

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8413 SENATE LABOR & COMMERCE

As the goal of replacing state general funds with program receipts from the tourism industry is effectuated, the relationship between DCED and the industry as it is currently legislated may need re-evaluated.

Recommendation No. 2

The legislature should consider legislation to incorporate ATMC's staff within the Division of Tourism.

Currently, Alaska Statutes 44.33.710 provides that the ATMC board of directors may employ and determine the salary of the staff of ATMC. Staff is limited by the statutes to an executive director and no more than two employees. The statutes further provide that if there is no executive director, the staff of the council is to be supervised by the director of DOT.

Presently there is duplication of duties between DOT and ATMC staff. The director of DOT is statutorily responsible for ATMC's procurement activities. AS 44.33.120(b)(3) states, "*The Alaska division of tourism shall . . . review and approve the procurement documents and procedures of the tourism marketing council to ensure compliance with applicable laws and regulations . . .*" Additionally, AS 44.33.705 (11)(d) provides that "*a contract or grant entered into by the council is not effective until signed by the director [of the Division of Tourism].*" DOT staff are therefore responsible for monitoring ATMC's contracts, payments, and procurement. However, ATMC staff duties also include preparing budgets, administering contracts, and handling procurement.

Incorporating ATMC's staff within the Division of Tourism would eliminate these duplicate duties and provide for more efficient operations.

Recommendation No. 3

The Department of Commerce and Economic Development (DCED), Division of Tourism (DOT) should comply with the state budgetary process, state procurement code, and generally acceptable accounting principles and immediately cease the practice of diverting funds to non-state agencies. DCED should work with the Department of Administration in resolving this issue and make recovery to the State as may be considered necessary.

DOT directed a State of Alaska subcontractor to pay the Alaska Highway Rendezvous '92 Society \$6,500 that should have been credited to the State of Alaska. This check accompanied a letter dated November 5, 1992 from DOT that stated:

. . . the revised "Wings Over the North" production was never approved nor budgeted for by the Division of Tourism. Rather, you proceeded on a verbal commitment made in a telephone conversation with Lt. Governor Coghill, which he does not recall having made and which we have tried unsuccessfully to document.

The letter further stated that

. . . due to Alaska procurement laws which require some form of competitive solicitation in order to enter into contracts, we do not have a contractual arrangement. . . . Therefore, our only approach lies in redirecting funds. . . . A good example is the enclosed check from a printer who owed the division a credit and which we are now directing to you.

It is inconceivable to us that state employees would believe diverting monies due the State is an appropriate and legal action. The practice circumvents the state accounting system and certification process. At a minimum, circumvention of this process results in the state accounting records not accurately reflecting the financial transactions of the State. Processing transactions outside the state accounting system create an environment conducive to fraudulent transactions. Since the check/credit noted above related to FY 92 expenditures, it is possible that this diversion of funds also violates provisions regarding the expenditure of state funds as outlined in Section 13, Article IX of the Alaska Constitution.

In addition to the preceding check, according to DOT personnel, at least another \$700 in state funds have been diverted in a similar manner.

Internal controls should ensure that state resources are safeguarded against waste, loss, and misuse; that state resources are used consistent with laws, regulations, and policies; and reliable data is obtained, maintained, and fairly disclosed in reports. Management is responsible for implementing and maintaining adequate internal control systems and should institute timely action to correct identified internal control system weaknesses.

DCED should work with the Department of Administration to determine the appropriate corrective action to remedy the above matter.

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ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of board activities relate to the public need factors defined in the "sunset" law, Alaska Statute 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

The extent to which the board, commission, or program has operated in the public interest.

Industry experience and expertise in the tourism arena

As noted in the Organization and Function section of this report, ATMC is governed by a 21 member board of which 10 members are appointed by the Alaska Visitors Association (AVA) and 10 members are appointed by the governor. The remaining member, the director of the Division of Tourism (DOT), is the chair. Statutes require that

. . . a board member shall (A) be substantially involved in a visitor or recreation industry business; (B) have training in a field such as marketing; (C) be an officer or a senior staff member of a local government or nonprofit enterprise established to promote the visitor industry; or (D) have business or government experience that would materially enhance the member's ability to contribute to the planning, execution, or evaluation of a visitor industry promotional marketing campaign . . .

Other states have indicated that private sector input is very important programmatically. The organization of ATMC formally provides for that. The experience and expertise of individuals who are currently in the marketing field and employed by large companies is particularly beneficial to the process.

Growth in Alaska Visitor Arrivals

The Alaska Visitor Statistics Program (AVSP) surveys visitors to the State for arrival patterns, expenditures, and opinions. This effort is funded primarily by DOT. The most recent field survey data was collected from June 1989 through May 1990. A series of reports were generated from that data. Since that field survey, arrival data has been collected and estimates made of such items as visitor arrival composition and trip purpose based upon the original survey data. According to *AVSP II Arrivals Summer 1991*, summer vacation/pleasure trip purpose arrivals increased by an estimated 4.5% to 434,200. Total summer visitor arrivals rose by 3.5% from 629,700 during summer 1990 to 651,700 in

summer 1991. Other visitor trip purposes besides vacation/pleasure include visiting friends and relatives, business only, business and pleasure, and seasonal workers.

Another study, the *1991 Alaska Conversion Study*, measures the conversion of visitor prospects to actual visitors to Alaska. This report indicates that potential travellers requesting the vacation planner most likely to actually visit Alaska had either past visitor experience in Alaska or had already decided to visit Alaska at the time they requested the planner. The number of prospective visitors expressing this predisposition exceeded the number who actually become visitors, therefore promotion efforts by ATMC cannot necessarily be discounted. That is, prospective visitors predisposed to visit Alaska may also be affected by ATMC's efforts.

According to a consultant familiar with Alaska and tourism issues, there is no direct correlation between the amount spent on advertising and the number of visitors to the State. However, he notes that it is significant that 31% of vacation/pleasure visitors use the vacation planner (*AVSP II Patterns, Opinions, and Planning Summer 1989*). According to this consultant, it is believed that Alaska does not follow national trends due to its location and the associated travel cost for visitors.

DCED does not document analysis performed before entering into agreement with AVA for joint management of ATMC

Alaska Statute 44.33.705(b) requires that

if the commissioner [of DCED] determines that it is in the best interests of the state to promote the state as a destination through the cooperative marketing program, the commissioner shall contract with a single qualified trade association to jointly manage the council . . .

The joint management agreement between DCED and AVA does contain language conforming with the above statutory requirement. The agreement provides that

. . . the Commissioner finds that it is in the best interest of the state to promote Alaska as a tourist destination through a cooperative marketing program between the state and a qualified trade association having expertise in tourism. Specifically, the Commissioner finds that cooperative marketing has, in the past, resulted in steady and substantial growth of tourism in Alaska and that a continuation of cooperative marketing under the terms of AS 44.33.700-44.33.735 is likely to produce similar growth in the future, with attendant benefits to the state's economy.

However, according to DOT no backup documentation exists corroborating the commissioner's finding. It is the commissioner's view that no corroborating documentation is necessary. Our concern is simply that the components used to arrive at these findings be documented in order to reflect the analyses performed prior to committing the State. As

noted above, various research that has been performed does show growth in the Alaska visitor industry, but there is no direct correlation between the amount spent on advertising and the number of visitors to the State.

