SCOMM

134:4

Alaska State Legislature

House Special Committee on Ways and Means

Representative Mike Hawker, Chairman

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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 leans 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 Rokeberg
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

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

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Section 1: Adds the education tax to the list of taxes that are prior, paramount and superior to all other leans 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.

23-LS0921\V
Kurtz
3/16/04

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

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

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

*** Section 1.** AS 43.10.042(a) is amended to read:

(a) A lien imposed under AS 43.10.010 - 43.10.060 is not valid as against a mortgagee or other lien holder, pledgee, purchaser, or judgment creditor until notice of it is recorded in the records of the recording district where the property subject to the lien is situated. However, regardless of the date the liens are recorded, a lien arising out of a tax due under **AS 43.45, AS 43.56, and AS 43.75** [AS 43.55 AND 43.75], including the penalties and interest on the tax, is a lien prior, paramount, and superior to all other liens, mortgages, hypothecations, conveyances, and assignments, upon all the real and personal property of the person liable for the tax, and upon all the real and personal property used with the permission of the owner to carry on the business that

is subject to the tax.

* **Sec. 2.** AS 43 is amended by adding a new chapter to read:

Chapter 45. Education Tax.

Sec. 43.45.011. Tax imposed. (a) There is imposed 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.

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

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

(d) The tax is imposed in a calendar year following a fiscal year during which the cash balance on June 30 of the budget reserve fund created by art. IX, sec. 17, Constitution of the State of Alaska, was less than $1,500,000,000. Once imposed, the tax remains in effect until suspended under (e) of this section.

(e) The tax is suspended in a calendar year following a fiscal year during which the cash balance on June 30 of the budget reserve fund created by art. IX, sec. 17, Constitution of the State of Alaska, was equal to or greater than $2,500,000,000 and is not reimposed until the condition in (d) of this section is met.

(f) The commissioner shall certify the cash balance of the budget reserve fund on June 30 within one calendar month following the end of each fiscal year.

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

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

(c) Tax withheld by an employer becomes due and shall be paid by an

employer to the department in accordance with regulations adopted by the department.

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

(e) The Department of Revenue may, to the extent practicable, coordinate collection and reporting of the tax imposed in this chapter with the collection and reporting of employment security contributions by the Department of Labor and Workforce Development, including permitting the Department of Labor and Workforce Development to collect the tax payments and remit them to the Department of Revenue.

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

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

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

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

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

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

(d) The department may apply all or part of the deposit, bond, or other security to payment of the tax imposed under AS 43.45.011, and to any interest and penalties imposed under AS 43.45.021.

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

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

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

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

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

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

(c) The Department of Revenue may adopt regulations to coordinate refunds

of overpayments under this section with refunds of employment security contributions under AS 23.20.165.

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

Sec. 43.45.051. Report of payments to self-employed individuals. A person required to report a payment to a self-employed individual to the federal government under 26 U.S.C. shall also report that payment to the department in accordance with regulations adopted by the department.

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

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

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

Sec. 43.45.099. Definitions. In this chapter,

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

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

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

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

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

REGULATIONS. Notwithstanding sec. 5 of this Act, the Department of Revenue may proceed to adopt regulations to implement sec. 2 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of sec. 2 of this Act.

*** Sec. 4.** Section 3 of this Act takes effect immediately under AS 01.10.070(c).

*** Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect January 1, 2005.

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

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LEGAL SERVICES

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MEMORANDUM April 14, 2003

SUBJECT: Employment Tax
(CSHB 236( ), Work Draft Version 23-LS0921\H)

TO: Representative Peggy Wilson
Attn: David Jacobs

FROM: Kathryn L. Kurtz KM
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Creates a new chapter in title 43 imposing a tax on employment.

Sec. 43.45.011 imposes a tax of $100 per year on each individual 19 years or older and employed in the state who receives compensation greater than $1,000.

Sec. 43.45.021 requires employers to withhold the tax from an employee's pay. Requires the employer to file returns and send the tax money to the department of revenue. Prohibits the withholding of tax from an employee who has already had the tax withheld by another employer, or who is not 19 years of age or older for the entire tax year. Requires individuals subject to the tax who have not had the tax withheld by an employer to file a return.

Sec. 43.45.031 makes employers liable for the tax, unless the employer can demonstrate that the employer relied on proof provided by the employee that the tax had already been withheld, or that the employee was not of an age to be subject to the tax.

