved in:

- 60 percent of motor vehicle crash fatalities
- 65 percent of suicide attempts
- 56 percent of total assaults
- 56 percent of domestic violence
- 53 percent of sexual assaults
- 34 to 50 percent of homicides
- 83 percent of child abuse.

We recognize the state may continue reducing support for services because of revenue shortfalls. As that burden increases on local taxpayers, it is critical they be given the proper tools to take on those burdens. Passage of HB 92 will provide an option to the voters of a community who are best able decide how they want to allocate their taxes to provide critical local services.

Again, our sincere thanks for recognizing the importance of this issue and if you need any additional information, please let us know.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Ritchie", with a long horizontal line extending to the right.

Kevin C. Ritchie
Executive Director

ALASKA STATE

HOSPITAL & NURSING HOME

ASSOCIATION

February 25, 1999

Representative Carl Morgan
Capitol Building, Room 409
Juneau, AK 99801-1182

Dear Representative Morgan:

On March 4, 1999, the Community and Regional Affairs Committee will be hearing HB92 that lifts the restriction on municipal taxation of alcoholic beverages.

On behalf of the Alaska Association of Hospitals and Nursing Homes, I am writing in support of HB92. The cost of public inebriation in most of our cities and villages comes in several forms for hospitals. There is the issue of unreimbursed costs of direct care, the supplies and services that are provided in treating the individual. Second, there is the indirect cost of damaged equipment, linen, furniture, etc. as individuals get into or out of hospitals. Third is the cost for security staffing. There are many anecdotal stories that could highlight any one of these areas - which I am sure will be defined in testimony. I will not detail them here but would ask for your support of this bill.

HB 92 would give municipalities the opportunity to put the issue before the voters and let them decide whether the added revenue from a tax on alcoholic products would be beneficial in dealing with the costs of the results of alcohol consumption.

Thank you for your consideration of our letter of support.

Sincerely yours,



Laraine L. Derr
President/CEO



Alaska State Legislature

COMMUNITY AND REGIONAL
AFFAIRS, FINANCE (...?)

Please enter into the record my testimony to the

committee name

committee on TAXATION OF ^{ALCOHOLIC} BEVERAGES dated

MARCH 3RD 1999

bill/subject

AS A VOTER, SMOKER AND CONCERNED
CITIZEN I SUPPORT THE TAXATION OF ALCOHOLIC
BEVERAGES.

SPECIFICALLY:

AS A VOTER I AM ALWAYS CONCERNED
ABOUT BILLS/ACTS PENDING IN OUR MUNICIPAL,
STATE OR FEDERAL GOVERNMENTS AND FEEL
IT IS MY DUTY TO "VOICE" SUPPORT FOR THOSE
I BELIEVE SHOULD BE ENACTED. THIS IS TRUE
FOR HOUSE BILL NO. 92.

AS A SMOKER I FULLY SUPPORT THE
INCREASE IN TAXATION ON TOBACCO PRODUCTS
BELIEVING IT IS A FAIR WAY TO RAISE
INCOME, WHILE AT THE SAME TIME ALLOWING

Signed:

R. Robinson
Testifier

Representing (Optional)

P.O. BOX 2395, SITKA, 99835

Address

966-3075

Phone No.

→ THE INDIVIDUAL, ME, TO CHOOSE TO PARTICIPATE OR NOT VIA MY CHOICE TO PURCHASE TOBACCO PRODUCTS OR NOT. THIS IS HOW I VIEW/COMPARE HOUSE BILL NO. 92. AS A CONCERNED CITIZEN I AM OF THE OPINION THAT ALL REASONABLE SOURCES OF INCREASED INCOME FOR THE STATE & MY MUNICIPALITY (SITKA) SHOULD BE EXAMINED AND IMPLEMENTED IF FAIR AND REASONABLE. I BELIEVE HOUSE BILL NO 92. IS BOTH.

THANK YOU FOR THIS FORUM.

RNOghun



Alaska State Legislature

Please enter into the record my testimony to the Community & Regional Affairs, Finance
committee name

committee on House Bill #92, dated 3-4-99
bill/subject

A sales tax on Alcoholic Beverages would be a positive proposition for a number of reasons.

- ① Increase of tax could lower Alcoholic Beverage consumption as the recent tax on cigarettes lowered the demand for them in Alaska.
- ② Alcoholic Beverages have cost the state of Alaska millions of dollars, and this tax could allow programs of prevention and treatment to be funded at a higher level.
- ③ Alaska truly needs to find more income streams and this one would work well.

Signed: Brian D. Massey Brian D. Massey
Testifier

Myself & Family
Representing (Optional)

Box 2324 Sitka AK
Address

(907) 747-3139
Phone No.

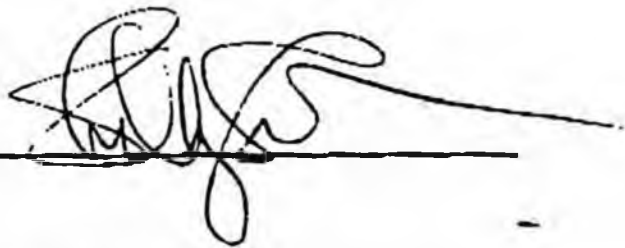


Alaska State Legislature

Please enter into the record my testimony to the Community & Regional Affairs, Finance committee name
 committee on House Bill No. 92, dated 3/4/99
 bill/subject

As a voter, I would like to voice my support of House Bill 92 (municipal taxation of alcoholic beverages).

In a time of declining revenues, it strikes me that this bill would enable our community to raise additional funds that could be utilized to supplement existing prevention and intervention services.

Signed: Shelly Carlson 
 Testifier

Representing (Optional)
107 Finn Alley Sitka, AK 99835
 Address
747-1042
 Phone No.