The DCED/AVA joint management agreement not in compliance with Alaska Statutes

In a Division of Legislative Audit report on ATMC dated January 21, 1992, we found that several stipulations within the FY 92 joint management agreement did not comply with ATMC statutes. That agreement limited AVA's matching contribution towards ATMC's operating expenses, improperly provided a "ceiling" on the required industry contribution, allowed state funds to remain within AVA accounts rather than be deposited into the State's general fund, and did not include all production costs in the method used to calculate AVA's share of the vacation planner cost. In addition to the previous items we recommended that the agreement should require an annual financial compliance audit of AVA's cooperative marketing program funds, address the disposition of interest earnings on the revenues generated from the sale of advertising space and label sales, and define selling and administrative expenses for the advertising space and label sales.

Since that audit, a new agreement has been entered into by DCED and AVA which has been formally reviewed and approved by the Department of Law as recommended by our office. That new agreement substantially addresses these issues. However, the new agreement still allows AVA to retain state funds within AVA's interest bearing accounts until such time AVA and DCED cease their contractual relationship. We believe that timely deposits into the general fund would negate any arguments that the state funds collected by AVA are dedicated for a special purpose in violation of Article IX, Section 7 of the Alaska Constitution.

DOT's potential conflicts of interest within ATMC

DOT has indicated to us that the structures of DOT and ATMC may lead to conflicts of interest. In the past there has also been indications that the former Administration has had difficulties with the joint management of ATMC. In a February 1989 memo to the former governor's chief of staff, the former commissioner of DCED stated that

the history of the State's tourism program for the past decade is marked by a tenfold increase in state funding, a decreased Alaska Visitor Association (AVA) share of the total promotion budget from about 35 percent to 15 percent, and domination of the program by the AVA -- in effect, 100 percent control for 15 percent investment.

In this memo the former commissioner further indicated that

despite the growth of Alaskan tourism and the high regard in which it is held, concerns of public policy and legality combined with the administration's tourism priorities led to a major break with the AVA in 1987. This was followed by the creation of a new structure, under Ch. 78, SLA 1988, which

was designed -- at the very least -- to equalize the power of the State and the AVA in the form of the Alaska Tourism Marketing Council. . . . The main problem with the new structure is that, with a functional majority, the AVA continues to run the State's promotion program.

This memo also considered the possibility of canceling the AVA contract with DCED and renegotiating the contract to tie the number of industry representatives on ATMC with the level of industry's contribution. For example, if the industry funded 15% of the program budget they could appoint two board members to ATMC's board of directors. The agreement was not canceled nor renegotiated. Industry representation on ATMC remains as originally legislated.

The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

ATMC has complied with AS 44.33.705 and has met at least four times a year. Board members have been appointed in accordance with AS 44.33.705. The statutory requirements for appointment to the board are noted in the Organization and Function section of this report. Not surprisingly, most appointees are from the visitor industry. The board has representatives from visitors bureaus as well as rural interests.

Prior to appointment on the council, a current board member was very concerned about large industries dominating ATMC. However, this member has found that the representatives of the large companies have used their expertise to help small businesses. Many individuals cite ATMC's industry expertise as a strength of the current organization.

Council meetings are typically preceded by meetings of the ATMC committees. While council meetings are formally recorded, this does not extend to the committee meetings. A record of the committee meetings' goals and recommendations to the council are kept but no transcription of discussion is included.

ATMC has complied with AS 44.33.720 by preparing an annual report describing the activities of the council. That statute also requires a quarterly report of the council's actions to be made available to interested persons. According to the executive director of ATMC, there are no reports generated specifically for this requirement. However, ATMC does provide information regarding its activities to interested persons upon request. Further, the executive director provides material on ATMC activities in the AVA newsletter.

The extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

A significant change to ATMC's statutes was embodied in Chapter 32, SLA 1990. This legislation provided for granting exclusive rights to the qualified trade association to sell or lease tourism mailing lists developed by the council if the trade association had contracted

with the department. Chapter 32 also deemed mailing lists not public records. Previous to this legislation, access to the mailing lists generated by the council was limited by the council. This practice was questioned by the Department of Law. This legislation legitimized the practice in existence at the time.

The mailing lists mentioned above are primarily generated as a result of business reply cards (BRCs) sent to the ATMC fulfillment contractor. These BRCs are contained within consumer magazines featuring advertisements of Alaska. The contractor, upon receipt of a BRC, sends a vacation planner to the requestor and adds the requestor's name to the mailing list database. The names on the database are primarily the result of state expenditure since the State funds a majority of ATMC's budget. Chapter 32 allowed funds obtained from the qualified trade association's sale of space in promotional materials and from the sale of tourism mailing lists to be applied to the statutorily required contribution of the association. Chapter 32, SLA 1990 was retroactive to July 1, 1988, the date ATMC was established.

The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.

Notices of meetings are published in Alaskan newspapers and time for public comment is available at ATMC board meetings.

The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

See preceding paragraph. No regulations regarding tourism have been promulgated by ATMC.

The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

There is no formal process within the department to handle complaints regarding ATMC's activities. A review of recently closed Ombudsman's case files shows complaints which generally relate to the bidding and/or contract process.

The extent to which the board or commission which regulated entry into an occupation or profession has presented qualified applicants to serve the public.

Given the nature of ATMC, this element of the public need analysis is deemed not applicable to ATMC's activities.

The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

Given the nature of ATMC, this element of the public need analysis is deemed not applicable to ATMC's activities.

The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to the previous Division of Legislative Audit reports on ATMC, earlier sections of this report, and the Findings and Recommendations.

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

P.O. BOX 110800
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2500
FAX: (907) 463-3841

February 26, 1993

Mr. Randy S. Welker
Legislative Auditor
Alaska State Legislature
Legislative Budget and Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

RECEIVED
FEB 26 1993
LEGISLATIVE AUDIT

Dear Mr. Welker:

Re: Preliminary Report
Department of Commerce and Economic Development
Sunset Review of the Alaska Tourism Marketing Council

This letter presents the response of the Department of Commerce and Economic Development (DCED) to the sunset review of the Alaska Tourism Marketing Council (ATMC). You will also find enclosed a separate response from the ATMC's Planning Committee.

Recommendation No. 1: The Legislature should consider legislation that extends the ATMC's termination date to June 30, 1997 with the provision that current State general funds supporting its budget be gradually replaced with program receipts from tourism industry contributions or assessments within that four year period.

We agree that the ATMC should be extended. Furthermore, the Hickel Administration has taken the position that the visitor industry's share of the cost of the ATMC should be increased. In the FY 94 operating budget, the Governor has proposed increasing the industry's share of the ATMC operating budget from 15 percent to 20 percent. Whether State general fund support obtained from existing sources can be phased out entirely depends on legislative enactment of a new revenue source in support of the state's tourism promotion efforts.

Recommendation No. 2: The Legislature should consider legislation to incorporate ATMC's staff within the Division of Tourism.

I disagree. There is currently no duplication of duties between the Division of Tourism (DOT) and the ATMC. The statutes creating the ATMC do not delineate areas of specific responsibility which, to those not intimately involved with the program, might lead to confusion about each agency's responsibilities. We have overcome this by ensuring that both organizations meet cooperatively to determine the most efficient and effective ways to share responsibilities.

The legislation which established the ATMC clearly shows that the ATMC is to operate independently of the DOT. As long as the ATMC is operating under the contractual

arrangements provided for in the statutes and agreed to by the Commissioner, then the ATMC should have its own staff and executive director.

Regarding the statutory requirement that the Director of Tourism sign all ATMC contracts, just because there exists this requirement does not mean that there is duplication of duties. Departments regularly require at least two signatures on contracts: director and commissioner.