Sec. 43.45.041 permits employees who have paid more than $100 in taxes in a tax year to claim a refund from the department.

Sec. 43.45.051 requires the money collected from the tax to be deposited in the general fund and accounted for separately. Permits the legislature to appropriate the proceeds for education.

Sec. 43.45.099 defines "tax year" as July 1 - June 30.

Section 2. Transitional provision requiring that the initial tax be remitted and a return filed before the 15th day of the fourth month that the tax is in effect.

Section 3. Provides an effective date of July 1, 2003.

KLK:med
03-394.med

23-LS0921\H
Kurtz
4/14/03

CS FOR HOUSE BILL NO. 236( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE WILSON

A BILL

FOR AN ACT ENTITLED

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

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

*** Section 1.** AS 43 is amended by adding a new chapter to read:

Chapter 45. Education Tax.

Sec. 43.45.011. Tax imposed. There is imposed a tax of $100 a year on each individual 19 years of age or older who, during the entire tax year, receives compensation greater than $1,000 in the state.

(b) For purposes of this section, "compensation" includes wages, salaries, commissions, tips, any other form of remuneration paid for personal services, and gross receipts from a trade or business.

(c) The tax imposed under this section does not apply to compensation exempt from the tax under federal law.

Sec. 43.45.021. Collection and payment of tax. (a) An employer shall deduct and withhold $50 of the tax or 10 percent of the employee's gross compensation, whichever is less, on the first regular payroll in which the employee's

total compensation paid by the employer during the tax year exceeds $1,000, and from subsequent payrolls until the tax due under this chapter is fully withheld.

(b) An employer shall file a return on a form prescribed by the department and remit the tax withheld to the department on or before the 15th day of the month following the earlier of the last day of

(1) each calendar quarter during which tax was required to be withheld; or

(2) any month in which, on the last day of that month, the employer has withheld but not paid $500 or more of tax.

(c) A deduction of the tax may not be made in the salary or other compensation of an individual who provides proof to the employer that

(1) the tax imposed under AS 43.45.011 for that tax year has already been withheld by another employer; or

(2) the individual was not 19 years of age or older for the entire tax year.

(d) An individual who has not had the full tax withheld by an employer must file a return on a form prescribed by the department and remit the tax due under this section by June 30 of the tax year.

Sec. 43.45.031. Liability of employer. An employer who pays compensation is liable for the tax required to be withheld from an employee under this section unless the employer can demonstrate that the employer relied on proof provided by the employee that

(1) the tax imposed under AS 43.45.011 had already been withheld by another employer; or

(2) the individual was not 19 years of age or older for the entire tax year.

Sec. 43.45.041. Refund claims. (a) An individual who has paid more than $100 in tax under this chapter in a tax year, directly or through employer withholding, or both, may claim a refund from the department. The claim must be made on a form prescribed by the department before December 31 of the calendar year immediately following the tax year in which the overpayment was made.

(b) Interest on the overpayment may not be allowed under AS 43.05.280 if the department pays the refund within 90 days after the date the individual files the refund claim or the date on which the last payment of the tax by or on behalf of the individual was received by the department, whichever is later.

Sec. 43.45.051. Disposition of tax proceeds. (a) The tax collected by the department under AS 43.45.021 shall be deposited into the general fund and accounted for separately.

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

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

Sec. 43.45.099. Definition. In this chapter, "tax year" means the period beginning on July 1 and ending on June 30 of the following calendar year.

*** Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITIONAL PROVISION. Notwithstanding AS 43.45.021(b)(2), enacted by sec. 1 of this Act, amounts withheld during the first three months that the tax is in effect shall be remitted and a return shall be filed on or before the 15th day of the fourth month that the tax is in effect.

*** Sec. 3.** This Act takes effect July 1, 2003.

CSHB 236 ceh 4/16/03

Edits to convert CSHB 236 (Version H) from a fiscal year tax to a calendar year tax:

1) Page 1, line 15. After "payroll" and before "in which…" add "after January 31" **(this edit prevents withholding during January)**

2) Page 2, line 18. Delete " by June 30" and replace it with "on or before January 31 after the close of the tax year " **(this change conforms the self-employed filing deadline to the new calendar year AND extends it an additional month from the last day of the tax year to avoid problems that taxpayers may have with filing during the holidays – also, those with end-of-year withholding would have difficulty complying with a year-end filing requirement)**

3) Page 3, line 13 and 14. Replace "period beginning on July 1 and ending on June 30 of the following" with "calendar". **This changes the tax year to the calendar year.**

4) Page 3, line 21. Delete "July 1, 2003" and substitute "January 1, 2004". **This also conforms the tax year to the calendar year.**

Just a suggestion: The bill might look cleaner if instead of this minimalist approach, all references to "tax year" were removed and at least one reference to the calendar year were added.

