

ALASKA LEGISLATURE

2542

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

EXPLANATION FOR AMENDMENTS

Amendments to AS 04.06 – Alcoholic Beverage Control Board

AS 04.06.010. Reflects movement from Revenue to Public Safety. Removes provision of “administrative purposes only.” This change will clarify that the ABC Board will be under DPS and the employees will be subject to the policies and standards of the agency as any other employee of the department.

AS 04.06.020 and 030. Adds commissioners of public safety and revenue to the ABC Board. Addition of the Commissioner of Public Safety to the board will ensure cooperation and participation of the DPS in ABC function. DPS commissioner sits on two boards housed in department – Alaska Police Standards Council and Council on Domestic Violence and Sexual Assault. Addition of Revenue commissioner on Board will ensure that expertise and historical perspective of ABC function from revenue is maintained. In a May 2000 report, the Alaska Criminal Justice Assessment Commission recommended that the legislature add two nonindustry members to the board, raising the total membership from five to seven (this recommendation is noted in the Legislative Audit Sunset Review (04-20019-03)).

AS 04.06.070. Modifies the statutory provisions for removal of the director of the board so that the “director shall serve at the pleasure of the governor.” Current language of the statute is archaic.

AS 04.06.110. Modifies peace officer powers. Incorporates recommendation of Legislative Audit Sunset Review of ABC Board. Removal of language providing for “investigation of violations of laws against prostitution and promoting prostitution” will refocus ABC Board to primary enforcement of Title 04.

These changes to the statute will enable the ABC Board to focus on and be responsive in addressing Title 4 alcohol issues. The staff of the ABC Board are employees of the State of Alaska. They must perform to the standards and expectations of the state and the department of which they are a part. Having the ABC Board receive direct guidance and support from the Department of Public Safety will facilitate the Governor’s desire to address alcohol related crime.

**Alcoholic Beverage Control Board
Transfer to DPS Issues**

- Current board has three public members and two industry members. No State representation.
- **Recommend addition of Commissioner of Public Safety or designee and Commissioner of Revenue or designee.**
- The current day-to-day operations of the ABC functions seem to be exceptionally autonomous. By statute, they have been placed in the Department of Revenue **"for administrative purposes only."**
- **Recommend that the ABC Board focus on licensing issues, public hearings, and other high level issues involving the industry. Recommend that the day-to-day operations and enforcement posture/procedures be directed by the Department of Public Safety who is the primary law enforcement entity for the State of Alaska.**

The above recommended changes is intended to allow the Department of Public Safety to develop long-term strategies to address the Governor's goals involving alcohol involved crimes and allow the department to work with the ABC employees to help address their responsibilities despite their limited staff.

Alaska State Legislature

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State Capitol
Juneau, AK 99801
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716 W 4th Avenue, Suite 300
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Phone: (907) 269-6250
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Representative Lesil McGuire

Chair, Judiciary Committee

CSHB 234 (L&C)

23-LS0862V

Ford

4/10/03

"An Act relating to the sale of beer manufactured at a brewpub; continuing the existence of the Alcoholic Beverage Control Board; and providing for an effective date."

TITLE CHANGE

Sectional Analysis

Section 1 – Amends AS 04.11.135(a) by removing language that defines the number of gallons a beverage dispensary licensee can sell to a wholesaler (Pg. 2, Ln. 6-8).

Section 2 – Amends AS 04.11.135(d)(3)(C) by adding language that will allow brewpub licensees to sell beer to an individual present on the premises, in quantities of 5 gallons a day or less, at the same location where that brewpub licensee also is the holder of beverage dispensary license¹

Section 3 – Amends AS 44.66.010(a)(1) by extended the date of existence for the Alcoholic Beverage Control Board from June 30, 2003 to June 30, 2006.

Section 4 – Provides for an effective date for provisions of this Act of July 1, 2003.

***Explanatory Note:** The removal of this language was a drafting error. The bracketed language found on Pg. 2, lines 6-8 and Pg. 2, lines 25-27 should be reinserted. This will maintain existing statutory language. With the reinsertion of the bracketed language in Section 1, the section becomes unnecessary and the remaining sections can be appropriately renumbered.

¹ This corrects the arbitrary restriction on Alaska's brewpub licensees who may manufacture their beer in one location in the state, and dispense it in another.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB234(L&C)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____ Revenue
 Title Brewpubs; ABC Board BRU ABC Board
 Component ABC Board
 Sponsor Representative McGuire
 Requester House Finance Committee Component No. 100

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would clarify that the statutory limitation on the volume of beer that a brewpub can sell to a licensed wholesaler is set at no more than 15,000 gallons. This change would not effect the operating expenses of the ABC Board.

This legislation also would extend the sunset date of the ABC Board from June 30, 2003 to June 30, 2007.

Prepared by: Douglas B. Griffin, Executive Director Phone 269-0350
 Division Alcoholic Beverage Control Board Date/Time 4/23/03 7:30 AM
 Approved by: Larry Persily, Deputy Commissioner Date 4/23/2003
 Agency Department of Revenue

Alaska State Legislature

Session:
State Capitol
Juneau, AK 99801
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Phone: (907) 269-0250
Fax: (907) 269-0249

Representative Lesil McGuire

Chair, Judiciary Committee

CSHB 234 (L&C)

"An Act relating to brewpubs, and continuing the existence of the Alcoholic Beverage Control Board; and providing for an effective date."

Sponsor Statement

Committee Substitute for House Bill 234 contains two primary components. First, CSHB 234 addresses current inconsistencies under AS 04.11.135(d) regarding sales of beer by brewpubs in quantities of not more than 5 gallons per day (so-called "growlers"). Under current statutory language, sales of these growlers are limited to brewpubs that brew their beer on their premises but this restriction unfairly disadvantages Alaskan brewpub operators who may brew their product in one location in the state and dispense their product at another. Although most brewpub operators in Alaska are not hindered by this restriction, brewing and dispensing their product in the same location, this amendment will lift this arbitrary restriction for any current and future operators who brew and dispense in two different locations within the state of Alaska.

Second, this substitute incorporates the extension of the sunset date for the existence of the Alcoholic Beverage Control Board to June 30, 2007 and provides for an effective date of July 1, 2003.

Replaced

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 234(L&C)
(H) Publish Date: 4/14/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Brewpubs; ABC Board BRU ABC Board
Component ABC Board
Sponsor Representative McGuire
Requester House Labor and Commerce Component No. 100

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would remove the statutory limitation on the volume of beer that a brewpub can sell to a licensed wholesaler. This change would not effect the operating expenses of the ABC Board.

This legislation also would extend the sunset date of the ABC Board from June 30, 2003 to June 30, 2006.

Prepared by: Douglas B. Griffin, Executive Director Phone 269-0350
Division Alcoholic Beverage Control Board Date/Time 4/8/03 7:28 AM
Approved by: Larry Persily, Deputy Commissioner Date 4/8/2003
Agency Department of Revenue

Audit Report



DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD
SUNSET REVIEW

November 29, 2002



Audit Control Number:

04-20019-03

Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300

HB

234

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

MAY 19 2003

SENATE FINANCE COMMITTEE

DATE: 5/14/03

FURTHER:

DATE TURNED IN TO OFFICE: 5/19/03

Finance Committee considered CS FOR HOUSE BILL NO. 234(RLS) am

HB 234 BREW/PUBS; ABC BOARD

"An Act extending the termination date of the Alcoholic Beverage Control Board; relating to the sale of beer manufactured at a brewpub; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous S CS CS HB 234 (YBC)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DPS	4/24	*		2
Rev	4/8		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>				
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>		✓		

REPORTED ON
MAY 19 2003

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 234(L&C)
(H) Publish Date: 4/14/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Brewpubs; ABC Board BRU ABC Board
Component ABC Board
Sponsor Representative McGuire
Requester House Labor and Commerce Component No. 100

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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						
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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-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would remove the statutory limitation on the volume of beer that a brewpub can sell to a licensed wholesaler. This change would not effect the operating expenses of the ABC Board.

This legislation also would extend the sunset date of the ABC Board from June 30, 2003 to June 30, 2006.

Prepared by: Douglas B. Griffin, Executive Director
Division: Alcoholic Beverage Control Board
Approved by: Larry Persily, Deputy Commissioner
Agency: Department of Revenue

Phone 269-0350
Date/Time 4/8/03 7:28 AM
Date 4/8/2003

MAY 9 2003

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 234(FIN)
(H) Publish Date: 4/28/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title Brewpubs; ABC Board BRU Statewide Support
Component Alcohol Beverage Control Board
Sponsor Representative McGuire
Requester House Finance Component No. 2690

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	*	*	*	*	*	*
Travel	*	*	*	*	*	*
Contractual	*	*	*	*	*	*
Supplies	*	*	*	*	*	*
Equipment	*	*	*	*	*	*
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	*	*	*	*	*	*
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSHB 234(FIN) extends the repeal of the ABC Board to FY2007. FY2004 funding for the ABC Board in the Department of Public Safety is as follows:

\$755.0 of GF and \$157.5 of I/A in the following line items: PS, \$672.2; Travel, \$28.3; Contractual, \$192.1; Supplies, \$6.6; and Equipment, \$13.3.

Prepared by: Karen Morgan, Director Phone 465-5488
Division Administrative Services Date/Time 4/24/03 9:57 AM
Approved by: Commissioner William Tandeske Date 4/24/2003
Agency Department of Public Safety

23-LS0862AE

Ford

5/19/03

with drawn

SENATE CS FOR CS FOR HOUSE BILL NO. 234(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES MCGUIRE, Crawford, Croft, Gara, Lynn

A BILL

FOR AN ACT ENTITLED

1 "A. Act relating to the Alcoholic Beverage Control Board; relating to the sale of beer
2 manufactured at a brewpub; and providing for an effective date."

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

4 * **Section 1.** AS 04.06.010 is amended to read:

5 **Sec. 04.06.010. Establishment of board.** There is established in the
6 Department of Public Safety the [THE] Alcoholic Beverage Control Board [IS
7 ESTABLISHED] as a regulatory and quasi-judicial agency. The Board is in the
8 Department of Public Safety [REVENUE, BUT FOR ADMINISTRATIVE
9 PURPOSES ONLY].

10 * **Sec. 2.** AS 04.06.020 is amended to read:

11 **Sec. 04.06.020. Appointment and qualifications.** The board consists of
12 seven [FIVE] members. Five members shall be appointed by the governor, one
13 member shall be the commissioner of public safety, and one member shall be the
14 commissioner of revenue. All members except for the commissioner of public

or designee with drawn

1 safety and the commissioner of revenue shall be [AND] confirmed by a majority of
2 the members of the legislature in joint session. Except for the commissioner of
3 public safety and the commissioner of revenue, a [A] member of the board may not
4 hold any other state or federal office, either elective or appointive. Two members of
5 the board shall be persons actively engaged in the alcoholic beverage industry, except
6 that no member may hold a wholesale license or be an officer, agent, or employee of a
7 wholesale alcoholic beverage enterprise. No three members of the board may be
8 engaged in the same business, occupation, or profession. At least three members of
9 the board shall represent the general public. A board member representing the general
10 public or an immediate family member of a board member representing the general
11 public may not have any financial interest in the alcoholic beverage industry. In this
12 section, "immediate family member" means a spouse, child, or parent.

13 * **Sec. 3.** AS 04.06.030(a) is amended to read:

14 (a) Except for the commissioners of public safety and revenue, members
15 [MEMBERS] of the board shall be appointed for overlapping terms of three years.

16 * **Sec. 4.** AS 04.06.040 is amended to read:

17 **Sec. 04.06.040. Per diem and expenses.** Members of the board do not
18 receive a salary, but are entitled to per diem and travel expenses authorized by law for
19 other boards and commissions. This section does not apply to a member of the
20 board who is the commissioner of public safety or the commissioner of revenue.

21 * **Sec. 5.** AS 04.06.060 is amended to read:

22 **Sec. 04.06.060. Quorum and majority.** Four [THREE] members of the
23 board constitute a quorum for the conduct of business, except that a majority of the
24 whole membership of the board must approve all applications for new licenses, and all
25 renewals, transfers, suspensions, and revocations of existing licenses. If a majority of
26 the board is present and voting, the director, with the consent of the members present,
27 may cast a tie-breaking vote.