Recommendation No. 3: The DCED, DOT should comply with the State budgetary process, State procurement code, and generally acceptable accounting principles and immediately cease the practice of diverting funds to nonstate agencies. DCED should work with the Department of Administration in resolving this issue and make recovery to the State as may be considered necessary.

I must first state that this recommendation has absolutely nothing to do with the ATMC and should not be part of this audit report. Nonetheless, I concur with this recommendation. The department's standard operating procedure is to require line divisions to discuss any and all financial or procurement practices out of the ordinary with the staff and director of the Division of Administrative Services. Had these procedures been followed, this incident would not have occurred.

This incident resulted from poor communication, a lack of understanding of appropriate State procedures, and the attempt by the DOT to honor what was felt to be a financial obligation of the State of Alaska to the International Joint Commission (IJC). The IJC has been in existence for three years and is a joint effort between the Canadian and Alaskan governments to promote tourism.

In FY 92, \$25,000 in expenses were incurred by the IJC on the State's behalf in relation to the Alaska promotional event, "Wings Over the North." The IJC believed it would be reimbursed for these expenses by the State while the DOT believed the project had been reduced and/or canceled. When the expenses were presented to the DOT it was determined by the director that in order to maintain the excellent working relationship that exists between the two governments, the IJC should be reimbursed, if at all possible.

Therefore, rather than receiving the unanticipated payments from United Graphics Inc. for lost slides and the Fairbanks Convention and Visitors' Bureau, the DOT requested that these monies owed the State be routed directly to the IJC. This was not a deliberate attempt to circumvent any State statute or procedure. It was an honest attempt to honor what was felt to be an obligation of the State. I have been in contact with the director of DOT and he is clearly aware of and apologetic for the circumvention of appropriate State procedures.

In an effort to resolve this issue, the department requested that the IJC return the funds to the State. The money was returned on February 5, 1993.

Analysis of Public Need.

My responses to the auditor's comments in this section are limited to specific quotes with which I disagree or which I feel need clarification.

Page 14: DCED does not document analysis performed before entering into an agreement with AVA for joint management of ATMC.

I think this statement has arisen from a misunderstanding of the intent of the statute on the part of the legislative auditor. It is not up to the Commissioner of the Department of Commerce and Economic Development to determine whether there should be a tourism marketing program: that decision resides with the Governor and the State Legislature. The statute cited by the auditor (AS 44.33.705), limits the Commissioner's authority to determining whether the tourism marketing program should be run "through a cooperative marketing program between the state and a qualified trade association having expertise in tourism" or through "a board of directors consisting of the director of tourism, the commissioner of commerce and economic development, and the commissioner of another principal executive department designated by the governor." Once again, the judgement and review of corroborating backup to determine whether there should be a tourism marketing program rests with the Governor and the State Legislature.

Page 15: The DCED/AVA joint management agreement not in compliance with Alaska Statutes.

As the auditor has indicated, the current joint management agreement between DCED and the AVA has been reviewed and approved by the Department of Law. The current agreement expires on June 30, 1994.

Page 15: DOT's potential conflicts of interest within ATMC.

With respect to conflicts of interest between the department and the ATMC, I can only speak from my own experience as Commissioner of DCED since July 1992. I have an excellent working relationship with the members of the ATMC. In my experience, the ATMC has proven a valuable organization which operates in the public interest.

Thank you for the opportunity to comment, and if you require additional information, please contact me at 465-2500.

Sincerely,


Paul Fuhs
Commissioner

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Enclosure

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February 26, 1993

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LEGISLATIVE AUDIT

Mr. Randy Welker, Director
Division of Legislative Audit
P. O. Box 113300
Legislative Affairs Agency
Juneau, AK 99811-3300

Dear Mr. Welker:

This letter represents the Alaska Tourism Marketing Council's response to your preliminary audit report dated February 9, 1993 regarding:

Department of Commerce and Economic Development
Alaska Tourism Marketing Council, Sunset Review

We appreciate the opportunity to respond to your recommendations and conclusions.

Sincerely,



Tina Lindgren
Executive Director

ALASKA TOURISM MARKETING COUNCIL
Frontier Building
3601 C Street, Suite 700
Anchorage, Alaska 99503
(907) 563-2289
(907) 563-3575 (FAX)

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REPORT CONCLUSIONS

We agree with the auditor's recommendation that the legislature should extend the ATMC until June 30, 1997. This legislation has already been introduced in the both the House and Senate.

We disagree that the existence of the council should be contingent upon the source of revenue. Regardless of the method of funding there will still need to be an organization of competent individuals to direct such activities.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The legislature should consider legislation that extends the ATMC's termination date to June 30, 1997 with the provision that current state general funds supporting its budget be gradually replaced with program receipts from tourism industry contributions or assessments within that four year period.

We agree that the legislature should extend the ATMC's termination date. However, we disagree that this should be contingent upon the amount or source of revenue as stated above. Regardless of whether dollars are derived from general funds, industry assessments, taxes or other program receipts, it is in the best interest of the State to continue participation in the cooperative marketing effort. Only with continued public participation will the State be guaranteed a generic program that benefits all businesses and all regions of the state; not only those with large promotional budgets. It should be decided by the legislature if the promotion of tourism is of high enough priority to warrant spending general funds.

At the same time, the ATMC recognizes the desire of the administration to seek additional sources of funding for the marketing program. We also recognize the willingness of the visitor industry to pay its fair share and to increase industry contributions. The ATMC supports further dialog between the industry and the State.

ALASKA TOURISM MARKETING COUNCIL
Frontier Building
3601 C Street, Suite 700
Anchorage, Alaska 99503
(907) 563-2289
(907) 563-3575 (FAX)

The funding mechanism is largely dependent on legislation. However, some steps have already been taken. The Governor's FY94 budget increases the industry's match from 15% to 20% for a total cash contribution of approximately 22.8%. In addition, tracking of in-kind contributions shows over \$2 million in donated products and services that should not be excluded from any analysis.

While correct that the Governor's task force contained a statement that state funds should be targeted to "assisting the creation of new ventures rather than subsidizing the costs of maturing businesses" it is important to recognize that the ATMC program has provided the opportunity for hundreds of entrepreneurs to create and market new tourism ventures. Providing direct assistance to small businesses is of no value unless there is also demand for their services.

Recommendation No. 2

The legislature should consider legislation to incorporate ATMC's staff within the Division of Tourism.

We disagree. Although state statute requires the DOT director to sign contracts and approve procurement procedures, this does not constitute a duplication of duties. In fact, if incorporated with DOT, staff levels would remain unchanged.

Language calling for this double check was included in the creation of ATMC to ensure that the new body, which had no experience in state procurement, was in compliance with the law. Since the ATMC has been following these procedures for four years, and inasmuch as it is subject to the same procurement regulations as the DOT and other agencies within the Department of Commerce and Economic Development, the State should instead consider legislation that would eliminate this unnecessary double approval step and leave this responsibility to the ATMC.

Recommendation No. 3

The Department of Commerce and Economic Development (DCED), Division of Tourism (DOT) should comply with the state budgetary process, state procurement code, and generally acceptable accounting principles and immediately cease the practice of diverting funds to non-state agencies.

DCED should work with the Department of Administration in resolving this issue and make recovery to the State as may be considered necessary.

In our opinion, since this recommendation has nothing to do with the Alaska Tourism Marketing Council it, should be removed from the sunset review of the ATMC.

ANALYSIS OF PUBLIC NEED

Industry experience and expertise in the tourism industry
We agree with this analysis.