LEGAL SERVICES

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MEMORANDUM April 7, 2003

SUBJECT: Sectional Summary of CSHB236( )
(Work Order No. 23-LS0921\D)

TO: Representative Peggy Wilson
Attn: Jean Ellis

FROM: Kathryn L. Kurtz KLK
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Creates a new chapter in title 43 imposing a tax on employment.

Sec. 43.45.011 imposes a tax of $100 per year on each individual 19 years or older and employed in the state who receives compensation greater than $1,000.

Sec. 43.45.021 requires employers to withhold the tax from an employee's first two paychecks after total compensation paid to that employee during the tax year exceeds $1,000. Requires the employer to file returns and send the tax money to the department of revenue monthly. Prohibits the withholding of tax from an employee who has already had the tax withheld by another employer, or who is not 19 years of age or older for the entire tax year. Requires individuals subject to the tax who have not had the tax withheld by an employer to file a return.

Sec. 43.45.031 makes employers liable for the tax, unless the employer can demonstrate that the employer relied on proof provided by the employee that the tax had already been withheld, or that the employee was not of an age to be subject to the tax.

Sec. 43.45.041 requires the money collected from the tax to be deposited in the general fund and accounted for separately. Permits the legislature to appropriate the proceeds for education.

Sec. 43.45.051 defines "tax year" as July 1 - June 30.

Section 2. Provides an effective date of July 1, 2003.

KLK:lmb
03-142.lmb

JAN 2 1 2004

23-LS0921\D
Kurtz
4/7/03

CS FOR HOUSE BILL NO. 236( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE WILSON

A BILL

FOR AN ACT ENTITLED

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

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

*** Section 1.** AS 43 is amended by adding a new chapter to read:

Chapter 45. Education Tax.

Sec. 43.45.011. Tax imposed. There is imposed a tax of $100 a year on each individual 19 years of age or older who, during the entire tax year, receives compensation greater than $1,000 in the state.

(b) For purposes of this section, "compensation" includes wages, salaries, commissions, tips, and any other form of remuneration paid for personal services.

(c) The tax imposed under this section does not apply to compensation exempt from the tax under federal law.

Sec. 43.45.021. Collection of tax. (a) An employer shall deduct and withhold $50 of the tax from the employee's salary or other compensation on each of the first two regular payrolls after the employee's total compensation paid by the employer during the tax year has exceeded $1,000. An employer shall file a return on

New Text Underlined [DELETED TEXT BRACKETED]

a form prescribed by the department and send the tax withheld to the department on or before the fifteenth day of the month following the month in which the tax was withheld from the employee.

(b) A deduction of the tax may not be made in the salary or other compensation of an individual who provides proof to the employer that

(1) the tax imposed under AS 43.45.011 for that tax year has already been withheld by another employer; or

(2) the individual was not 19 years of age or older for the entire tax year.

(c) An individual who has not had the full tax withheld by an employer must file a return on a form prescribed by the department and remit the tax due under this section by June 30 of the tax year.

Sec. 43.45.031. Liability of employer. An employer who pays compensation is liable for the tax required to be withheld from an employee under this section unless the employer can demonstrate that the employer relied on proof provided by the employee that

(1) the tax imposed under AS 43.45.011 had already been withheld by another employer; or

(2) the individual was not 19 years of age or older for the entire tax year.

Sec. 43.45.041. Disposition of tax proceeds. (a) The tax collected by the department under AS 43.45.021 shall be deposited into the general fund and accounted for separately.

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

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

Sec. 43.45.051. Definition. In this chapter, "tax year" means the period beginning on July 1 and ending on June 30 of the following calendar year.