28 * **Sec. 6.** AS 04.06.110 is amended to read:

29 **Sec. 04.06.110. Peace officer powers.** The director and the persons employed
30 for the administration and enforcement of this title may, with the concurrence of the
31 commissioner of public safety, exercise the powers of peace officers when those

1 powers are specifically granted by the board. Powers granted by the board under this
2 section may be exercised only when necessary for the enforcement of the criminally
3 punishable provisions of this title and [,] regulations of the board [, AND OTHER
4 CRIMINALLY PUNISHABLE LAWS AND REGULATIONS, INCLUDING
5 INVESTIGATION OF VIOLATIONS OF LAWS AGAINST PROSTITUTION AND
6 PROMOTING PROSTITUTION DESCRIBED IN AS 11.66.100 - 11.66.130 AND
7 LAWS AGAINST GAMBLING, PROMOTING GAMBLING, AND RELATED
8 OFFENSES DESCRIBED IN AS 11.66.200 - 11.66.280].

9 * Sec. 7. AS 04.11.135(d) is amended to read:

10 (d) Notwithstanding (a) of this section, the holder of a brewpub license who
11 under the provisions of AS 04.11.450(b) formerly held a brewery license and a
12 restaurant or eating place license and who, under the former brewery license,
13 manufactured beer at a location other than the premises licensed under the former
14 restaurant or eating place license may

15 (1) manufacture not more than 150,000 gallons of beer in a calendar
16 year on premises other than the premises licensed under the beverage dispensary
17 license;

18 (2) provide a small sample of the manufactured beer free of charge at
19 the location the beer is manufactured unless prohibited by AS 04.16.030; and

20 (3) sell the beer authorized to be manufactured under this subsection

21 (A) on the premises licensed under the beverage dispensary
22 license or other licensed premises of the beverage dispensary licensee that are
23 also licensed as a beverage dispensary;

24 (B) to a wholesaler licensed under AS 04.11.160; sales under
25 this subparagraph may not exceed 15,000 gallons or the amount sold under this
26 subparagraph in calendar year 2001, plus 10 percent, whichever amount is
27 greater; or

28 (C) to an individual who is present on the premises described
29 under (A) of this paragraph, or where the beer is manufactured, in quantities
30 of not more than five gallons per day.

31 * Sec. 8. AS 44.66.010(a)(1) is amended to read:

1
2
3

(1) Alcoholic Beverage Control Board (AS 04.06.010) - June 30, 2004

[2003];

* **Sec. 9.** This Act takes effect July 1, 2003.

23-LS0862NE
Ford
5/19/03

SENATE CS FOR CS FOR HOUSE BILL NO. 234(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MCGUIRE, Crawford, Croft, Gara, Lynn

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the Alcoholic Beverage Control Board; relating to the sale of beer
2 manufactured at a brewpub; and providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 04.06.010 is amended to read:

5 Sec. 04.06.010. Establishment of board. There is established in the
6 Department of Public Safety the [THE] Alcoholic Beverage Control Board [IS
7 ESTABLISHED] as a regulatory and quasi-judicial agency. The Board is in the
8 Department of Public Safety [REVENUE, BUT FOR ADMINISTRATIVE
9 PURPOSES ONLY].

10 * Sec. 2. AS 04.06.020 is amended to read:

11 Sec. 04.06.020. Appointment and qualifications. The board consists of
12 seven [FIVE] members. Five members shall be appointed by the governor, one
13 member shall be the commissioner of public safety, ^{or commissioner's designee} and one member shall be the
14 commissioner of revenue. All members except for the commissioner of public

or commissioner's designee.

Concept #1

SENATE FINANCE COMMITTEE

1 / 2003 COMMITTEE ACTION

Bill Number	HB 234, Version "E"		
Amendment	#1		
Motion	Adopt Concept #1		
Motion by	Wilken		
Objection by	Taylor		
Removed			
Second Objection by			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Olson			
Senator Stevens			
Senator Taylor			
Senator Bunde			
Senator Hoffman			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Withdrawn		

Amendment # 2

Voided by the withdrawal of the motion to adopt version "E"
WORK DRAFT
23-LS0362AE
Ford
5/19/03

Taylor

SENATE CS FOR CS FOR HOUSE BILL NO. 234(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MCGUIRE, Crawford, Croft, Gara, Lynn

delete sections 2-4

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alcoholic Beverage Control Board; relating to the sale of beer
2 manufactured at a brewpub; and providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 04.06.010 is amended to read:

5 Sec. 04.06.010. Establishment of board. There is established in the
6 Department of Public Safety the [THE] Alcoholic Beverage Control Board [IS
7 ESTABLISHED] as a regulatory and quasi-judicial agency. The Board is in the
8 Department of Public Safety [REVENUE, BUT FOR ADMINISTRATIVE
9 PURPOSES ONLY].

10 * Sec. 2. AS 04.06.020 is amended to read:

11 Sec. 04.06.020. Appointment and qualifications. The board consists of
12 seven [FIVE] members. Five members shall be appointed by the governor, one
13 member shall be the commissioner of public safety, and one member shall be the
14 commissioner of revenue. All members except for the commissioner of public

delete

continued ->

1 safetv and the commissioner of revenue shall be [AND] confirmed by a majority of
 2 the members of the legislature in joint session. Except for the commissioner of
 3 public safety and the commissioner of revenue. a [A] member of the board may not
 4 hold any other state or federal office, either elective or appointive. Two members of
 5 the board shall be persons actively engaged in the alcoholic beverage industry, except
 6 that no member may hold a wholesale license or be an officer, agent, or employee of a
 7 wholesale alcoholic beverage enterprise. No three members of the board may be
 8 engaged in the same business, occupation, or profession. At least three members of
 9 the board shall represent the general public. A board member representing the general
 10 public or an immediate family member of a board member representing the general
 11 public may not have any financial interest in the alcoholic beverage industry. In this
 12 section, "immediate family member" means a spouse, child, or parent.

13 * Sec. 3. AS 04.06.030(a) is amended to read:

14 (a) Except for the commissioners of public safety and revenue, members
 15 [MEMBERS] of the board shall be appointed for overlapping terms of three years.

16 * Sec. 4. AS 04.06.040 is amended to read:

17 **Sec. 04.06.040. Per diem and expenses.** Members of the board do not
 18 receive a salary, but are entitled to per diem and travel expenses authorized by law for
 19 other boards and commissions. This section does not apply to a member of the
 20 board who is the commissioner of public safety or the commissioner of revenue.

21 * Sec. 5. AS 04.06.060 is amended to read:

22 **Sec. 04.06.060. Quorum and majority.** Four [THREE] members of the
 23 board constitute a quorum for the conduct of business, except that a majority of the
 24 whole membership of the board must approve all applications for new licenses, and all
 25 renewals, transfers, suspensions, and revocations of existing licenses. If a majority of
 26 the board is present and voting, the director, with the consent of the members present,
 27 may cast a tie-breaking vote.

28 * Sec. 6. AS 04.06.110 is amended to read:

29 **Sec. 04.06.110. Peace officer powers.** The director and the persons employed
 30 for the administration and enforcement of this title may, with the concurrence of the
 31 commissioner of public safety, exercise the powers of peace officers when those

delete

SENATE FINANCE COMMITTEE
5 / 19 / 2003 COMMITTEE ACTION

Bill Number	HB 234		
Amendment	#2		
Motion	Delete Section #2-5		
Motion by	Taylor		
Objection by	Taylor, Wilken		
Removed			
Second Objection by			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Stevens			
Senator Taylor			
Senator Bunde			
Senator Hoffman			
Senator Olson			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>			

"Version E"
#2-5

~~Not for the record~~

This Amendment
 was voided by
 the withdrawing
 of the motion
 to adopt Version E

SENATE FINANCE COMMITTEE
5 / 19 / 2003 COMMITTEE ACTION

Bill Number	HB 234		
Amendment			
Motion	Adopt CS "E"		
<u>Motion by</u>	Wilken		
<u>Objection by</u>	Taylor		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Taylor			
Senator Bunde			
Senator Hoffman			
Senator Olson			
Senator Stevens			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Withdrawn		

Alaska State Legislature

Session:
State Capitol
Juneau, AK 99801
Phone: (907) 465-2995
Fax: (907) 465-6592



Interim:
716 W 4th Avenue, Suite 300
Anchorage, AK 99501-2133
Phone: (907) 269-0250
Fax: (907) 269-0249

Representative Lesil McGuire
Chair, Judiciary Committee

SCSCSHB 234 (L&C)

23-LS0862\c

"An Act relocating the Alcoholic Beverage Control Board from the Department of Revenue to the Department of Public Safety; extending the termination date of the Alcoholic Beverage Control Board; relating to the sale of beer manufactured at a brewpub; and providing for an effective date."

AMENDED TITLE

Sponsor Statement

Senate Committee Substitute for Committee Substitute for House Bill 234 contains three primary components. First, this version establishes the Alcoholic Beverage Control Board under the Department of Public Safety. Because the ABC Board is a quasi-judicial agency under statute and investigators of the board have significant investigative responsibilities, the Department of Public Safety believes this reorganization to be in the public interest to establish uniform investigative procedures among all agencies and boards under its charge.

Second, SCSCSHB 234 addresses current inconsistencies under AS 04.11.135(d) regarding sales of beer by brewpubs in quantities of not more than 5 gallons per day (so-called "growlers"). Under current statutory language, sales of these growlers are limited to brewpubs that brew their beer on their premises but this restriction unfairly disadvantages Alaskan brewpub operators who may brew their product in one location in the state and dispense their product at another. Although most brewpub operators in Alaska are not hindered by this restriction, brewing and dispensing their product in the same location, this amendment will lift this arbitrary restriction for any current and future operators who brew and dispense in two different locations within the state of Alaska.

Lastly, SCSCSHB 234 extends the life of the Alcoholic Beverage Control Board until June 30, 2007.

Alaska State Legislature

Session:
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Juneau, AK 99801
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Anchorage, AK 99501-2133
Phone: (907) 269-0250
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Representative Lesil McGuire

Chair, Judiciary Committee

SCSCSHB 234 (L&C)

23-LS0862NC

"An Act relocating the Alcoholic Beverage Control Board from the Department of Revenue to the Department of Public Safety; extending the termination date of the Alcoholic Beverage Control Board; relating to the sale of beer manufactured at a brewpub; and providing for an effective date."

AMENDED TITLE

Sectional Analysis

Section 1 – Amends AS 04.06.010 by establishing the Alcoholic Beverage Control Board within the Department of Public Safety. The floor amendment to the original Rules committee substitute reinserts the language "for administrative purposes only." **Section 2 in CSHB 234 (FIN) removing peace officer powers from ABC Board investigators for the purposes of investigating prostitution and gambling related offenses has been removed.**

Section 2 – Amends AS 04.11.135 (d) by removing the same language as found in AS 04.11.135 (a) regarding the amount of beer that maybe sold to a wholesaler and amends AS 04.11.135 (d)(2)(C) by adding language that will allow brewpub licensees to sell beer to an individual present on the premises, in quantities of 5 gallons a day or less, at the same location where that brewpub licensee also is the holder of beverage dispensary license¹

Section 3 – Amends AS 44.66.010(a)(1) by extended the date of existence for the Alcoholic Beverage Control Board from: June 30, 2003 to June 30, 2007.

Section 4 – Provides for an effective date for provisions of this Act of July 1, 2003.

¹ This corrects the arbitrary restriction on Alaska's brewpub licensees who may manufacture their beer in one location in the state, and dispense it in another.

Introduced in the House: 3/5/03

Referred: Community and Regional Affairs, State Affairs

Introduced in the Senate: 3/6/03

Referred: Community and Regional Affairs, State Affairs

EXECUTIVE ORDER NO. 110

1 Under the authority of art. III, sec. 23, of the Alaska Constitution, I order the
2 following:

3 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 FINDINGS. As governor, I find that it is in the best interest of efficient administration
6 to transfer the Alcoholic Beverage Control Board and its functions from the Department of
7 Revenue to the Department of Public Safety. The enforcement of Alaska law addressing the
8 manufacture, use, possession, and sale of alcoholic beverages will be strengthened by this
9 transfer because the board and its staff will have the law enforcement expertise of the
10 Department of Public Safety to assist them in their duties.

11 * **Sec. 2.** AS 04.06.010 is amended to read:

12 **Sec. 04.06.010. Establishment of board.** The Alcoholic Beverage Control
13 Board is established as a regulatory and quasi-judicial agency. The board is in the
14 Department of Public Safety [REVENUE], but for administrative purposes only.

15 * **Sec. 3.** AS 04.06.090(e) is amended to read:

16 (e) The board shall promptly notify all licensees and municipalities of major
17 changes to this title and to regulations adopted under this title. However, if changes
18 only affect specific classifications of licenses and permits, the board need only notify
19 those licensees and municipalities directly affected by the changes. Current copies of
20 this title and current copies of the regulations adopted under it shall be made available
21 at all offices in the state of the Department of Public Safety [REVENUE] and the
22 detachment headquarters and posts maintained by the division of Alaska state troopers
23 in the [.] Department of Public Safety [, IN THE STATE].