Growth in Alaska Visitor Arrivals

Additional data from the most recent AVSP II indicates that summer 1992 Vacation/Pleasure visitor arrivals increased by 8% to 468,800. Since summer of 1985 this group has grown by 51%.

The audit also cites a study that shows some people are interested in visiting Alaska before they request a Vacation Planner. It should be noted that this predisposition is greatly affected by the ATMC's advertising and promotion efforts. Additionally, the purpose of the Planner is to expand the purchase options of the consumer and to connect small Alaska businesses with potential visitors.

DCED does not document analysis performed before entering into agreement with AVA for joint management of ATMC

Specific documentation is not required. State statute 44.33.705(b) specifies that "...the Commissioner [of DCED] determines..." and does not provide for specific methods of analysis or documentation to be used in determining the best interests of the State.

However, as indicated by the AVSP studies cited in the previous section and historical visitor counts, the growth of the Alaska Visitor Industry has been substantial during the years that cooperative marketing has been in existence. Knowledge of market forces impacting travel decisions and the increasingly competitive nature of the travel and tourism industry worldwide

could not lead one to any conclusion other than that the ATMC cooperative marketing programs increase market share for Alaska.

The DCED/AVA joint management agreement not in compliance with Alaska Statutes

We disagree. The current contract has been reviewed and approved by the Department of Law for compliance.

We do agree that the new joint management agreement substantially addresses the issues of concern raised in the 1992 Audit report.

DOT's potential conflicts of interest within ATMC

According to the Director of the DOT this conflict arises from the statutory requirement of having to serve both as the Director of Tourism and as the Chairman of the ATMC. Legislation which is pending in both the House and Senate addresses this potential conflict by stipulating that the presiding officer be elected from the Board of Directors.

The auditor also states that there were indications of difficulties with the former administration regarding the joint management of ATMC. This is true. However, it should be pointed out that to support this statement the auditor needed to go back to February of 1989, (only eight months after the formation of the council) and to a former administration. The current commissioner and administration have a sound partnership with the visitor industry and there is every indication that it will continue as such.

This former commissioner also alleges that the program was managed 100% by the AVA. This is clearly a gross overstatement requiring that all ten of the AVA appointees and all ten of the Governor's appointees plus the Director of Tourism have their votes mandated by the AVA. Furthermore, to state that membership in a statewide trade association with over 700 tourism related businesses somehow works against the best interest of Alaskans is false.

The extent to which the operation of the board has been impeded or enhanced by existing statutes.

We agree.

The extent to which the board has recommended statutory changes that are generally of benefit to the public interest.

We agree.

The extent to which the board has encouraged interested persons to report to it.

We agree.

The efficiency with which public inquiries or complaints have been resolved.

We agree. According to the ombudsman's office only 3 inquiries/complaints have been filed in the last four years and no cases remain open.

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347

March 1, 1993

Members of the Legislative Budget
and Audit Committee:

We have reviewed both the Department of Commerce and Economic Development's (DCED) and Alaska Tourism Marketing Council's (ATMC) responses to our preliminary report. The following are points which, in our opinion, require further clarification.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 2

Neither DCED nor ATMC believe that duplication of duties between Division of Tourism (DOT) and ATMC staff members exist. Evidence indicates the contrary. According to the ATMC staff job descriptions, ATMC staff duties include budget preparation, contract administration, and procurements processing. Yet, DOT staff duties also include the review of ATMC's budget, execution and tracking of ATMC expenditures, monitoring of ATMC contracts and contract payments, and review of ATMC's Requests for Proposals.

DCED's response states that "*the legislation which established the ATMC clearly shows that the ATMC is to operate independently of the DOT.*" We disagree. Alaska Statutes provide that DOT review and approve the procurement documents and procedures of ATMC to ensure compliance with applicable laws and regulations as well as sign contracts entered into by ATMC. Those provisions do not indicate that ATMC was clearly to operate independently of DOT. Instead, those provisions indicate a concern regarding the obligation of state funds. Indeed, in a Division of Legislative Audit report on ATMC dated January 21, 1992, we concluded that ATMC advertising agency production costs and procurement activities were not reviewed, controlled, and monitored by ATMC. This resulted in a recommendation to DOT and ATMC to establish administrative procedures to monitor advertising firms for contractual compliance and a recommendation that DOT establish procedures to oversee ATMC's contracting activities to ensure compliance with Alaska Statutes.

ANALYSIS OF PUBLIC NEED

DCED does not document analysis performed before entering into agreement with the Alaska Visitors Association (AVA) for joint management of ATMC

DCED, in their response, indicates that

. . . this statement has arisen from a misunderstanding of the intent of the statute on the part of the legislative auditor. . . . The statute cited . . . limits the Commissioner's authority to determining whether the tourism marketing program should be run "through a cooperative marketing program between the state and a qualified trade association having expertise in tourism" or through "a board of directors consisting of the director of tourism, the commissioner of commerce and economic development, and the commissioner of another principal executive department designated by the governor."

Our concern remains that before entering into such an agreement, that analyses be performed and documented that it is in the best interest of the State to enter into such an agreement.

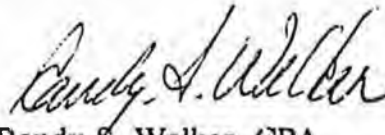
The DCED/AVA joint management agreement not in compliance with Alaska Statutes

The primary issue in this section is that several stipulations within the FY 92 joint management agreement did not comply with ATMC statutes. A new agreement has been entered into by DCED and AVA which substantially addresses these areas of noncompliance. However, the new agreement still allows AVA to retain state funds within AVA's accounts until such time AVA and DCED cease their contractual relationship. Due to our concern, we have requested a formal opinion from Legislative Legal Services on this and other DCED/AVA/ATMC issues. We have requested consideration of DCED's current procedures utilized in entering agreements with AVA to determine if they are in violation of AS 36.30 and review of the method by which funds collected and expended under AS 44.33.715(a)(13-14) are applied to the required contribution of AVA to determine if they violate Article IX, Section 7 of the Alaska Constitution and the state's appropriation act.

DOT's potential conflicts of interest within ATMC

ATMC's response regarding indications of difficulties regarding the joint management of ATMC stated that ". . . it should be pointed out that to support this statement the auditor needed to go back to February of 1989 . . ." In a letter to the Division of Legislative Audit dated March 16, 1992, the commissioner of DCED stated that "As it is constituted by statute, the ATMC presents a major problem in oversight and contract management by the state."

Sincerely,



Randy S. Welker, CPA
Legislative Auditor

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

P.O. BOX 110800
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2500
FAX: (907) 463-3841

February 26, 1993

Mr. Randy S. Welker
Legislative Auditor
Alaska State Legislature
Legislative Budget and Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

RECEIVED
FEB 26 1993
LEGISLATIVE AUDIT

Dear Mr. Welker:

Re: Preliminary Report
Department of Commerce and Economic Development
Sunset Review of the Alaska Tourism Marketing Council

This letter presents the response of the Department of Commerce and Economic Development (DCED) to the sunset review of the Alaska Tourism Marketing Council (ATMC). You will also find enclosed a separate response from the ATMC's Planning Committee.

Recommendation No. 1: The Legislature should consider legislation that extends the ATMC's termination date to June 30, 1997 with the provision that current State general funds supporting its budget be gradually replaced with program receipts from tourism industry contributions or assessments within that four year period.