*** Sec. 2.** This Act takes effect July 1, 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 PROBUSINESS 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 it's 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

April 4, 2003

APR 0 4 2003

Representative Peggy Wilson

The issue you and I discussed on Wednesday was the definition of a "wage earner", under the proposed $100/head tax. On the surface, the definition of "wage earner" seems very simple. The problem arises when you consider who are not wage earners. Individuals who conduct business as sole proprietors, partnerships, or limited liability companies do not receive wages and therefore would be exempt from this tax. These individuals receive distributions which are not considered a salary or wage. Some of the types of individuals who operate businesses this way include doctors, dentists, attorneys, CPA's, realtors, fisherman, and construction contractors,

Individuals who are retired and receive retirement plan distributions, social security payments, or the longevity bonus would also be exempt from this tax since none of those payments are considered wages.

When considering this proposed tax, I believe it is important for our legislators to be aware of who will be subject to this tax. You may wish to consider expanding the definition of income subject to this tax, to encompass a broader spectrum of earnings.

Donovan W. Rulien, CPA

e-mail don@kwrcpa.com
Tel. 907-272-1421
Fax 907-272-8556

Subject: Proposed State Withholding Tax
Date: Mon, 28 Apr 2003 15:28:27 -0800
From: "Ellen Izer" <eizer@fnbalaska.com>
To: <rep.mike.hawker@legis.state.ak.us>, <dbruster@legis.state.ak.us>
CC: "Anne Marie Walker (E-mail)" <awalker@acsalaska.com>,
"Chris Thompson (E-mail)" <cthompson@kronos.com>,
"Skye Matlock (E-mail)" <s.matlock@valley-hosp.com>, "Ardie True" <atrue@fnbalaska.com>

Dear Representatives Hawker and Weyhrauch:

As an Officer of the Northern Lights Chapter of the American Payroll Association I received a copy of the fax sent to Heather Bond, Swan Employer Services regarding the Proposed State Withholding Tax. I am also the Payroll and Employee Benefits Manager for First National Bank Alaska. First National uses Automatic Data Processing (ADP) as our payroll service provider. They are the largest company in the U.S. performing that service. I would like to strongly urge you to reconsider this tax proposal.

Let me explain why from a payroll perspective.

1. Payroll's will find it impossible to manage a fiscal year taxation period. It would be better, if you must implement by 7/1/03, to use a prorated year for 2003. In other words, require a $50 tax for 2003 and $100 tax beginning 1/1/2004.

2. It is impossible to only tax after a certain age. I know ADP could not implement such a calculation on their system. Besides it is part of growing up to learn that a large portion of your pay goes to pay taxes.

3. Taxes should begin on the first dollar earned not after $1,000. This notion is impractical from a payroll perspective. If I start by withholding 10% of an employee's pay until I reach $50, then what happens if they terminate before they reach $1,000 in earnings, do I have to refund the employee? This all becomes very costly for the employer.

4. The employer should not have to determine whether an employee has already paid the tax. Just like State Unemployment Insurance (SUI) it should be withheld regardless. If the employee overpays give them a reasonable amount of time to file for a refund and keep the employer out of the middle. If the employee did not pay their full amount then they should have to pay by the normal April 15th deadline.

5. In the proposal the definition of compensation is extremely troublesome. What does "remuneration paid for personal services" and "compensation exempt from tax under the federal law" mean? Which employers are included under personal services? According to the Anchorage office of Wage and Hour Administration their definition of personal services is a very small portion of the general workforce. As for exempt under federal law statement, which law are we talking about? I have to perform a different calculation to determine taxable wages for Medicare than for Social Security, and yet another for Federal Income Tax Withheld, and yet another for 401(k) deferrals. I have to assume it does allow for all the types of deductions from earnings that are normally exempted from taxes, i.e. medical, dental, and vision premiums. None of these match Alaska State Unemployment Insurance which already adds an extra burden to payrolls because their definition of "taxable wages" is broader than the Federal guidelines and includes exemptions for things like Life Insurance, Disability, and Federal non-pretax deductions for medical, dental, and vision.

6. Something easier to handle would be an employee tax that is a very small percentage of pay (say 1%), regardless of earnings or age, and then to cap it at the target amount say $100. Require that the tax year follows Federal tax years, i.e. 1/1 trough 12/31 and no more than an annual return submitted by employers similar to the Federal Unemployment Tax Act returns (FUTA, Form 940) with a filing deadline of 1/31. Implementing by July 1, 2003 is just about impossible for any payroll system and would create an extreme hardship for small businesses and the self-employed that may not be back to visit their CPA until next spring.