1 * Sec. 4. AS 04.11.590 is amended to read:

2 **Sec. 04.11.590. Disposition of money.** (a) Money collected from licenses and
3 civil fines under this title shall be transferred by the board to the Department of **Public**
4 **Safety** [REVENUE] and deposited in the general fund.

5 (b) A fee prescribed by the board in addition to fees authorized under this title
6 shall be transferred to the Department of **Public Safety** [REVENUE] and deposited in
7 the general fund.

8 (c) The annual estimated balance in the account maintained by the
9 commissioner of administration under AS 37.05.142 may be used by the legislature to
10 make appropriations to the Department of **Public Safety** [REVENUE] to carry out the
11 purposes of AS 04.06.

12 * Sec. 5. AS 04.11.610(b) is amended to read:

13 (b) If the officers of a municipality fail to actively enforce local ordinances,
14 laws of the United States and the state, and the regulations relating to the manufacture
15 and sale of alcoholic beverages in the state, the commissioner of **public safety**
16 [REVENUE] may deny the refund provided for under (a) of this section until the
17 board finds the enforcement of the ordinances, laws, and regulations is resumed.

18 * Sec. 6. AS 04.11.610(c) is amended to read:

19 (c) The Department of **Public Safety** [REVENUE] shall recover any amounts
20 erroneously refunded under (a) of this section. The Department of **Public Safety**
21 [REVENUE] shall schedule repayments of erroneously refunded amounts over a
22 sufficient period of time to minimize financial hardship to the municipality involved.

23 * Sec. 7. AS 44.41.020 is amended by adding a new subsection to read:

24 (e) The Department of Public Safety shall supply necessary clerical and
25 administrative services for the Alcoholic Beverage Control Board.

26 * Sec. 8. AS 44.25.020(4) is repealed.

27 * Sec. 9 This Order takes effect July 1, 2003.

DATED: _____

Frank H. Murkowski
Governor

Audit Report

DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD
SUNSET REVIEW

November 29, 2002



Audit Control Number:

04-20019-03

Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from the Senate and two from the House. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$6 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed as mandated by Alaska Statutes or at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in Juneau, Anchorage, or at our web site <http://www.legaudit.state.ak.us/>

BUDGET AND AUDIT COMMITTEE

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Representative Mike Hawker
Representative Beth Kerttula
Representative Vic Kohring
Representative Jim Whitaker
Representative Reggie Joule (alternate)
Representative Bill Williams (alternate)

Senator Gene Therriault, Vice Chair
Senator Ben Stevens
Senator Gary Wilken
Senator Con Bunde
Senator Lyman Hoffman
Senator Lyda Green (alternate)

DIVISION OF LEGISLATIVE AUDIT

Pat Davidson, CPA
Legislative Auditor

P.O. Box 113300
Juneau, AK 99811-3300

(907)465-3830, Juneau
(907)561-1445, Anchorage
(907)465-2347, Juneau Fax
(907)561-1452 Anchorage Fax

SENATE COMMITTEE REPORT

DATE: 5/7/03

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 5/13/03

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 234(RLS) am

HB 234 BREWPUBS; ABC BOARD

"An Act extending the termination date of the Alcoholic Beverage Control Board; relating to the sale of beer manufactured at a brewpub; and providing for an effective date."

and recommends:

- be replaced with S CS ~~HB~~ CS HB 234 (L & C)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title - per legal
- new: SCR # 5/9 mem

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DPS	4/24	*		2
REV	4/8		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
Davis <i>Bonnie Davis</i>			L	
French <i>[Signature]</i>			✓	
Seekins <i>Calvin Seekins</i>	✓			
G. Stevens <i>[Signature]</i>			X	
Bunde CHAIR: <i>[Signature]</i>	✓			

SENATE FINANCE COMMITTEE

SIGN-IN

HB 234-BREW PUBS; ABC BOARD

NAME: Pat Davidson Subject/Bill No: HB 234
Co./Dept./Title: Leg Audit Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

SITE: Offnets

COMMITTEE: SFIN

DATE: 5/19/03

SUBJECT OF MEETING:

HB234

UPDATE #:



PLEASE SIGN IN

PLEASE PRINT:

DO YOU WANT

NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

TO TESTIFY?

Y or N

✓ **Doug Griffin**

ABC Board

Y

HB

236

HFIN

FILE

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 26, 2004

SUBJECT: Wage Tax (CSHB 236(FIN))

TO: House Finance Committee
Attn: Shar Smith

FROM: Kathryn L. Kurtz *KLK*
Legislative Counsel

Enclosed is the final version of CSHB 236(FIN). Although the committee did not request any changes from the /X version, in our review of the bill we noticed that the reference on page 5, line 21 to "sec. 2" was incorrect. Section 2 of the bill simply makes a conforming change. Section 3 is the portion of the bill that is implemented by the regulations, and the section that is referred to on page 5, line 20, so the reference on page 5, line 21 should be to sec. 3 as well. We have made this correction in the enclosed version.

KLK:med
04-329.med

Enclosure

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 18, 2004

FURTHER REFERRALS:

Date of Committee Action: 3/25/04

The FINANCE Committee considered:

HB 236

HOUSE BILL NO. 236

EMPLOYMENT TAX FOR EDUCATION

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

Recommends it be replaced with HCS or CS for HB 236 (FIN)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LEG
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
REV		✓		

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
Labour	#1		✓	

No Rec.

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>K. Meyer</i>	Meyer			✓	X
<i>M. Hawks</i>	Hawks	X		✓	
<i>Bill Staff</i>	STAFF		X		X
<i>Frank</i>	Frank			✓	
<i>Robert</i>	ROBERT		✓		
<i>Paul</i>	MOSES			✓	
<i>Chinawit</i>	Chinawit			X	
<i>Foster</i>	FOSTER	X			
Chair: <i>John Harris</i>	Harris				X
Chair: <i>William</i>	William			X	

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB236(W&M)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Employment Tax for Education RDU Revenue Programs & Services
Component Tax Division
Sponsor Representative Wilson
Requester House Finance Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	92.0	92.0	0.0	608.4	915.5	866.3
Travel	6.0	6.0	0.0	14.0	17.0	13.0
Contractual	32.5	100.5	38.0	220.6	206.8	198.6
Supplies	1.0	1.0	0.0	13.0	18.0	17.0
Equipment	8.0		0.0	176.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	139.5	199.5	38.0	1,032.0	1,157.3	1,094.9

CAPITAL EXPENDITURES	330.3	353.0				
-----------------------------	--------------	--------------	--	--	--	--

CHANGE IN REVENUES ()	0.0	0.0	0.0	30,110.4	45,790.8	46,248.7
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	469.8	199.5	38.0	1,032.0	1,157.3	1,094.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Constitutional Budget Reserve Fund						
TOTAL	469.8	199.5	38.0	1,032.0	1,157.3	1,094.9

Estimate of any current year (FY2004) cost: _____

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	1	1	0	13	13	12
Part-time						
Temporary	0	1	0	10	10	10

ANALYSIS: (Attach a separate page if necessary)

See page 2 for analysis.

Prepared by: Chuck Harlamert and Michael Williams Phone 465-2320
Division Tax Division Date/Time 3/18/04 9:49 AM
Approved by: Steve Porter, Deputy Commissioner Date 3/18/2004
Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB236(W&M)

ANALYSIS CONTINUATION

Revenues

Using price figures from the current NYMEX futures curve we project that the cash balance of the CBRF at June 30, 2007 will be below the \$1 billion threshold. Accordingly, this fiscal note assumes that the tax goes into effect as of January 1, 2008. The actual initiation of the tax depends on the price of oil and other factors. The fall forecast suggests an implementation date a year earlier. However, for purposes of illustrating the creation of the systems, a period of dormancy and using the systems to implement the tax we have used a price projection that allows the tax to be implemented after a period of dormancy.

Assuming a 1% employment growth rate and that the tax begins on January 1, 2008, we project FY08 revenues of \$50,110.4 million and revenues of \$45,790.8 million in FY09, the first fiscal year during which the tax is in effect for the entire year. This estimate is based not on the number of jobs in Alaska, but on the number of different individuals who hold those jobs during the year and the number of individuals who are self-employed in the state.

Operating Expenditures

Given the uncertainty in the assumptions described above the department should put in place a technological and administrative infrastructure in preparation for implementation of the program as early as FY07. The fiscal note therefore reflects capital and operating costs for developing the infrastructure during FY05 and FY06. All operating cost estimates assume that the program is wholly administered by the Department of Revenue. The estimates are subject to adjustment based on efficiencies or incremental costs resulting from joint administration with the Department of Labor and Workforce Development.

For purposes of this estimate we assume that we will receive 75,000 returns/reports/payments from businesses and self-employed individuals during the year, plus an estimated 12,000 refund claims.

We project it will require 13 full-time and 10 temporary workers to administer the new program falling to 12 full time staff and 10 temps in the third year of the tax. Staffing costs reflect a start-up group growing to full staffing in the third quarter of FY08. The Department would employ imaging technology and electronic filing as much as possible to reduce the program's costs to the state and to employers.

Contractual costs for FY05 and FY06 include the cost of a project manager to facilitate systems development and implementation. Contractual costs for FY07 represent the estimated fixed costs of systems pending start up.

The \$683,300 capital requests for FY05 and FY06 is to pay for a large-scale imaging and data capture system, to accommodate data for businesses and an estimated 430,000 to 470,000 individuals each year, a web-based system to allow businesses and self-employed individuals to file paperless returns, and electronic filing on magnetic media or disk for businesses.

FISCAL NOTE

CSHB 236(wgm)

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB236CS-DOLWD-UI-03-16-04
() Publish Date:

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: Employment Tax for Education RDU: Employment Security Division
Sponsor: Representative Wilson Component: Unemployment Insurance
Requester: House W&M Component Number: 2276

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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--Do not abbreviate)						
TOTAL	* 0.0	* 0.0	* 0.0	* 0.0	* 0.0	* 0.0

Estimate of any current year (FY2004) cost: None

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

* Indeterminate Fiscal Note - See Attached Analysis.

Prepared by: Thomas W. Nelson, Director Phone 465-5933
Division: Employment Security Division Date/Time 3/16/04 4:18 PM
Approved by: Greg O'Claray, Commissioner Date 3/16/2004
Agency: Department of Labor and Workforce Development

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL VERSION: HB236CS-DOLWD-UI-03-16-04

ANALYSIS: (continued)

The Department of Labor and Workforce Development is submitting an indeterminate fiscal note at this time. Once the details for implementation of the legislation are worked out, the department can provide a more comprehensive cost analysis in cooperation with the Department of Revenue.

Federal grant money may only be used to collect Unemployment Insurance (UI) tax, so all design, programming and ongoing costs for the state 'employment' tax program would be from state general funds.

If the Department of Labor and Workforce Development were to implement and administer this tax it would have to be in accordance with a United States Department of Labor approved cost allocation method.

C 5 HB 236(wgm)

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: #1
Bill Version: HB236CS-DOLWD-UI-03-16-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: Employment Tax for Education RDU: Employment Security Division
Sponsor: Representative Wilson Component: Unemployment Insurance
Requester: House W&M Component Number: 2276

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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--Do not abbreviate)						
TOTAL	* 0.0	* 0.0	* 0.0	* 0.0	* 0.0	* 0.0

Estimate of any current year (FY2004) cost: None
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

* Indeterminate Fiscal Note - See Attached Analysis.

Prepared by: Thomas W. Nelson, Director Phone 465-5933
Division: Employment Security Division Date/Time 3/16/04 4:18 PM
Approved by: Greg O'Claray, Commissioner Date 3/16/2004
Agency: Department of Labor and Workforce Development

FISCAL NOTE

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

BILL VERSION: HB236CS-DOLWD-UI-03-16-04

ANALYSIS: (continued)

The Department of Labor and Workforce Development is submitting an indeterminate fiscal note at this time. Once the details for implementation of the legislation are worked out, the department can provide a more comprehensive cost analysis in cooperation with the Department of Revenue.

Federal grant money may only be used to collect Unemployment Insurance (UI) tax, so all design, programming and ongoing costs for the state 'employment' tax program would be from state general funds.

If the Department of Labor and Workforce Development were to implement and administer this tax it would have to be in accordance with a United States Department of Labor approved cost allocation method.