We agree that the ATMC should be extended. Furthermore, the Hickel Administration has taken the position that the visitor industry's share of the cost of the ATMC should be increased. In the FY 94 operating budget, the Governor has proposed increasing the industry's share of the ATMC operating budget from 15 percent to 20 percent. Whether State general fund support obtained from existing sources can be phased out entirely depends on legislative enactment of a new revenue source in support of the state's tourism promotion efforts.

Recommendation No. 2: The Legislature should consider legislation to incorporate ATMC's staff within the Division of Tourism.

I disagree. There is currently no duplication of duties between the Division of Tourism (DOT) and the ATMC. The statutes creating the ATMC do not delineate areas of specific responsibility which, to those not intimately involved with the program, might lead to confusion about each agency's responsibilities. We have overcome this by ensuring that both organizations meet cooperatively to determine the most efficient and effective ways to share responsibilities.

The legislation which established the ATMC clearly shows that the ATMC is to operate independently of the DOT. As long as the ATMC is operating under the contractual

DEPT.'S RESPONSE
TO AUDITOR

arrangements provided for in the statutes and agreed to by the Commissioner, then the ATMC should have its own staff and executive director.

Regarding the statutory requirement that the Director of Tourism sign all ATMC contracts, just because there exists this requirement does not mean that there is duplication of duties. Departments regularly require at least two signatures on contracts: director and commissioner.

Recommendation No. 3: The DCED, DOT should comply with the State budgetary process, State procurement code, and generally acceptable accounting principles and immediately cease the practice of diverting funds to nonstate agencies. DCED should work with the Department of Administration in resolving this issue and make recovery to the State as may be considered necessary.

I must first state that this recommendation has absolutely nothing to do with the ATMC and should not be part of this audit report. Nonetheless, I concur with this recommendation. The department's standard operating procedure is to require line divisions to discuss any and all financial or procurement practices out of the ordinary with the staff and director of the Division of Administrative Services. Had these procedures been followed, this incident would not have occurred.

This incident resulted from poor communication, a lack of understanding of appropriate State procedures, and the attempt by the DOT to honor what was felt to be a financial obligation of the State of Alaska to the International Joint Commission (IJC). The IJC has been in existence for three years and is a joint effort between the Canadian and Alaskan governments to promote tourism.

In FY 92, \$25,000 in expenses were incurred by the IJC on the State's behalf in relation to the Alaska promotional event, "Wings Over the North." The IJC believed it would be reimbursed for these expenses by the State while the DOT believed the project had been reduced and/or canceled. When the expenses were presented to the DOT it was determined by the director that in order to maintain the excellent working relationship that exists between the two governments, the IJC should be reimbursed, if at all possible.

Therefore, rather than receiving the unanticipated payments from United Graphics Inc. for lost slides and the Fairbanks Convention and Visitors' Bureau, the DOT requested that these monies owed the State be routed directly to the IJC. This was not a deliberate attempt to circumvent any State statute or procedure. It was an honest attempt to honor what was felt to be an obligation of the State. I have been in contact with the director of DOT and he is clearly aware of and apologetic for the circumvention of appropriate State procedures.

In an effort to resolve this issue, the department requested that the IJC return the funds to the State. The money was returned on February 5, 1993.

Analysis of Public Need.

My responses to the auditor's comments in this section are limited to specific quotes with which I disagree or which I feel need clarification.

Page 14: DCED does not document analysis performed before entering into an agreement with AVA for joint management of ATMC.

I think this statement has arisen from a misunderstanding of the intent of the statute on the part of the legislative auditor. It is not up to the Commissioner of the Department of Commerce and Economic Development to determine whether there should be a tourism marketing program: that decision resides with the Governor and the State Legislature. The statute cited by the auditor (AS 44.33.705), limits the Commissioner's authority to determining whether the tourism marketing program should be run "through a cooperative marketing program between the state and a qualified trade association having expertise in tourism" or through "a board of directors consisting of the director of tourism, the commissioner of commerce and economic development, and the commissioner of another principal executive department designated by the governor." Once again, the judgement and review of corroborating backup to determine whether there should be a tourism marketing program rests with the Governor and the State Legislature.

Page 15: The DCED/AVA joint management agreement not in compliance with Alaska Statutes.

As the auditor has indicated, the current joint management agreement between DCED and the AVA has been reviewed and approved by the Department of Law. The current agreement expires on June 30, 1994.

Page 15: DOT's potential conflicts of interest within ATMC.

With respect to conflicts of interest between the department and the ATMC, I can only speak from my own experience as Commissioner of DCED since July 1992. I have an excellent working relationship with the members of the ATMC. In my experience, the ATMC has proven a valuable organization which operates in the public interest.

Thank you for the opportunity to comment, and if you require additional information, please contact me at 465-2500.

Sincerely,


Paul Fuhs
Commissioner

GB/yd005.bel
022293a
Enclosure

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 2/28/94

FURTHER: Resources
Finance

Date of 5-Day Notice: 3/3/94
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3/11/94

L&C Committee considered SB 341

"An Act extending the termination date of the Alaska Tourism Marketing Council; and providing for an effective date."

and recommends:

replace with _____ CS _____ ()

- same title
- new title
- technical title change (HB only)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
DCED	3/8/94	✓	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

~~_____~~

Judith E. Salo

Best thing to do
Have this no recommendation
NR

Tim Kelly - Do Pass
Chair: Signature and Recommendation

EIGHTEENTH ALASKA STATE LEGISLATURE

SECOND SESSION.

SENATE

State Capitol, Juneau, AK 99801-1182
 (Interdepartmental Mail Stop 3100)

NAME	PHONE NUMBER	CAPITOL OFFICE LOCATION
ADAMS, Al	465-3707	Room 417
DONLEY, Dave	465-3892	Room 11
DUNCAN, Jim	465-4766/4767 (Minority Leader)	Room 119
ELLIS, Johnny	465-3704	Room 9
FRANK, Steve	465-3709 (co-Finance 3753)	Room 518
WALFORD, Rick	465-4958 (President 3755) (Rules 3770)	Room 111
JACKO, George	465-4942	Room 125
KELLY, Tim	465-3822 (L&C 3844)	Room 101
KERTTULA, Jay	465-6600	Room 427
LEMAN, Loren	465-2095 (St. Aff. 4522) (Oil & Gas 3711)	Room 113
LINCOLN, Georgianna	465-3732	Room 510
LITTLE, Suzanne	465-2828	Room 7
MILLER, Mike	465-4976 (Res. 4907)	Room 423
PEARCE, Druce	465-4993/2678 (co-Finance 3753)	Room 508
PHILLIPS, Randy	465-4949 (CRA 4989) (LB&A)	Room 103
RIEGER, Steve	465-3879 (HESS 3762)	Room 516
SALO, Judith E.	465-4940	Room 504
SHARP, Bert	465-3004 (Trans. 4921)	Room 514
TAYLOR, Robin	465-3873 (Jud. 3717) (Majority Leader 6550)	Room 30
ZHAROFF, Fred	465-3473	Room 121

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 341

Revision Date: 3/9/94
Title: Extending the termination date for
the Alaska Tourism Marketing Council
Sponsor: Senate Labor and Commerce
Requestor: Senate Labor and Commerce

Department Affected: Commerce and Economic Development
BRU: Division of Tourism
Component: Alaska Tourism Marketing Council
COMPONENT SERIAL NO. _____

Expenditures/Revenues:

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) cost: \$ 0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary.)

* The funds for the Alaska Tourism Marketing Council are in the Governor's FY 95 operating budget.