Imposing such a cumbersome tax in this manner is not practical for the reasons outlined above. The cost to employers/employees far outweighs its value to the State. Another approach should be taken. If you would like to clarify any of this information or need anything else that I can help you with, please do not hesitate to contact me.

>From a personal perspective what is this Education Tax supposed to be spent on?

Respectfully,

Ellen Izer
Payroll & Benefits Manager
First National Bank Alaska
(907) 777-3488 phone
(907) 777-3425 fax

April 4, 2003

APR 0 4 2003

Representative Peggy Wilson

The issue you and I discussed on Wednesday was the definition of a "wage earner", under the proposed $100/head tax. On the surface, the definition of "wage earner" seems very simple. The problem arises when you consider who are not wage earners. Individuals who conduct business as sole proprietors, partnerships, or limited liability companies do not receive wages and therefore would be exempt from this tax. These individuals receive distributions which are not considered a salary or wage. Some of the types of individuals who operate businesses this way include doctors, dentists, attorneys, CPA's, realtors, fisherman, and construction contractors,

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Donovan W. Rulien, CPA

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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

Mary A. Francis, Ph.D.
Executive Director

MF:klc

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.

/

Subject: Sales Tax & Small Communities
Date: Fri, 16 May 2003 08:27:20 -0800
From: "Vince Hansen" <JVHansen@WytBear.com>
To: <Representative_Peggy_Wilson@legis.state.ak.us>

MAY 15 2003

Representative Wilson:

Thanks for your efforts in trying to deal with the current fiscal situation. I know that you already understand the impact of a sales tax in communities that already use this method of revenue generation. In Haines we tax ourselves at 5.5% and that seems to be the line where citizens make other choices (i.e. go to Whitehorse, or use a tax exempt card in Juneau). A sales tax is also the most regressive tax. Things are on the verge here economically. We feel we're about to climb out of the hole we are in and a new State sales tax will no doubt set us back. Most people I talk to would prefer a $100 per person school type tax or even an income tax (which is a deduction on fed taxes). Thank you for having the courage to bring these alternatives forward. Let me know if there are ways I can help to have these alternatives considered.

Vince Hansen, Haines Citizen

/

Subject: HB 236 Education Tax
Date: Sun, 25 Jan 2004 01:21:11 -0900
From: "Ronald Jordan" <akrljordan@hotmail.com>
To: <Representative_Mike_Hawker@legis.state.ak.us>
CC: <akrljordan@hotmail.com>

Rep. Hawker and other members of the Ways and Means committee.

Ref: House Bill 236 Education tax: This bill, though well intended for education is not good as written either as an employer or as an employee. If this bill is passed as is issue is implemented it would hammer the lower wage people. I would like to suggest changes in the bill. I have talked to the sponsor of the bill Rep. Wilson about this and I do not know if I can make the hearing on the 28th at 7am. Maybe I could make one at a later date.

I would like to suggest that this section (current read)
Sec. 43.45.021. Collection of Tax. (a) An employer shall deduct and withhold $50 of the tax from the employee's salary or other compensation on the first two regular payrolls after July 1 of each calendar.....

I would like to suggest that the wording and actions be changed to read thus.

(a) An employer shall deduct and withhold $25. of the tax from the employee's salary or other compensation on the filing of each quarterly report filed to the department of labor .....

Having been in business myself and knowing that many employee's are living pay check to pay check now days. $100. in two pay periods will hurt many of them if not all of them. Education is important and needs support. But keeping people off of the street is also important. $100. means rent, food, medication, a warm place to stay.

Thank You
Ronald Jordan
907-345-2755
8170 Woodgreen Cr.
Anchorage, AK. 99518

Alaska State Legislature

Please enter into the record my testimony to the House Ways & Means
committee name

Committee on HB 236 **Employment Tax for Education** , dated April 16, 2003
bill # / subject public hearing date

I strongly support HB 236. This is a small step toward helping all Alaskans contribute to the quality of life in Alaska. We need the revenue in many programs but most importantly to fully fund education. We know there are many who work in Alaska and live outside and rarely contribute to the economic well-being of the state. I urge you to pass HB 236 and to consider an income tax on all working Alaskans. Thanks.

Signed: Tammy Crawford
Testifier

KPBSD School Board
Representing (optional)

36615 Chinulna Kenai, AK 99611
Address

283-9271
Phone number