3.22.04

Failed 1-10

AMENDMENT 1

OFFERED IN THE HOUSE FINANCE COMMITTEE
BY REPRESENTATIVE CROFT

TO: CS HB 236 Work Draft version 23-LS0921\X

Page 1, line 7, after "known as the":

Delete: "Alaska Education Tax"

Insert: "Alaska Regressive Income Tax"

2004 HOUSE FINANCE COMMITTEE VOTE SHEET

DATE: _____

Amendment: # 1 Craft
CS + B 236 Version X

MEMBER	Favor	Oppose
CROFT	X	
FATE		X
FOSTER		X
HAWKER		X
JOULE		X
MEYER		X
MOSES		X
STOLTZE		X
CHENAULT		X
WILLIAMS		X
HARRIS		X

Yea 1

Nay 10

Adopted
3.22.04

23-LS0921\X
Kurtz
3/19/04

CS FOR HOUSE BILL NO. 236()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE WILSON

A BILL

FOR AN ACT ENTITLED

1 **"An Act imposing a limited tax on wages and on net earnings from self-employment;**
2 **relating to the administration and enforcement of that tax; and providing for an**
3 **effective date."**

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

5 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 **SHORT TITLE.** This Act may be known as the Alaska Education Tax Act.

8 *** Sec. 2.** AS 43.10.042(a) is amended to read:

9 (a) A lien imposed under AS 43.10.010 - 43.10.060 is not valid as against a
10 mortgagee or other lien holder, pledgee, purchaser, or judgment creditor until notice of
11 it is recorded in the records of the recording district where the property subject to the
12 lien is situated. However, regardless of the date the liens are recorded, a lien arising
13 out of a tax due under AS 43.45, AS 43.56, and AS 43.75 [AS 43.56 AND 43.75],
14 including the penalties and interest on the tax, is a lien prior, paramount, and superior

1 to all other liens, mortgages, hypothecations, conveyances, and assignments, upon all
2 the real and personal property of the person liable for the tax, and upon all the real and
3 personal property used with the permission of the owner to carry on the business that
4 is subject to the tax.

5 * Sec. 3. AS 43 is amended by adding a new chapter to read:

6 **Chapter 45. Education Tax.**

7 **Sec. 43.45.011. Tax imposed.** (a) There is imposed a tax, not to exceed a
8 combined total of \$100 a calendar year, on wages and net earnings from self-
9 employment in excess of \$600.

10 (b) The rate of the tax is 10 percent.

11 (c) The tax imposed under this section does not apply to wages and net
12 earnings exempt from the tax under federal law.

13 **Sec. 43.45.021. Collection of tax by employer.** (a) An employer shall
14 deduct and withhold 10 percent of an employee's wages subject to withholding under
15 26 U.S.C. 3401 - 3406 on the first regular payroll of the calendar year and from
16 subsequent payrolls until the tax due under this chapter is fully withheld.

17 (b) An employer is liable for the tax required to be withheld from an employee
18 unless the employer can demonstrate that the employer relied on proof provided by the
19 employee that the total tax for the calendar year imposed under AS 43.45.011 had
20 already been withheld under this section or paid under AS 43.45.031. A deduction of
21 the tax may not be made from the wages of an individual who provides proof to the
22 employer that the entire tax imposed under AS 43.45.011 on that individual for the
23 calendar year has already been withheld or paid under AS 43.45.031.

24 (c) Tax withheld by an employer becomes due and shall be paid by an
25 employer to the department in accordance with regulations adopted by the department.

26 (d) An employer shall maintain a record of the amount deducted from the
27 wages of each employee and shall furnish an annual statement of the deductions to
28 each employee and to the department in accordance with regulations adopted by the
29 department.

30 (e) The Department of Revenue may, if it will result in cost savings for the
31 state in the administration of the tax, for employers in the administration of the tax, or

1 for both, to the extent practicable, coordinate collection and reporting of the tax
2 imposed in this chapter with the collection and reporting of employment security
3 contributions by the Department of Labor and Workforce Development, including
4 permitting the Department of Labor and Workforce Development to collect the tax
5 payments and remit them to the Department of Revenue.

6 (f) The department may by regulation provide for an incentive to an employer
7 or a self-employed individual for electronically filing returns and making payments or
8 for other use of technology or filing methodologies to improve the efficiency of tax
9 administration. Regulations adopted under this subsection must

10 (1) establish the duration, level, nature, and value of the incentive; the
11 value of an incentive established under this subsection may not exceed \$300 for each
12 return, application, filing, or payment; and

13 (2) require that the incentive be available only if the return,
14 application, filing, or payment is filed timely with the department under this chapter.

15 **Sec. 43.45.026. Employer security.** (a) If the department determines that an
16 employer has been delinquent in remitting the tax imposed under AS 43.45.011 in
17 accordance with regulations adopted by the department, the department may require
18 the employer to deposit and keep on deposit with the department a sum equal to the
19 tax required to be withheld by the employer during the 12 months immediately
20 preceding the determination of delinquency under this subsection by the department.
21 If the employer was not required to withhold tax during the full 12 months
22 immediately preceding the determination of delinquency, the department may require
23 a deposit equal to the employer's estimated liability for a 12-month period based on
24 the actual liability for the period during which the employer was required to withhold
25 tax.

26 (b) The department may accept a bond or other security equal in value to the
27 deposit required under (a) of this section in lieu of the deposit required under (a) of
28 this section.

29 (c) The provision of a deposit, bond, or other security under this section does
30 not relieve the employer from any other obligation under this title.

31 (d) The department may apply all or part of the deposit, bond, or other security

1 to payment of the tax imposed under AS 43.45.011, and to any interest and penalties
2 imposed under AS 43.45.021.

3 (e) The deposit, bond, or other security provided under this section is exempt
4 from process, attachment, garnishment, or execution unless otherwise provided by
5 law.

6 (f) The department shall return the deposit, bond, or other security to the
7 employer if the employer is timely in filing and remitting the tax under AS 43.45.021
8 for a period of 24 consecutive months.

9 (g) If an employer ceases to be subject to AS 43.45.021, the department shall,
10 after 12 months have elapsed and all liabilities of the employer to the department
11 under this chapter have been satisfied, refund to the employer any remaining deposit,
12 and cancel any bond or other security accepted by the department under this section.

13 **Sec. 43.45.031. Payment of tax by self-employed individual.** A self-
14 employed individual shall remit to the department 10 percent of the individual's net
15 earnings from self-employment in accordance with regulations adopted by the
16 department until the entire tax has been paid.

17 **Sec. 43.45.041. Refund of overpayments.** (a) If an individual pays to the
18 department, directly or through withholding, an amount exceeding the total tax
19 imposed under this chapter during a calendar year and the individual applies for a
20 refund in accordance with regulations adopted by the department, the department shall
21 refund the overpayment to the individual.

22 (b) Interest on an overpayment may not be allowed under AS 43.05.280 if the
23 department refunds the overpayment within 90 days after the date the individual
24 correctly files the refund claim.

25 (c) The Department of Revenue may adopt regulations to coordinate refunds
26 of overpayments under this section with refunds of employment security contributions
27 under AS 23.20.165.

28 (d) An individual may apply for a refund under this section only during the
29 calendar year immediately following the calendar year in which the excess was paid.

30 **Sec. 43.45.051. Report of payments to self-employed individuals.** A person
31 required to report a payment to a self-employed individual to the federal government

1 under 26 U.S.C. shall also report that payment to the department in accordance with
2 regulations adopted by the department.

3 **Sec. 43.45.061. Disposition of tax proceeds.** (a) The tax collected by the
4 department under AS 43.45.021 shall be deposited into the general fund and accounted
5 for separately.

6 (b) The legislature may appropriate the estimated amounts to be collected and
7 separately accounted for under (a) of this section for education.

8 (c) The deposit required and appropriation authorized by this section are not
9 intended to create a dedication in violation of art. IX, sec. 7, Constitution of the State
10 of Alaska.

11 **Sec. 43.45.099. Definitions.** In this chapter,

12 (1) "employee" has the meaning given in 26 U.S.C. 3401;

13 (2) "employer" has the meaning given in 26 U.S.C. 3401;

14 (3) "net earnings from self-employment" has the meaning given in 26
15 U.S.C. 1402;

16 (4) "wages" has the meaning given in 26 U.S.C. 3401.

17 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 REGULATIONS. Notwithstanding sec. 6 of this Act, the Department of Revenue
20 may proceed to adopt regulations to implement sec. 3 of this Act. The regulations take effect
21 under AS 44.62 (Administrative Procedure Act), but not before the effective date of sec. 2 of
22 this Act.

23 * **Sec. 5.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).

24 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect January 1, 2005.

HB 236

Work Draft Version X 3.19.04 (Wilson)

Amendment 1 (Croft) Failed 1-10 on 3.22.04

FN

# 1	Ø	Labor	2276	3.16.04	
			2476	3.17.04	
# 2	\$	DOR/Tax Div			* diff than #2
	\$	DOR/Tax Div	2476	3.18.04	

1 of 2



Alaska State Legislature

Please enter into the record my testimony to the HFIN committee name

committee on HB 236 bill/subject, dated 3-18-04

HB 236 is not an "Education Tax" it is an "employment penalty." Oil and Gas taxes tax Oil and Gas, Income taxes tax incomes, Studded tire taxes tax studded tires. It is akin to false advertising to promote this bill as an education tax when you have no intention of taxing education. This is obviously a dedication of revenue bill in violation of art. IX, sec. 7 notwithstanding the denial contained in Sec. 43.45.061. (c) on page 5 line 23-25.

Art. I sec. 1 Const. of the State of Alaska states in part that All Persons have a natural right... to the enjoyment of the rewards of their own industry ... are equal and entitled to equal rights, opportunities and protection under the law. HB 236 not only deprives a worker of the enjoyment of the rewards of his own industry but also imposes an unequal obligation to the people and to the State. Non-workers should not be exempt from this tax to the detriment of the self-reliant.

Signed: Roger H. Hays
Testifier Self & family
Representing (Optional)
Box 521215 Big Lake AK. 99652
Mailing Address
892-8901
Phone Number

As to this bill suspending the tax if the CBR exceeds 2.5 billion, HB 236 Basically insures that the Govt. will Never allow the CBR to Exceed 2.5 Billion. The Govt. has no incentive to suspend any tax. I would appreciate some feed back from the members of this committee as to what they think next best course of action is.

that I have a natural right to the enjoyment of the ^{pg 2}
rewards of my own industry. Who has a right to my life, ~~my~~
liberty and ^{my} industry. ME? ~~you~~? or my neighbors

1 of 3



Alaska State Legislature

Please enter into the record my testimony to the Finance Committee
committee name

committee on Bill No. 236 dated 03/22/04
bill/subject

I am against this bill Due to the fact I feel it is not fair to all persons who work. One-Retired persons who live on Social Security & work P/T to make ends meet, can't afford to give up \$100 year. ~~even with~~ Second- persons under 18 working only 8 hours a week at minumin wage of \$7.15 week only make \$2974.40 for the year & their reward for being motivated pay a \$100 penalty. The same ~~penalty~~ would happen to persons who are disabled & contributing to society by working P/T are also being pentalized. Would persons on welfare who gett a job Trying to raise above their misfourtures. We will be saying "Here your pentaly" to ~~them~~. Please rethink this Bill No. 236 and. →

Signed: B. Hansen
Testifier Self

Representing (Optional)
801 E Mulekatna Dr Wasilla AK 99654
Mailing Address
907-376-3953
Phone Number

2 of 3



Alaska State Legislature

Please enter into the record my testimony to the Finance Committee
committee name
 committee on Bill No. 236, dated 3/22/04
bill/subject

how it effects the lowest-wage earners in Alaska.

Also you would be asking persons with no children to contribute to public education, I feel it would be better to just charge each student in Public Education a \$100 a year rather Alaska's wage-earner. Or better

Idea how about each ~~Senator~~ Senators & Representatives in a public office give up \$500⁰⁰ a year to education I earned \$18,500 this last year I pay \$1000⁰⁰ a month mortgage, which leaves me with \$6,500 to support my son & self for the year, I have a lot of needs - a better car, health insurance for myself but I don't need a Tax even a \$100. ~~OR~~

Signed: [Signature]
 Testifier Self
 Representing (Optional) _____
 Mailing Address 801 E Mulchatna Dr
 Phone Number 907-376-3953

3 of 3



Alaska State Legislature

Please enter into the record my testimony to the Finance Committee
committee name

committee on Bill No 236, dated 3/22/04
bill/subject

I am suggesting instead of a Tax. How about ~~requiring~~ designing work ~~perm~~ permit system in which each worker ~~bu~~ buys a permit & setting the costs of permit according to F/T or P/T, Resident or non-resident, and using any ~~other~~ other considerations that could be used to set the costs of the permit.