Prepared by: Wendy Mulder *Wendy Mulder* Phone: 465-2500
Division: Dept. of Commerce and Economic Development Date: _____

Approved by Commissioner: Paul Fuhs *Paul Fuhs*
Agency: Commerce and Economic Development Date: 3/8/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

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CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) cost: \$ 0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary.)

* The funds for the Alaska Tourism Marketing Council are in the Governor's FY 95 operating budget.

Prepared by: Wendy Mulder *Wendy Mulder* Phone: 465-2500
Division: Dept. of Commerce and Economic Development Date: _____

Approved by Commissioner: Paul Fuhs *Paul Fuhs*
Agency: Commerce and Economic Development Date: 3/8/94

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SB

342

MEMORANDUM

STATE OF ALASKA

DATE: March 10, 1994

TO: Dave Walsh
Director
Division of Insurance

SUBJECT: House Bill No. 514 - Risk Based Capital

FROM: Katie Campbell
Assistant Actuary
Division of Insurance

Dave, Barbara Karl and I reviewed this draft of the bill and there a few areas that may need to be amended.

1. Page 3, line 28: "projects" should be "projections" , I assume this was a typing error
2. Page 6, line 24: "by the director" should be removed. The intention is that noone is to rank insurers based on their risk based capital amounts, not just the director. However, there was quite a bit of discussion at the Denver meeting about confidentiality and a statement that really stuck in my mind was "everyone is using RBC for everything except us(NAIC)"
3. "level event" was removed from the definitions but should probably be included

AS 21.14.010 (a) is amended to read:

(a) A life and health domestic insurer, property and casualty domestic insurer, or other insurer required to do so by the director shall, on or before March 1, submit to the director a report of its risk based capital covering the previous calendar year. The report must be in a form and contain the information required by the most recent risk based capital instructions adopted by regulation. In addition, each domestic insurer shall file its report with

- (1) the National Association of Insurance Commissioners; and
- (2) the insurance regulatory agency in each state in which the insurer is authorized to transact business, if the insurance regulatory agency has requested the report in writing from the insurer; a report requested under this paragraph shall be delivered
 - (A) not later than 15 days from the receipt of a request if the report has already been filed with the director; or
 - (B) at the time the report is filed with the director, if the report has not been filed with the director.

AS 21.14.010 (b) is amended to read:

(b) An insurer's risk based capital shall be determined under the formula contained in the most recent risk based capital instructions adopted by regulation.

AS 21.14.200 (17) is amended to read:

(17) "risk based capital instructions" means the [MOST RECENTLY APPROVED] risk-based capital instructions for a life and health insurer or for a property and casualty insurer that are substantially similar to the most recently approved risk based capital instructions adopted by the National Association of Insurance Commissioners and are adopted by regulation [OR MODIFIED BY ORDER OF THE DIRECTOR];

Alaska State Legislature

Senator Tim Kelly, Chair
Senator Steve Rieger, Vice Chair
Senator Bert Sharp
Senator Judy Salo
Senator Georgianna Lincoln



STATE CAPITOL, SUITE 101
JUNEAU, ALASKA 99801-1182
PHONE: (907) 465-3822
FAX: (907) 465-3756

SENATE LABOR AND COMMERCE COMMITTEE

716 W 4TH, SUITE 400
ANCHORAGE, AK 99501-2133
PHONE: (907) 258-8180
FAX: (907) 258-4524

MEMORANDUM

TO: All Senators

FROM: Senator Tim Kelly, Chair
Senate Labor & Commerce Committee

DATE: April 11, 1994

RE: SB 342 - Risk Based Capital for Insurers

The Senate Labor & Commerce Committee introduced SB 342, an "Act relating to risk based capital for insurers, and p.f.e.d." at the request of the Division of Insurance.

This legislation is based upon the National Association of Insurance Commissioners (NAIC) risk based capital model law and is required by the NAIC to be enacted in order for Alaska to maintain its accreditation with the NAIC. I've attached information provided by the department which provides an overview and analysis of this legislation, as well as an explanation of the changes made in the Senate Labor & Commerce Committee.

Thank you for your consideration.

BILL ANALYSIS - SB 342

"An Act relating to risk based capital for insurers and providing for an effective date."

RISK BASED CAPITAL

Risk based capital is an amount of capital and surplus calculated by an insurer using a formula derived by the National Association of Insurance Commissioners (NAIC), that will be used for determining whether regulatory action is needed and if regulatory action is needed, of what type. All insurers will use the same formula to calculate their risk based capital levels but the actual levels resulting from the formula will vary by insurer based upon the risks associated with that insurer's operations. For life and health insurers, the formula for risk based capital incorporates risks associated with the insurer's assets, adverse mortality and morbidity, changes in interest rates, and other business risks. For property and casualty insurers, the formula incorporates asset or default risk, credit risk, underwriting risk, and other business risks. The formula uses asset, reserve, reinsurance, and premium amounts in the insurer's annual financial statement to calculate a level of risk based capital called the "authorized control level risk based capital." Three other risk based capital levels are determined by applying percentages to the "authorized control level risk based capital": 200% for a "company action level risk based capital", 150% for a "regulatory action level risk based capital" and a factor of 70% for a "mandatory control level risk based capital." Depending on where an insurer's actual capital and surplus falls within these different risk based capital levels, the director will take the actions outlined in the proposed legislation.

Unlike current Alaska law that requires insurers to maintain a single minimum amount of capital and surplus that is identical for each class of insurer, requiring each insurer to calculate and report its risk based capital to the director will:

1. Require insurers to take actions that would provide greater safety from insolvency, thereby providing greater protection to consumers.
2. Provide guidance and assistance to regulators in identifying weak insurers.
3. Provide the legal authority for the director to intervene before insolvency occurs or before an insurer's capital and surplus falls below a level appropriate for that insurer.

Risk based capital will more accurately reflect an insurer's solvency. Alaskan insurers fair well under this proposed risk based capital legislation and currently have capital and surplus levels higher than the amount indicated in the risk based capital formula.

This proposed risk based capital legislation is based on the NAIC risk based capital model law that has been adopted as a minimum standard for state accreditation under the NAIC Accreditation Program. The NAIC Accreditation Program establishes minimum standards of

regulation through adoption of statutes and procedures. State accreditation is granted by the NAIC after on-site review verifying that these minimum standards are met. The Alaska Division of Insurance received its accreditation in December 1992 and is committed to maintaining the standards of the NAIC Accreditation Program.

SECTION 1. AS 21.14.010. Risk Based Capital Reports. This section requires most domestic insurers to file a risk based capital report with the director and establishes the time frame for submitting the report and the required form. This section provides for a possible exemption from filing a risk based capital report if the insurer meets certain conditions.

SECTION 1. AS 21.14.020. Company Action Level Event. This section describes the conditions under which an insurer reaches a company action level event and requires the insurer to submit to the director a comprehensive financial plan for corrective action.

SECTION 1. AS 21.14.030. Regulatory Action Level Event. This section describes the conditions under which an insurer reaches a regulatory action level event and requires the director to:

- 1) require the insurer to submit a comprehensive financial plan for corrective action;
- 2) perform whatever review of the insurer's assets, liabilities, and operations the director considers necessary; and
- 3) issue a corrective order specifying the action the insurer is required to take to that will increase their capital and surplus to an acceptable level.

SECTION 1. AS 21.14.040. Authorized Control Level Event. This section describes the conditions under which an insurer reaches an authorized control level event and requires the director to take the actions described under AS 21.14.030 or to take action to place the insurer under regulatory control if the director considers it to be in the best interests of the policyholders, creditors, and public.