Signed: [Signature]
Testifier Self

Representing (Optional) 801 E Mulchatna Dr In Wasilla AK 99654
Mailing Address 907-376-3953
Phone Number

23-LS0921\X
Kurtz
3/19/04

CS FOR HOUSE BILL NO. 236()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE WILSON

A BILL
FOR AN ACT ENTITLED

1 "An Act imposing a limited tax on wages and on net earnings from self-employment;
2 relating to the administration and enforcement of that tax; and providing for an
3 effective date."

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

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 SHORT TITLE. This Act may be known as the Alaska Education Tax Act.

8 * **Sec. 2.** AS 43.10.042(a) is amended to read:

9 (a) A lien imposed under AS 43.10.010 - 43.10.060 is not valid as against a
10 mortgagee or other lien holder, pledgee, purchaser, or judgment creditor until notice of
11 it is recorded in the records of the recording district where the property subject to the
12 lien is situated. However, regardless of the date the liens are recorded, a lien arising
13 out of a tax due under AS 43.45, AS 43.56, and AS 43.75 [AS 43.56 AND 43.75],
14 including the penalties and interest on the tax, is a lien prior, paramount, and superior

1 to all other liens, mortgages, hypothecations, conveyances, and assignments, upon all
2 the real and personal property of the person liable for the tax, and upon all the real and
3 personal property used with the permission of the owner to carry on the business that
4 is subject to the tax.

5 * Sec. 3. AS 43 is amended by adding a new chapter to read:

6 **Chapter 45. Education Tax.**

7 **Sec. 43.45.011. Tax imposed.** (a) There is imposed a tax, not to exceed a
8 combined total of \$100 a calendar year, on wages and net earnings from self-
9 employment in excess of \$600.

10 (b) The rate of the tax is 10 percent.

11 (c) The tax imposed under this section does not apply to wages and net
12 earnings exempt from the tax under federal law.

13 **Sec. 43.45.021. Collection of tax by employer.** (a) An employer shall
14 deduct and withhold 10 percent of an employee's wages subject to withholding under
15 26 U.S.C. 3401 - 3406 on the first regular payroll of the calendar year and from
16 subsequent payrolls until the tax due under this chapter is fully withheld.

17 (b) An employer is liable for the tax required to be withheld from an employee
18 unless the employer can demonstrate that the employer relied on proof provided by the
19 employee that the total tax for the calendar year imposed under AS 43.45.011 had
20 already been withheld under this section or paid under AS 43.45.031. A deduction of
21 the tax may not be made from the wages of an individual who provides proof to the
22 employer that the entire tax imposed under AS 43.45.011 on that individual for the
23 calendar year has already been withheld or paid under AS 43.45.031.

24 (c) Tax withheld by an employer becomes due and shall be paid by an
25 employer to the department in accordance with regulations adopted by the department.

26 (d) An employer shall maintain a record of the amount deducted from the
27 wages of each employee and shall furnish an annual statement of the deductions to
28 each employee and to the department in accordance with regulations adopted by the
29 department.

30 (e) The Department of Revenue may, if it will result in cost savings for the
31 state in the administration of the tax, for employers in the administration of the tax, or

1 for both, to the extent practicable, coordinate collection and reporting of the tax
2 imposed in this chapter with the collection and reporting of employment security
3 contributions by the Department of Labor and Workforce Development, including
4 permitting the Department of Labor and Workforce Development to collect the tax
5 payments and remit them to the Department of Revenue.

6 (f) The department may by regulation provide for an incentive to an employer
7 or a self-employed individual for electronically filing returns and making payments or
8 for other use of technology or filing methodologies to improve the efficiency of tax
9 administration. Regulations adopted under this subsection must

10 (1) establish the duration, level, nature, and value of the incentive; the
11 value of an incentive established under this subsection may not exceed \$300 for each
12 return, application, filing, or payment; and

13 (2) require that the incentive be available only if the return,
14 application, filing, or payment is filed timely with the department under this chapter.

15 **Sec. 43.45.026. Employer security.** (a) If the department determines that an
16 employer has been delinquent in remitting the tax imposed under AS 43.45.011 in
17 accordance with regulations adopted by the department, the department may require
18 the employer to deposit and keep on deposit with the department a sum equal to the
19 tax required to be withheld by the employer during the 12 months immediately
20 preceding the determination of delinquency under this subsection by the department.
21 If the employer was not required to withhold tax during the full 12 months
22 immediately preceding the determination of delinquency, the department may require
23 a deposit equal to the employer's estimated liability for a 12-month period based on
24 the actual liability for the period during which the employer was required to withhold
25 tax.

26 (b) The department may accept a bond or other security equal in value to the
27 deposit required under (a) of this section in lieu of the deposit required under (a) of
28 this section.

29 (c) The provision of a deposit, bond, or other security under this section does
30 not relieve the employer from any other obligation under this title.

31 (d) The department may apply all or part of the deposit, bond, or other security

1 to payment of the tax imposed under AS 43.45.011, and to any interest and penalties
2 imposed under AS 43.45.021.

3 (e) The deposit, bond, or other security provided under this section is exempt
4 from process, attachment, garnishment, or execution unless otherwise provided by
5 law.

6 (f) The department shall return the deposit, bond, or other security to the
7 employer if the employer is timely in filing and remitting the tax under AS 43.45.021
8 for a period of 24 consecutive months.

9 (g) If an employer ceases to be subject to AS 43.45.021, the department shall,
10 after 12 months have elapsed and all liabilities of the employer to the department
11 under this chapter have been satisfied, refund to the employer any remaining deposit,
12 and cancel any bond or other security accepted by the department under this section.

13 **Sec. 43.45.031. Payment of tax by self-employed individual.** A self-
14 employed individual shall remit to the department 10 percent of the individual's net
15 earnings from self-employment in accordance with regulations adopted by the
16 department until the entire tax has been paid.

17 **Sec. 43.45.041. Refund of overpayments.** (a) If an individual pays to the
18 department, directly or through withholding, an amount exceeding the total tax
19 imposed under this chapter during a calendar year and the individual applies for a
20 refund in accordance with regulations adopted by the department, the department shall
21 refund the overpayment to the individual.

22 (b) Interest on an overpayment may not be allowed under AS 43.05.280 if the
23 department refunds the overpayment within 90 days after the date the individual
24 correctly files the refund claim.

25 (c) The Department of Revenue may adopt regulations to coordinate refunds
26 of overpayments under this section with refunds of employment security contributions
27 under AS 23.20.165.

28 (d) An individual may apply for a refund under this section only during the
29 calendar year immediately following the calendar year in which the excess was paid.

30 **Sec. 43.45.051. Report of payments to self-employed individuals.** A person
31 required to report a payment to a self-employed individual to the federal government

1 under 26 U.S.C. shall also report that payment to the department in accordance with
2 regulations adopted by the department.

3 **Sec. 43.45.061. Disposition of tax proceeds.** (a) The tax collected by the
4 department under AS 43.45.021 shall be deposited into the general fund and accounted
5 for separately.

6 (b) The legislature may appropriate the estimated amounts to be collected and
7 separately accounted for under (a) of this section for education.

8 (c) The deposit required and appropriation authorized by this section are not
9 intended to create a dedication in violation of art. IX, sec. 7, Constitution of the State
10 of Alaska.

11 **Sec. 43.45.099. Definitions.** In this chapter,

12 (1) "employee" has the meaning given in 26 U.S.C. 3401;

13 (2) "employer" has the meaning given in 26 U.S.C. 3401;

14 (3) "net earnings from self-employment" has the meaning given in 26
15 U.S.C. 1402;

16 (4) "wages" has the meaning given in 26 U.S.C. 3401.

17 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 **REGULATIONS.** Notwithstanding sec. 6 of this Act, the Department of Revenue
20 may proceed to adopt regulations to implement sec. 3 of this Act. The regulations take effect
21 under AS 44.62 (Administrative Procedure Act), but not before the effective date of sec. 2 of
22 this Act.

23 * **Sec. 5.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).

24 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect January 1, 2005.

FISCAL NOTE

CSHB236 (W&M)

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB236(W&M)
() Publish Date: _____

#2

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Employment Tax for Education RDU Revenue Programs & Services
Component Tax Division
Sponsor Representative Wilson
Requester House Ways & Means Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	92.0	0.0	608.4	915.5	866.3	866.3
Travel	12.0	0.0	14.0	17.0	13.0	13.0
Contractual	125.0	38.0	220.6	206.8	198.6	198.6
Supplies	1.0	0.0	13.0	18.0	17.0	17.0
Equipment	8.0		176.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	238.0	38.0	1,032.0	1,157.3	1,094.9	1,094.9

CAPITAL EXPENDITURES	683.3					
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CHANGE IN REVENUES ()	0.0	0.0	28,500.0	42,900.0	42,900.0	42,900.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	921.3	38.0	1,032.0	1,157.3	1,094.9	1,094.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Constitutional Budget Reserve Fund						
TOTAL	921.3	38.0	1,032.0	1,157.3	1,094.9	1,094.9

Estimate of any current year (FY2004) cost: _____
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	1	0	13	13	12	12
Part-time						
Temporary	0	0	10	10	10	10

ANALYSIS: (Attach a separate page if necessary)

See page 2 for analysis.

Prepared by: Chuck Harlamert and Michael Williams Phone 465-2320
Division: Tax Division Date/Time 3/17/04 6:34 AM
Approved by: Steve Porter, Deputy Commissioner Date 3/17/2004
Agency: Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB236(W&M)

ANALYSIS CONTINUATION

Revenues

Using figures from the Fall 2003 Forecast updated for actual oil prices and production volumes, we project that the cash balance of the CBRF at June 30, 2006 will be below the \$1.5 billion threshold. Accordingly, this fiscal note assumes that the tax goes into effect as of January 1, 2007. The actual initiation of the tax depends on the price of oil and other factors and could reasonably occur in FY06 or in years after FY07.

The Department estimates the new program could generate as much as \$42.9 million a year in state revenue in a full fiscal year and \$28.5 million in the first fiscal year in which the tax is imposed. This estimate is based not on the number of jobs in Alaska, but on the number of different individuals who hold those jobs during the year and the number of individuals who are self-employed in the state.

Operating Expenditures

Using the previously described assumptions, the department must put in place a technological and administrative infrastructure in preparation for implementation of the program as early as FY06. The fiscal note therefore reflects capital and operating costs for developing the infrastructure during FY05. FY06 operating costs represent system licensing and maintenance costs pending deployment in FY07. All operating cost estimates assume that the program is wholly administered by the Department of Revenue. The estimates are subject to adjustment based on efficiencies or incremental costs resulting from joint administration with the Department of Labor and Workforce Development.

For purposes of this estimate we assume that we will receive 75,000 returns/reports/payments from businesses and self-employed individuals during the year, plus an estimated 12,000 refund claims.

We project it will require 13 full-time and 10 temporary workers to administer the new program falling to 12 full time staff and 10 temps in the third year of the tax. Staffing costs reflect a start-up group growing to full staffing in the third quarter of FY07. The Department would employ imaging technology and electronic filing as much as possible to reduce the program's costs to the state and to employers.

Contractual costs for FY05 include the cost of a project manager to facilitate systems development and implementation.

The \$683,300 capital request for FY05 is to pay for a large-scale imaging and data capture system, to accommodate data for businesses and an estimated 429,000 individuals each year, a web-based system to allow businesses and self-employed individuals to file paperless returns, and electronic filing on magnetic media or disk for businesses.

Alaska State Legislature

House Special Committee on Ways and Means

Representative Mike Hawker, Chairman

Session Contact:

State Capitol, Room 434

Juneau, AK. 99801

Phone (907) 465-4949

Fax (907) 465-4979

Staff Contact: Pauly Swanson (907) 465-6820



Interim Contact:

716 W. 4th Ave Room 620

Anchorage, AK 99501-2133

Phone: (907) 269-0244

Fax: (907) 269-0248

Sectional Analysis CSHB 236 (W&M)

This Act imposes an education tax on wages and net earnings from self-employment in Alaska and provides that the tax collected be separately accounted for and may be appropriated for education. The tax imposed may not exceed \$100 per calendar year.

Section 1: Provides a short title: Alaska Education Tax Act.

Section 2: Adds the education tax to the list of taxes that are prior, paramount and superior to all other liens upon the real and personal property of the person liable for the tax.