SECTION 1. AS 21.14.050. Mandatory Control Level Event. This section describes the condition under which an insurer reaches a mandatory control level event and requires the director to take action to place the insurer under regulatory control.

SECTION 1. AS 21.14.060. Risk Based Capital Plan. This section describes the required content of, and states the time frame for submitting, the comprehensive financial plan required to be filed with the director when an insurer reaches a company action level event as described in AS 21.14.020, a regulatory action level event as described in AS 21.14.030, or an authorized control level event as described in AS 21.14.040.

SECTION 1. AS 21.14.070. Foreign Insurers. This section describes the risk based capital requirements for insurers not domiciled in Alaska (foreign insurers). Foreign insurers are required to file a risk based capital report or plan only upon written request from the director. The director may require foreign insurers to stop writing new insurance business in

Alaska if they do not file a risk based capital plan as requested by the director or if they reach a mandatory control level event.

SECTION 1. AS 21.14.080. Hearings. This section gives an insurer the right to challenge an action of the director under this chapter by requesting a hearing.

SECTION 1. AS 21.14.090. Confidentiality and Prohibition on Announcements: Prohibition on Use in Rate-making. This section restricts the use of risk based capital to solvency regulation only and explicitly prohibits the director from using it in determining premium rates or rate of return levels. This section also prohibits the director from making an insurer's risk based capital public without prior written consent of the insurer.

SECTION 1. AS 21.14.100. Penalty for Violation. This section states the penalty an insurer must pay to the division of insurance if the insurer fails to file a risk based capital report and/or plan with the director as required.

SECTION 1. AS 21.14.110. Definitions. This section defines the risk based capital terms used in this chapter.

SECTION 2. AS 21.90.900. Definitions. Amendment adds new definitions for "life and health insurer" and "property and casualty insurer".

SECTION 2. AS 21.78.040 (a). Grounds for Rehabilitation. Amendment to add authorized control level event and mandatory control level event to the list of conditions under which the director may apply to the court for an order appointing the director as receiver of and directing the director to rehabilitate a domestic insurer.

SECTION 4. Effective Date. This specifies that the effective date of this legislation will be on January 1, 1995.

SB 342 RISK BASED CAPITAL

- Current capital requirements are basically "one size fits all". All insurers regardless of their size or riskiness of their business are required to maintain the same minimum level of capital and surplus.
- Risk based capital is a new and improved method of determining the minimum level of capital and surplus an insurer is required to maintain and represents the culmination of over 3 years of work by the National Association of Insurance Commissioners, industry and consumer groups.
- Risk based capital incorporates the specific risks faced by an insurer. Examples include the risk that losses will be higher than expected and the risk that an insurer's assets will decline in value.
- Under a risk based capital standard, insurers that sell riskier products, have riskier investment policies, or generally engage in riskier business practices will have a higher required capital amount than an insurer with more conservative products, investments and business practices.
- Since risk based capital better reflects an insurer's solvency, the director will be able to more readily identify insurers requiring regulatory action. Thereby providing better protection from insolvency to consumers and the industry.
- Risk based capital better reflects the strength of the Alaskan insurers with risk based capital amounts above the national average.
- The use of risk based capital for regulating solvency is supported by consumers, industry, and regulators.

**AMENDMENT TO SENATE BILL 342
IN HOUSE STATE AFFAIRS**

By: Division of Insurance

Section 21.14.010 (e), Page 2: DELETE lines 18, 19, and 20.

This subsection will now read:

(e) The director shall establish risk based capital instructions by regulation.

*Ok that wants
& Div. has
no problem w/ this
amendment.*

Tim needs to call

SENATE BILL 342

SB 342 comes back to the Senate with one small non-controversial amendment. The amendment was made at the request of the local Alaska insurance industry. It deleted one sentence which referred to the National Association of Insurance Commissioners' instructions to insurance companies when they file their annual statements. The section as it is now written assures that any standard must be adopted by regulation in Alaska. This increases the flexibility we have to tailor national standards to the Alaskan market.

The amendment is supported by the Division of Insurance and the Division supports concurrence by the Senate.

Change in

Section

Page 2


SL 14.010

SB 342: "Act relating to risk based capital for insurers; and providing for an effective date."

The department supports this legislation.

Risk based capital represents a greatly improved capital standard over the current Alaska fixed capital standards. Unlike the current capital and surplus standard that requires the same amount of capital and surplus for all insurers in a particular class, regardless of their risk, a risk based capital standard develops a level of capital and surplus needed for a particular insurer based upon the risks inherent in that insurer's operations. Since a risk based capital standard allows the division to more accurately determine an insurer's financial position, this legislation will enable the director to more readily identify companies requiring regulatory action before insolvencies occur, and thereby provide greater protection from insolvency to policyholders.

This legislation is based upon the National Association of Insurance Commissioners (NAIC) risk based capital model law and is required by the NAIC to be enacted in order for Alaska to maintain its accreditation with the NAIC.



Paul Fuhs, Commissioner
3-15-94

Date

PF/KC/dgl307pp.kc
031494a

BILL ANALYSIS - SB 342

"An Act relating to risk based capital for insurers and providing for an effective date."

RISK BASED CAPITAL

Risk based capital is an amount of capital and surplus calculated by an insurer using a formula derived by the National Association of Insurance Commissioners (NAIC), that will be used for determining whether regulatory action is needed and if regulatory action is needed, of what type. All insurers will use the same formula to calculate their risk based capital levels but the actual levels resulting from the formula will vary by insurer based upon the risks associated with that insurer's operations. For life and health insurers, the formula for risk based capital incorporates risks associated with the insurer's assets, adverse mortality and morbidity, changes in interest rates, and other business risks. For property and casualty insurers, the formula incorporates asset or default risk, credit risk, underwriting risk, and other business risks. The formula uses asset, reserve, reinsurance, and premium amounts in the insurer's annual financial statement to calculate a level of risk based capital called the "authorized control level risk based capital." Three other risk based capital levels are determined by applying percentages to the "authorized control level risk based capital": 200% for a "company action level risk based capital", 150% for a "regulatory action level risk based capital" and a factor of 70% for a "mandatory control level risk based capital." Depending on where an insurer's actual capital and surplus falls within these different risk based capital levels, the director will take the actions outlined in the proposed legislation.

Unlike current Alaska law that requires insurers to maintain a single minimum amount of capital and surplus that is identical for each class of insurer, requiring each insurer to calculate and report its risk based capital to the director will:

1. Require insurers to take actions that would provide greater safety from insolvency, thereby providing greater protection to consumers.
2. Provide guidance and assistance to regulators in identifying weak insurers.
3. Provide the legal authority for the director to intervene before insolvency occurs or before an insurer's capital and surplus falls below a level appropriate for that insurer.

Risk based capital will more accurately reflect an insurer's solvency. Alaskan insurers fair well under this proposed risk based capital legislation and currently have capital and surplus levels higher than the amount indicated in the risk based capital formula.

This proposed risk based capital legislation is based on the NAIC risk based capital model law that has been adopted as a minimum standard for state accreditation under the NAIC Accreditation Program. The NAIC Accreditation Program establishes minimum standards of

regulation through adoption of statutes and procedures. State accreditation is granted by the NAIC after on-site review verifying that these minimum standards are met. The Alaska Division of Insurance received its accreditation in December 1992 and is committed to maintaining the standards of the NAIC Accreditation Program.

SECTION 1. AS 21.14.010. Risk Based Capital Reports. This section requires most domestic insurers to file a risk based capital report with the director and establishes the time frame for submitting the report and the required form. This section provides for a possible exemption from filing a risk based capital report if the insurer meets certain conditions.