Section 3:

43.45.011: Imposes a tax, not to exceed a combined total of \$100 a calendar year on wages and net earnings from self-employment in excess of \$600. The tax is imposed at a rate of 0% on the first \$600 of earnings, 10% on the next \$1,000 of earnings and 0% on all other earnings. Section 2 also provides that this tax is imposed only in calendar years following a June 30 fiscal year end when the cash balance in the Constitutional Budget Reserve Fund is less than \$1.0 billion. The tax is suspended in a subsequent calendar year following a June 30 fiscal year end when the cash balance in the Constitutional Budget Reserve Fund is greater than \$2.5 billion.

43.45.021: Provides that the education tax is to be collected from wages by employers in accordance with regulations adopted by the Department of Revenue.

43.45.026: Provides that the department may require security deposits from employers who have been delinquent in remitting the education tax.

43.45.031: Provides that self-employed individuals remit their education tax in accordance with regulations adopted by the Department of Revenue.

Committee Members:

Representative Ralph Samuels • Representative Vic Kohring • Representative Norman Rokoberg
Representative Bruce Weyhrauch • Representative Peggy Wilson • Representative Dan Ogg
Representative Max Gruenberg • Representative Carl Moses

43.45.041: Provides for refunds of overpayment of the education tax.

43.45.051: Requires that a person required to report a payment to a self-employed individual to the federal government report the same information to the Department of Revenue.

43.45.061: Provides that the tax collected be accounted for separately and may be used for education.

43.45.099: Defines critical terms by reference to the Internal Revenue Code (26 U.S.C.)

Section 4: Allows the department to develop regulation to implement the Act before the effective date of the Act.

Section 5: Allows Section 4 of the Act to take effect immediately.

Section 6: Allows the other sections of the Act to take effect January 1, 2005, although the education tax will not actually be imposed until the CBR trigger point is reached.

Alaska State Legislature

House Special Committee on Ways and Means

Representative Mike Hawker, Chairman

Session Contact:

State Capitol, Room 434

Juneau, AK. 99801

Phone (907) 465-4949

Fax (907) 465-4979

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Interim Contact:

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Anchorage, AK 99501-2133

Phone: (907) 269-0244

Fax: (907) 269-0248

Sponsor Statement and Sectional Analysis

CSHB 298 (W&M) - Version \S

HB 298 is effective only if a Percent of Market Value (POMV) constitutional amendment is approved by the voters during the 2004 general election and takes effect. HB 298 provides conforming language to existing statute to accommodate changing the constitutional requirement that all income of the Permanent Fund be deposited into the general fund to the more limiting appropriation mechanism of "up to 5%" of market value in the proposed POMV constitutional amendment and to recognize the merger of the Earnings Reserve Fund into the Permanent Fund.

HB 298 also provides that the annual appropriation from the Permanent Fund under the POMV management structure be divided equally between paying individual dividends and public services.

Section 1: Amends the basis for the Alaska jury list to people applying for a Permanent Fund Dividend. Former language referenced applicants for a "distribution of Alaska Income."

Section 2: Changes Legislative Budget and Audit Committee duties from making annual recommendations for investment policy for the "income" of the Permanent Fund to making annual recommendation for investment policy for the Permanent Fund. This change is consistent with the merger of the Earnings Reserve (income) Account into the Permanent Fund itself and with the general oversight responsibilities of the LB&A committee for the Permanent Fund and its operations.

Section 3(a): Provides that no appropriation shall be made from the Permanent Fund in excess of the average 10-year real rate of return. If the fund does not make a 5% real return over 10 years, the amount available for appropriation is reduced to that real return. This provision provides a statutory framework for implementing the "up to 5%" provision in the proposed POMV constitutional amendment.

Committee Members:

Representative Ralph Samuels • Representative Vic Kohring • Representative Norman Rokeberg

Representative Bruce Weyhrauch • Representative Peggy Wilson • Representative Dan Ogg

Representative Max Gruenberg • Representative Carl Moses

Section 3(b): Provides that annual appropriations from the Permanent Fund be divided equally between paying individual dividends and public services.

Section 4: The proposed POMV constitutional amendment allows appropriations based on the "market value" of the fund. This section provides a statutory mandate that "market value" be determined in accordance with generally accepted accounting principles.

Section 5: Eliminates the current statutory provision that any unexpended operating budget of the Permanent Fund Corporation be included in the determination of "income" of the fund for the calculation of income available for distribution. The determination of income available for distribution will no longer be required under the proposed POMV constitutional amendment that bases the amount that can be distributed on market value. Accordingly, this provision is no longer relevant.

Section 6: The Permanent Fund Corporation manages the investment portfolio of the Mental Health Trust Authority. Current statute provides that the income from those funds be determined "in the same manner the corporation determines the net income of the Alaska Permanent Fund..." The Mental Health Trust Authority has previously adopted a POMV style management. This section provides a statutory mandate that the net income of the Mental Health Trust fund be determined in accordance with generally accepted accounting principles. This is the same language that is being adopted for the Permanent Fund itself in Section 4.

Section 7: This section changes language in the existing Permanent Fund Dividend payment statutes to language that conforms to the proposed POMV methodology. This change has no substantive consequence on the current dividend payment statutes.

Section 8: This section changes language in the disclosures required on the payment stub for Permanent Fund Dividends to language that conforms to the proposed POMV methodology. This change has no substantive consequence on the disclosures required.

Section 9: Repeals statute that will be superseded by operation of the proposed POMV constitutional amendment. AS 37.13.140 defined income and net income of the Permanent Fund for purposes of making distributions. Under the proposed POMV constitutional amendment, distributions are based on Market Value not on income. AS 37.13.145 defined the disposition of the income of the permanent fund including inflation proofing and transfers to the dividend account. Inflation proofing is inherent in the proposed POMV constitutional amendment and Section 3 of this legislation provides for transfers to the dividend account.

Section 10: Provides that this Act takes effect only if a POMV amendment is approved by the voters during the 2004 general election and takes effect.

Section 11: Provides that, Subject to Section 10, the effective date of this act will be January 1, 2005.



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Fin Com.

Committee on CS HB 236 Dated Mar 18, 2004
Bill / Subject Committee Name

I request your committee consider not passing this bill out of your committee until you review substituting a graduated income tax to provide this funding source for CBR replacement, as intended by HB 236. I want to see Alaskans with many different types of income to provide for the replacement of funds into the CBR and not just those who are employed. ~~with~~ We need to spread this replacement allocation among all of us Alaskans as is the distribution of the PFD

SIGNED:

Luke T Hopkins
Testifier
self Luke T Hopkins
Representing
PO Box 81622, FLS 955-6805
Address / Phone Number



Alaska State Legislature

Please enter into the record my testimony to the HFIN committee name

committee on HB 236, dated 3-18-04
bill/subject

HB 236 is not an "Education Tax" it is an "employment penalty" Oil and Gas taxes tax Oil and Gas, Income taxes tax incomes, Studded tire taxes tax studded tires. It is akin to false advertising to promote this bill as an education tax when you have no intention of taxing education. This is obviously a dedication of revenue bill in violation of art. IX, sec. 7 notwithstanding the denial contained in Sec. 43.45.061. (c) on page 5 line 23-25.

Art. I sec. 1 Const. of the State of Alaska states in part that All Persons have a natural right... to the enjoyment of the rewards of their own industry ... are equal and entitled to equal rights, opportunities and protection under the law. HB 236 not only deprives a worker of the enjoyment of the rewards of his own industry but also imposes an unequal obligation to the people and to the State. Non-workers should not be exempt from this tax to the detriment of the self-reliants.

Signed: Roger H. May

Testifier Self & family

Representing (Optional) Box 521215 Big Lake AK. 99652

Mailing Address 892-8901

Phone Number

As to this bill suspending the tax if the CBR exceeds 2.5 billion. HB 236 Basically insures that the Govt. will Never allow the CBR to Exceed 2.5 Billion. The Govt. has no incentive to suspend any tax.



Alaska State Legislature

Representative Peggy Wilson
Putting Alaska's Families First

Sponsor Statement

"Tax on Employment for Education"

CSHB 236 (W&M)

For many years Alaska had a School Tax that was paid by all employed persons. The money went into the general fund and became a portion of the dollars legislators earmarked for education. When Alaskans thought they were rich beyond their wildest dreams and the supply of oil money was endless the "School Tax" was repealed.

CSHB 236 (W&M) imposes a \$100 "Alaska Education Tax" to be paid by all employed persons including self-employed who earn more than \$600 in Alaska. This is a way to assure that all persons who earn money in Alaska pay something for the services we all receive. It is a way to collect some money from the 18.2% of workers who earn their living here but reside somewhere else.

CSHB 236 (W&M) contains a trigger. The "Alaska Education Tax" would be imposed only in calendar years following a June 30 fiscal year end when the cash balance in the Constitutional Budget Reserve fund is less than \$1 billion. The tax would be suspended in a subsequent calendar year following a June 30 fiscal year end when the cash balance in the Constitutional Budget Reserve Fund is greater than \$2.5 billion.

The tax collected would be deposited into the state's general fund and accounted for separately. The legislature may then appropriate the amounts collected under this section for education. The Department of Revenue projects annual earnings from CSHB 236 (W&M) to be approximately \$43 million.

Alaska State Legislature

House Special Committee on Ways and Means

Representative Mike Hawker, Chairman

Session Contact:

State Capitol, Room 434

Juneau, AK. 99801

Phone (907) 465-4949

Fax (907) 465-4979

Staff Contact: Pauly Swanson (907) 465-6820



Interim Contact:

716 W. 4th Ave Room 620

Anchorage, AK 99501-2133

Phone: (907) 269-0244

Fax: (907) 269-0248

Sectional Analysis CSHB 236 (W&M) – Version \ V

This Act imposes an education tax on wages and net earnings from self-employment in Alaska and provides that the tax collected be separately accounted for and may be appropriated for education. The tax imposed may not exceed \$100 per calendar year.

Section 1: Adds the education tax to the list of taxes that are prior, paramount and superior to all other liens upon the real and personal property of the person liable for the tax.

Section 2:

43.45.011: Imposes a tax, not to exceed a combined total of \$100 a calendar year on wages and net earnings from self-employment in excess of \$600. The tax is imposed at a rate of 0% on the first \$600 of earnings, 10% on the next \$1,000 of earnings and 0% on all other earnings. Section 2 also provides that this tax is imposed only in calendar years following a June 30 fiscal year end when the cash balance in the Constitutional Budget Reserve Fund is less than \$1.5 billion. The tax is suspended in a subsequent calendar year following a June 30 fiscal year end when the cash balance in the Constitutional Budget Reserve Fund is greater than \$2.5 billion.

43.45.021: Provides that the education tax is to be collected from wages by employers in accordance with regulations adopted by the Department of Revenue.

43.45.026: Provides that the department may require security deposits from employers who have been delinquent in remitting the education tax.

43.45.031: Provides that self-employed individuals remit their education tax in accordance with regulations adopted by the Department of Revenue.

43.45.041: Provides for refunds of overpayment of the education tax.

Committee Members:

Representative Ralph Samuels • Representative Vic Kohring • Representative Norman Rokeberg
Representative Bruce Weyhrauch • Representative Peggy Wilson • Representative Dan Ogg
Representative Max Gruenberg • Representative Carl Moses

43.45.051: Requires that a person required to report a payment to a self-employed individual to the federal government report the same information to the Department of Revenue.

43.45.061: Provides that the tax collected be accounted for separately and may be used for education.

43.45.099: Defines critical terms by reference to the Internal Revenue Code (26 U.S.C.)

Section 3: Allows the department to develop regulation to implement the Act before the effective date of the Act.

Section 4: Allows Section 3 of the Act to take effect immediately.

Section 5: Allows the other sections of the Act to take effect January 1, 2005, although the education tax will not actually be imposed until the CBR trigger point is reached.

Subject: HB 236 Version V

Date: Tue, 16 Mar 2004 16:07:45 -0900

From: "Don Rulien" <drulien@rulienwhitlock.com>

To: <representative_mike_hawker@legis.state.ak.us>

Representative Mike Hawker,

I have read through Version V of HB 236 "Education Tax", the newest version has dealt with many of my concerns regarding who will be taxed. By incorporating the definition of self employment earnings and the W-2 wage earner under this bill, you have successfully taxed all qualified individuals. I hope that the Department of Revenue can mimic the Employment Security Tax regulations regarding the collection and payment of this tax. Small businesses in Alaska would be able to make a simple transition for the collection and payment of this tax, as it would be similar to the current collection of Employment Security Tax.

Thank you,

Don Rulien

Don Rulien

Rulien, Whitlock & Associates, LLC

1407 W. 31st Avenue, Suite 500

Anchorage, AK 99503

email drulien@rulienwhitlock.com

Tel. 907-272-1421

Fax 907-272-8556

ALASKA COUNCIL



OF SCHOOL ADMINISTRATORS

326 Fourth Street, Suite 404 • Juneau, Alaska 99801
Phone: (907) 586-9702 • Fax: 586-5879
web site: www.alaskaacsa.org

Alaska Council of School Administrators

January 27, 2004

The Honorable Peggy Wilson
House of Representatives
Alaska State Capitol
Juneau, Alaska 99801-1182

Dear Representative Wilson:

This letter is to support HB 236, *Employment Tax for Education*, a bill that would help address the State's fiscal problem and be part of a comprehensive fiscal plan for Alaska. The ACSA membership has endorsed a resolution (attached) calling for a three-pronged approach to deal with our state's fiscal issues.

The ACSA membership strongly urges the Legislature to consider all three options outlined in our resolution (budget discipline, POMV approach to use of the fund and broad-based taxes). We do not favor invoking one or two of the above options, but rather support using all three in some form.

ACSA contends that a variety of steps are necessary to ameliorate the current fiscal situation facing Alaskans. We think HB 236 is part of a larger solution to our state's problems.

Respectfully,

Mary A. Francis, Ph.D.
Executive Director

MF:klc

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Resolution 03-8

COMPREHENSIVE FISCAL PLAN

WHEREAS, the Alaska Council of School Administrators includes the educational and business leadership of public education in Alaska; and

WHEREAS, public education is a significant economic force throughout the State educating in excess of 134,000 students and employing more than 10,000 teachers, administrators and support personnel; and

WHEREAS, the economic vitality of the State impacts education's ability to conduct the business of operating Alaska's schools and school districts; and

WHEREAS, ACSA is eager to support a responsible and committed effort to address the fiscal challenges Alaska currently faces; and

WHEREAS, ACSA believes Alaska needs a comprehensive fiscal plan to address the priorities of the State in relation to the available resources and desired services; and

WHEREAS, ACSA believes that reform will require budget discipline, use of Permanent Fund earnings and the institution of broad-based taxes; now

THEREFORE IT IS RESOLVED that the Alaska Council of School Administrators supports the Percent of Market Value (POMV) approach to using earnings from the Permanent Fund as one part of a sound and responsible solution to increasing revenue to meet services and obligations of the State of Alaska.

Adopted by the Alaska Council of School Administrators (AASA, AAESP, AASSP and ALASBO) October and December 2003.

NATIONAL PAYROLL REPORTING CONSORTIUM, INC.

ADVANTAGE PAYROLL SERVICES, INC AUTOMATIC DATA PROCESSING, INC CERIDIAN CORPORATION COMPUPAY, INC
FEDERAL LIAISON SERVICES, INC FIDELITY EMPLOYER SERVICES Co, LLC INTERPAY, INC INTUIT INC
PAYCHEX, INC PAYROLL PEOPLE, INC PRIMEPAY, INC PROBUISSNESS SERVICES, INC
PO Box 1836 AUBURN, ME 04211-1836 WEBSITE: WWW.NPRC-INC.ORG

May 13, 2003

Representative Mike Hawker
Co-Chair, House Ways & Means Committee
Alaska State Legislature
State Capital, Room 434
Juneau, AK 99801-1182

Dear Representative Hawker:

This letter from the NPRC is being sent to your office in response to Alaska House Bill No. 236, a proposal that would create a state tax on employment with an effective date of July 1, 2003 for Alaska workers 19-years of age or older.

The *National Payroll Reporting Consortium* (NPRC), is a non-profit trade association whose member organizations provide payroll processing and related services to over one million employers nationwide. NPRC member companies handle payroll processing for over one-third of the private sector work force, and file and pay employment taxes in every state. The group's mission is to proactively address major policy, administrative and systemic issues that impact employers and their service providers.

Although members of the NPRC take no official position on whether the State of Alaska should or should not create an employment tax, we would like to provide constructive feedback concerning some of the implications of House Bill No. 236 that could adversely impact employers, their payroll tax service providers, and the Alaska Department of Revenue (DOR).

Upon initial review of this bill, NPRC members question the ease of collection and payment methodology of this proposed employment tax. In its present form, within *Sec. 43.45.021* of HB 236, the proposed administrative strategy of this employment tax deviates significantly from the way other states direct employers to withhold employment taxes from their employees' wages.

The following bullet points are provided to communicate potential pitfalls for Alaska employers, payroll reporting agents, software vendors, and the Alaska Department of Revenue should this bill be enrolled into state law in its current form:

- Since no other state withholding tax formula is currently set-up and administered like the one proposed in House Bill No. 236, accounting and payroll tax systems commonly used today by employers to administrate and pay their state withholding tax obligations would need "special" and labor intensive programming to accommodate this very unique tax calculation (referenced in *Sec. 43.45.021* of HB 236). Significant changes to accounting and payroll tax systems typically require at least 6-months of lead-time to budget, plan,

test and execute. These tasks also require continual technical guidance and feedback from the tax agency officials who would administer this withholding tax to ensure proper compliance with the law. At this juncture, a July 1, 2003 effective date of this tax would not be achievable for the employer, software vendor, and withholding tax reporting communities. NPRC members strongly suggest that this tax be administered on a calendar year basis, not on a fiscal year basis. (Note: In lieu of a the current withholding tax calculation, perhaps the Alaska legislature would consider a \$100 "head-tax", administered like an "local level" earned income tax within the Commonwealth of Pennsylvania.)

- Although *Sec. 43.45.011 (b) and (c)* briefly touches on the definition of "compensation" that would be applicable to this new employment tax, the NPRC would suggest that the final iteration of the bill elaborate on this topic further so that it is clear to employers and their reporting agents as to what type of compensation should be taxed. Perhaps the bill could follow the federal definition of wages for state income tax purposes. As well, the NPRC believes that the state should adopt the federal income tax definitions of "employer" and "employee" for the purpose of consistency and administrative convenience.
- Specifically, the particular age threshold (19 years of age) for collecting the employment tax (outlined in *Sec. 43.45.001* of HB 236) could be problematic for some employers and the accounting/payroll tax systems they may use within their organizations. Some systems may not be able to easily accommodate this age threshold requirement to collect the proposed \$100 annual withholding tax, creating a more manual age validation and tracking process for the HR and/or payroll departments of Alaska employers. NPRC members and employers would prefer to see the age threshold eliminated from the proposal.
- Especially in today's economy, some individuals frequently work for multiple employers. With this in mind, it is likely that Alaska employers would not have any knowledge or visibility of the other working relationships that their workers may potentially have with other employers. This means that without some communication and education plan executed by the Alaska Department of Revenue (with the help of the employer, accounting and payroll communities) and directed at Alaska workers on this matter, workers may have their \$100 employment tax withheld more than once during a tax year. Although House Bill No. 236 does permit taxpayers to claim a refund from the Department of Revenue when they pay more than \$100 in annual withholding tax, some taxpayers may not even notice that they paid more than required tax until they receive their annual Forms W-2 from all of their employers. This situation could create potential worker/taxpayer relations problems for employers and the Alaska Department of Revenue due to the potential whirlwind of employee/taxpayer queries about their refunds. Again, a July 1, 2003 effective date of this tax would not provide sufficient time to effectively educate workers and the accounting community about this new withholding tax.

The following questions are also items identified by NPRC members that we believe need clarification or guidance from the Alaska Department of Revenue, if and when this employment tax is implemented:

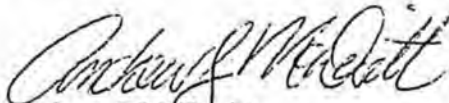
- Which classification of employee is subject to this withholding tax and which is excluded (e.g. members of the clergy)
- Will there be a withholding tax coupon to be used by employers when remitting the tax? Will the Alaska DOR require a quarterly/annual reconciliation tax return? If so, what would be the due dates of each? Will the Alaska DOR accept substitute forms from NPRC members and other reporting agents? What would be the substitute form approval process?
- What would be the deposit frequency of this withholding tax? Would there be more than one deposit frequency based on particular dollar thresholds determined by the Alaska DOR? (Note: NPRC members would prefer a monthly deposit frequency.)

The NPRC appreciates the opportunity to comment on this legislative proposal and would welcome the opportunity to provide you and other Alaska legislators with additional payroll tax industry knowledge on withholding tax matters, based on our experiences and best practices. Our members have many years of experience working with other state tax authorities on employment tax issues and would be willing to meet with you in person to share our perspectives on this subject.

Should you have any questions concerning our feedback, please do not hesitate to contact us at (925) 737-3196.

Thank you for your time and attention.

Sincerely,



Andrew J. McDevitt
National Payroll Reporting Consortium

C.c. NPRC Members
Alaska Department of Revenue

From the U.S. Code Online via GPO Access
[wais.access.gpo.gov]
[Laws in effect as of January 7, 2003]
[Document not affected by Public Laws enacted between
January 7, 2003 and February 12, 2003]
[CITE: 26USC3401]

TITLE 26--INTERNAL REVENUE CODE

Subtitle C--Employment Taxes

CHAPTER 24--COLLECTION OF INCOME TAX AT SOURCE ON WAGES

Sec. 3401. Definitions

(a) Wages

For purposes of this chapter, the term ``wages'' means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include remuneration paid--

(1) for active service performed in a month for which such employee is entitled to the benefits of section 112 (relating to certain combat zone compensation of members of the Armed Forces of the United States) to the extent remuneration for such service is excludable from gross income under such section; or

(2) for agricultural labor (as defined in section 3121(g)) unless the remuneration paid for such labor is wages (as defined in section 3121(a)); or

(3) for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority; or

(4) for service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if--

(A) on each of some 24 days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business; or

(B) such individual was regularly employed (as determined under subparagraph (A)) by such employer in the performance of such service during the preceding calendar quarter; or

(5) for services by a citizen or resident of the United States for a foreign government or an international organization; or

(6) for such services, performed by a nonresident alien individual, as may be designated by regulations prescribed by the Secretary; or

[(7) Repealed. Pub. L. 89-809, title I, Sec. 103(k), Nov. 13, 1966, 80 Stat. 1554]

(8)(A) for services for an employer (other than the United States or any agency thereof)--

(i) performed by a citizen of the United States if, at the time of the payment of such remuneration, it is reasonable to believe that such remuneration will be excluded from gross income under section 911; or

(ii) performed in a foreign country or in a possession of the United States by such a citizen if, at the time of the payment of such remuneration, the employer is required by the

law of any foreign country or possession of the United States to withhold income tax upon such remuneration; or

(B) for services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within a possession of the United States (other than Puerto Rico), if it is reasonable to believe that at least 80 percent of the remuneration to be paid to the employee by such employer during the calendar year will be for such services; or

(C) for services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within Puerto Rico, if it is reasonable to believe that during the entire calendar year the employee will be a bona fide resident of Puerto Rico; or

(D) for services for the United States (or any agency thereof) performed by a citizen of the United States within a possession of the United States to the extent the United States (or such agency) withholds taxes on such remuneration pursuant to an agreement with such possession; or

(9) for services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(10) (A) for services performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; or

(B) for services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such services, or is entitled to be credited with the unsold newspapers or magazines turned back; or

(11) for services not in the course of the employer's trade or business, to the extent paid in any medium other than cash; or

(12) to, or on behalf of, an employee or his beneficiary--

(A) from or to a trust described in section 401(a) which is exempt from tax under section 501(a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust; or

(B) under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a); or

(C) for a payment described in section 402(h)(1) and (2) if, at the time of such payment, it is reasonable to believe that the employee will be entitled to an exclusion under such section for payment; or

(D) under an arrangement to which section 408(p) applies; or

(E) under or to an eligible deferred compensation plan which, at the time of such payment, is a plan described in section 457(b) which is maintained by an eligible employer described in section 457(e)(1)(A), \1\ or

\1\ So in original. The comma probably should be a semicolon.

(13) pursuant to any provision of law other than section 5(c) or 6(1) of the Peace Corps Act, for service performed as a volunteer or volunteer leader within the meaning of such Act; or

(14) in the form of group-term life insurance on the life of an employee; or

(15) to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to

believe that a corresponding deduction is allowable under section 217 (determined without regard to section 274(n)); or
 (16) (A) as tips in any medium other than cash;
 (B) as cash tips to an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is \$20 or more; \2\

 \2\ So in original. Probably should be followed by ``or''.

(17) for service described in section 3121(b)(20); \2\
 (18) for 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 or 129; \2\
 (19) for any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 74(c), 117, or 132; \2\
 (20) for any medical care reimbursement made to or for the benefit of an employee under a self-insured medical reimbursement plan (within the meaning of section 105(h)(6)); or
 (21) for any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b).

(b) Payroll period

For purposes of this chapter, the term ``payroll period'' means a period for which a payment of wages is ordinarily made to the employee by his employer, and the term ``miscellaneous payroll period'' means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual or annual payroll period.

(c) Employee

For purposes of this chapter, the term ``employee'' includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term ``employee'' also includes an officer of a corporation.

(d) Employer

For purposes of this chapter, the term ``employer'' means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that--

(1) if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term ``employer'' (except for purposes of subsection (a)) means the person having control of the payment of such wages, and

(2) in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term ``employer'' (except for purposes of subsection (a)) means such person.

(e) Number of withholding exemptions claimed

For purposes of this chapter, the term ``number of withholding exemptions claimed'' means the number of withholding exemptions claimed in a withholding exemption certificate in effect under section 3402(f), or in effect under the corresponding section of prior law, except that

if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero.

(f) Tips

For purposes of subsection (a), the term ``wages'' includes tips received by an employee in the course of his employment. Such wages shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) or (if no statement including such tips is so furnished) at the time received.

[(g) Repealed. Pub. L. 101-140, title II, Sec. 203(a)(2), Nov. 8, 1989, 103 Stat. 830]

(h) Crew leader rules to apply

Rules similar to the rules of section 3121(o) shall apply for purposes of this chapter.

(Aug. 16, 1954, ch. 736, 68A Stat. 455; Aug. 9, 1955, ch. 681, 69 Stat. 616; Pub. L. 87-256, Sec. 110(g)(1), Sept. 21, 1961, 75 Stat. 537; Pub. L. 87-293, title II, Sec. 201(c), Sept. 22, 1961, 75 Stat. 625; Pub. L. 87-792, Sec. 7(1), Oct. 10, 1962, 76 Stat. 830; Pub. L. 88-272, title II, Secs. 204(b), 213(c), Feb. 26, 1964, 78 Stat. 36, 52; Pub. L. 89-97, title III, Sec. 313(d)(1), (2), July 30, 1965, 79 Stat. 383, 384; Pub. L. 89-809, title I, Sec. 103(k), Nov. 13, 1966, 80 Stat. 1554; Pub. L. 92-279, Sec. 2, Apr. 26, 1972, 86 Stat. 125; Pub. L. 93-406, title II, Sec. 2002(g)(7), Sept. 2, 1974, 88 Stat. 970; Pub. L. 94-455, title XII, Sec. 1207(e)(1)(C), title XV, Sec. 1501(b)(7), title XIX, Secs. 1903(c), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1707, 1736, 1810, 1834; Pub. L. 95-600, title I, Sec. 164(b)(1), Nov. 6, 1978, 92 Stat. 2813; Pub. L. 95-615, Sec. 207(a), Nov. 8, 1978, 92 Stat. 3108; Pub. L. 96-222, title I, Sec. 103(a)(13)(A), Apr. 1, 1980, 94 Stat. 213; Pub. L. 97-34, title I, Secs. 112(b)(5), 124(e)(2)(A), title III, Sec. 311(h)(6), Aug. 13, 1981, 95 Stat. 195, 200, 282, Pub. L. 97-448, title I, Sec. 103(c)(12)(B), Jan. 12, 1983, 96 Stat. 2577; Pub. L. 98-369, div. A, title IV, Sec. 491(d)(38), title V, Sec. 531(d)(4), July 18, 1984, 98 Stat. 851, 885; Pub. L. 99-514, title I, Sec. 122(e)(4), title XII, Sec. 1272(c), Oct. 22, 1986, 100 Stat. 2112, 2594; Pub. L. 100-647, title I, Secs. 1001(g)(4)(B)(iii), 1011(f)(9), 1011B(a)(22)(D), (33), Nov. 10, 1988, 102 Stat. 3352, 3463, 3486, 3488; Pub. L. 101-140, title II, Sec. 203(a)(2), Nov. 8, 1989, 103 Stat. 830; Pub. L. 101-239, title VII, Sec. 7631(a), (b), Dec. 19, 1989, 103 Stat. 2378; Pub. L. 101-508, title XI, Sec. 11703(f)(1), Nov. 5, 1990, 104 Stat. 1388-517; Pub. L. 104-117, Sec. 1(c), Mar. 20, 1996, 110 Stat. 828; Pub. L. 104-188, title I, Secs. 1421(b)(8)(D), 1704(t)(4)(C), Aug. 20, 1996, 110 Stat. 1798, 1887; Pub. L. 104-191, title III, Sec. 301(c)(2)(C), Aug. 21, 1996, 110 Stat. 2049; Pub. L. 105-206, title VI, Sec. 6023(14), (15), July 22, 1998, 112 Stat. 825; Pub. L. 107-16, title VI, Sec. 641(a)(1)(D)(i), June 7, 2001, 115 Stat. 119.)

Amendment of Section

For termination of amendment by section 901 of Pub. L. 107-16, see Effective and Termination Dates of 2001 Amendment note below.

References in Text

Sections 5(c) and 6(1) of the Peace Corps Act, referred to in subsec. (a)(13), are classified to sections 2504(c) and 2505(1), respectively, of Title 22, Foreign Relations and Intercourse.

Amendments

2001--Subsec. (a)(12)(E). Pub. L. 107-16, Secs. 641(a)(1)(D)(i), 901, temporarily added subpar. (E). See Effective and Termination Dates of 2001 Amendment note below.

1998--Subsec. (a)(19), (21). Pub. L. 105-206 inserted ``for'' after par. designation.

1996--Subsec. (a)(1). Pub. L. 104-188, Sec. 1704(t)(4)(C), substituted ``combat zone compensation'' for ``combat pay''.

Pub. L. 104-117 inserted before semicolon ``to the extent remuneration for such service is excludable from gross income under such section''.

Subsec. (a)(12)(D). Pub. L. 104-188, Sec. 1421(b)(8)(D), added subpar. (D).

Subsec. (a)(21). Pub. L. 104-191 added par. (21).

1990--Subsec. (a)(20). Pub. L. 101-508 added par. (20).

1989--Subsec. (a)(2). Pub. L. 101-239, Sec. 7631(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ``for agricultural labor (as defined in section 3121(g)); or''.

Subsec. (g). Pub. L. 101-140 amended this section to read as if amendments by Pub. L. 100-647, Sec. 1011B(a)(22)(D), had not been enacted, see 1988 Amendment note below.

Subsec. (h). Pub. L. 101-239, Sec. 7631(b), added subsec. (h).

1988--Subsec. (a)(12)(C). Pub. L. 100-647, Sec. 1011(f)(9), substituted ``section 402(h)(1) and (2)'' for ``section 219'' and ``an exclusion'' for ``a deduction''.

Subsec. (a)(15). Pub. L. 100-647, Sec. 1001(g)(4)(B)(iii), inserted ``(determined without regard to section 274(n))'' after ``section 217''.

Subsec. (a)(19), (20). Pub. L. 100-647, Sec. 1011B(a)(33), redesignated par. (20) as (19) and struck out former par. (19) which excluded medical care reimbursement made to or for benefit of employee under self-insured medical reimbursement plan.

Subsec. (g). Pub. L. 100-647, Sec. 1011B(a)(22)(D), added subsec. (g) relating to benefits provided under certain employee benefit plans.

1986--Subsec. (a)(8)(D). Pub. L. 99-514, Sec. 1272(c), added subpar. (D).

Subsec. (a)(20). Pub. L. 99-514, Sec. 122(e)(4), inserted reference to section 74(c).

1984--Subsec. (a). Pub. L. 98-369, Sec. 531(d)(4)(A), inserted ``(including benefits)'' in introductory provisions.

Subsec. (a)(12). Pub. L. 98-369, Sec. 491(d)(38), struck out subpar. (C) which provided: ``under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in section 405(a);'' and redesignated subpar. (D) as (C).

Subsec. (a)(20). Pub. L. 98-369, Sec. 531(d)(4)(B), added par. (20).

1983--Subsec. (a)(12)(D). Pub. L. 97-448 substituted ``section 219'' for ``section 219(a)''.

1981--Subsec. (a)(12)(D). Pub. L. 97-34, Sec. 311(h)(6), substituted ``section 219(a)'' for ``section 219(a) or 220(a)''.

Subsec. (a)(18). Pub. L. 97-34, Sec. 124(e)(2)(A), substituted ``section 127 or 129'' for ``section 127''.

Pub. L. 97-34, Sec. 112(b)(5), redesignated par. (19) as (18). Former par. (18), relating to remuneration paid to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it was reasonable to believe that a corresponding deduction was allowable under section 913 (relating to deduction for certain expenses of living abroad), was struck out.

Subsec. (a)(19), (20). Pub. L. 97-34, Sec. 112(b)(5), redesignated par. (20) as (19). Former par. (19) redesignated (18).

1980--Subsec. (a)(18) to (20). Pub. L. 96-222 redesignated par. (18), added by Pub. L. 95-600, as (19), in par. (19) as so redesignated, substituted ``section 127; or'' for ``section 124.'', and added par. (20).

1978--Subsec. (a)(18). Pub. L. 95-615 added par. (18) relating to payments or benefits excludable from income under section 124.

Pub. L. 95-600 added par. (18) relating to remuneration for which a

corresponding deduction is allowable under section 913.

1976--Subsec. (a)(6). Pub. L. 94-455, Sec. 1906(b)(13)(A), struck out ``or his delegate'' after ``Secretary''.

Subsec. (a)(12)(D). Pub. L. 94-455, Sec. 1501(b)(7), inserted ``or 220(a)'' after ``section 219(a)''.

Subsec. (a)(17). Pub. L. 94-455, Sec. 1207(e)(1)(C), added par. (17).

Subsec. (c). Pub. L. 94-455, Sec. 1903(c), struck out ``Territory'' after ``a State''.

1974--Subsec. (a)(12)(D). Pub. L. 93-406 added subpar. (D).

1972--Subsec. (a)(1). Pub. L. 92-279 struck out ``as a member of the Armed Forces of the United States'' after ``active service'', substituted ``employee'' for ``member'', and parenthetical text ``(relating to certain combat pay of members of the Armed Forces of the United States)''.

1966--Subsec. (a)(6), (7). Pub. L. 89-809, Sec. 103(k), struck out par. (6) dealing with services performed by nonresident alien individuals other than residents of contiguous countries who enter and leave the United States at frequent intervals, residents of Puerto Rico if such services are performed as an employee of the United States or any agency thereof, or individuals temporarily present in the United States as nonimmigrants under certain conditions, redesignated par. (7) as (6), and in par (6) as so redesignated, struck out ``who is a resident of a contiguous country and who enters and leaves the United States at frequent intervals'' after ``nonresident alien individual''.

1965--Subsec. (a)(16). Pub. L. 89-97, Sec. 313(d)(2), added par. (16).

Subsec. (f). Pub. L. 89-97, Sec. 313(d)(1), added subsec. (f).

1964--Subsec. (a)(14). Pub. L. 88-272, Sec. 204(b), added par. (14).

Subsec. (a)(15). Pub. L. 88-272, Sec. 213(c), added par. (15).

1962--Subsec. (a)(12)(B), (C). Pub. L. 87-792 substituted ``is a plan described in section 403(a)'' for ``meets the requirements of section 401(a)(3), (4), (5), and (6)'', in subpar. (B), and added subpar. (C).

1961--Subsec. (a)(6)(C). Pub. L. 87-256 added subpar. (C).

Subsec. (a)(13). Pub. L. 87-293 added par. (13).

1955--Subsec. (a). Act Aug. 9, 1955, excluded from definition of wages, remuneration paid for services performed in a possession of the United States by a United States citizen if the employer is required by the law of the possession to withhold income tax on the remuneration.

Effective and Termination Dates of 2001 Amendment

Amendment by Pub. L. 107-16 applicable to distributions after Dec. 31, 2001, see section 641(f)(1) of Pub. L. 107-16, set out as a note under section 402 of this title.

Amendment by Pub. L. 107-16 inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2010, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 901 of Pub. L. 107-16, set out as a note under section 1 of this title.

Effective Date of 1996 Amendments

Amendment by Pub. L. 104-191 applicable to taxable years beginning after Dec. 31, 1996, see section 301(j) of Pub. L. 104-191, set out as a note under section 62 of this title.

Amendment by section 1421(b)(8)(D) of Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1996, see section 1421(e) of Pub. L. 104-188, set out as a note under section 72 of this title.

Amendment by Pub. L. 104-117 applicable to remuneration paid after Mar. 20, 1996, see section 1(e) of Pub. L. 104-117, set out in a Treatment of Certain Individuals Performing Services in Certain