SECTION 1. AS 21.14.020. Company Action Level Event. This section describes the conditions under which an insurer reaches a company action level event and requires the insurer to submit to the director a comprehensive financial plan for corrective action.

SECTION 1. AS 21.14.030. Regulatory Action Level Event. This section describes the conditions under which an insurer reaches a regulatory action level event and requires the director to:

- 1) require the insurer to submit a comprehensive financial plan for corrective action;
- 2) perform whatever review of the insurer's assets, liabilities, and operations the director considers necessary; and
- 3) issue a corrective order specifying the action the insurer is required to take to that will increase their capital and surplus to an acceptable level.

SECTION 1. AS 21.14.040. Authorized Control Level Event. This section describes the conditions under which an insurer reaches an authorized control level event and requires the director to take the actions described under AS 21.14.030 or to take action to place the insurer under regulatory control if the director considers it to be in the best interests of the policyholders, creditors, and public.

SECTION 1. AS 21.14.050. Mandatory Control Level Event. This section describes the condition under which an insurer reaches a mandatory control level event and requires the director to take action to place the insurer under regulatory control.

SECTION 1. AS 21.14.060. Risk Based Capital Plan. This section describes the required content of, and states the time frame for submitting, the comprehensive financial plan required to be filed with the director when an insurer reaches a company action level event as described in AS 21.14.020, a regulatory action level event as described in AS 21.14.030, or an authorized control level event as described in AS 21.14.040.

SECTION 1. AS 21.14.070. Foreign Insurers. This section describes the risk based capital requirements for insurers not domiciled in Alaska (foreign insurers). Foreign insurers are required to file a risk based capital report or plan only upon written request from the director. The director may require foreign insurers to stop writing new insurance business in

Alaska if they do not file a risk based capital plan as requested by the director or if they reach a mandatory control level event.

SECTION 1. AS 21.14.080. Hearings. This section gives an insurer the right to challenge an action of the director under this chapter by requesting a hearing.

SECTION 1. AS 21.14.090. Confidentiality and Prohibition on Announcements; Prohibition on Use in Rate-making. This section restricts the use of risk based capital to solvency regulation only and explicitly prohibits the director from using it in determining premium rates or rate of return levels. This section also prohibits the director from making an insurer's risk based capital public without prior written consent of the insurer.

SECTION 1. AS 21.14.100. Penalty for Violation. This section states the penalty an insurer must pay to the division of insurance if the insurer fails to file a risk based capital report and/or plan with the director as required.

SECTION 1. AS 21.14.110. Definitions. This section defines the risk based capital terms used in this chapter.

SECTION 2. AS 21.90.900. Definitions. Amendment adds new definitions for "life and health insurer" and "property and casualty insurer".

SECTION 2. AS 21.78.040 (a). Grounds for Rehabilitation. Amendment to add authorized control level event and mandatory control level event to the list of conditions under which the director may apply to the court for an order appointing the director as receiver of and directing the director to rehabilitate a domestic insurer.

SECTION 4. Effective Date. This specifies that the effective date of this legislation will be on January 1, 1995.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 342

Revision Date: _____
Title: Risk Based Capital For Insurers
Sponsor: Labor & Commerce Committee
Requestor: _____

Department Affected: Commerce and Economic Development
BRU: Insurance
Component: Operations
COMPONENT SERIAL NO. 354

Expenditures/Revenues:

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) cost: \$ 0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact.

Prepared by: Joan Brown, Administrative Officer
Division: Insurance

Phone: 465-2597
Date: 3/10/94

Approved by Commissioner: Paul Fuhs
Agency: Commerce and Economic Development

Date: _____

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For fun

SB

344

Continuation of Fiscal Note Analysis for DRAFT Bill re: Employment Taxes

The Division of Occupational Licensing anticipates the provisions of this bill will require a support position to:

- a) process applications of licensees whose response is affirmative to owing employment taxes;
- b) monitor issuance of temporary registrations, licenses or permits to individuals who file for an administrative or judicial appeal regarding the tax;
- c) conduct investigation into licensees who have falsified information of their license application;
- d) prepare the division's case on licensees who request an administrative hearing as result of their license denial; and
- e) pursue licensees who continue to practice with an expired license due to the license denial.

A business or occupational licensee who has been denied issuance or renewal of their license for failure to pay the required employment tax is entitled to a hearing, if requested, under the Administrative Procedure Act. The division's funding request in the first year will provide the following:

Personal Services:

1 - Investigator II, Range 16A, 12 months located in Anchorage	\$51.2
---	--------

Travel:

Funding for investigative travel throughout the State when necessary.	\$ 5.0
--	--------

Contractual Services:

\$35.0

Regulations Process: \$15.0

(It is anticipated that this funding will be needed in the first year of operations only. Once the regulations are established, this funding will no longer be required. The fiscal note reflects this reduction in FY 96.)

Printing of Forms: \$10.0

(Since licenses cover a biennial period, it is anticipated that new application forms and license renewal forms being printed in the first year will be revised to accommodate provisions of the bill. License forms for licenses that expire in FY 96 will be amended in that year. The fiscal note reflects this cost being eliminated in FY 97.)

Hearing Costs: \$10.0

(It is difficult at best, to estimate the cost of hearings that may be incurred from license denials generated by this bill. The hearing process can result in great expense to the State. This funding will provide minimal coverage for hearing costs, and can be adjusted later depending on litigation activity.)

Supplies:

\$ 1.0

This funding will provide daily operating supplies for the program requirements.

Equipment:

\$ 3.0

This funding will provide computer and communications equipment for the investigator position.

Total Cost:

\$95.2

Funding Source: The division has requested General Funds to cover the costs associated with this program. Since the requirements of this bill relate to an employment "tax", unlike other licensing costs that are General Fund/Program Receipts funded from licensing fees, licensees should not have to pay increased fees to cover the costs of enforcing a "tax" upon themselves.

FISCAL NOTE

No. 2

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL Bill Version: SB 344

(S) Publish Date: 3-9-94

Revision Date: _____
Title: Employment Tax

Dept. Affected: Revenue
BRU: Revenue Operations
Component: Income and Excise Audit

Sponsor: () Rules by Request of the Governor
Requestor: _____

COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	122.9	196.3	196.3	196.3	196.3	196.3
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	76.5	10.0	10.0	10.0	10.0	10.0
SUPPLIES	7.0	7.0	7.0	7.0	7.0	7.0
EQUIPMENT	38.5	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	244.9	213.3	213.3	213.3	213.3	213.3

CAPITAL						
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REVENUE FUND SOURCE: General	21,937.5	31,291.8	31,291.8	31,291.8	31,291.8	31,291.8
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

POSITIONS:

FULL-TIME	4	4	4	4	4	4
PART-TIME	3	3	3	3	3	3
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary.)

date _____ Comte Aide (initial) _____

SEE ATTACHED

Changes in CSSB 344 (L&C)
reflect **NO FISCAL CHANGE** from the original
fiscal note. This fiscal note is appropriate.
3/24/94 APJ

Prepared by: Larry E. Meyers Phone: 465-2320
Division: Income and Excise Audit Date: February 14, 1994
Approved by Commissioner: Darrel J. Rexwinkel Date: February 14, 1994
Agency: Department of Revenue

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Bill Analysis

This bill establishes a tax on individuals 19 or older who receive compensation for services performed or self-employment earnings from business activities in Alaska effective January 1, 1995. The tax will be 10% of the first \$1,000 of compensation or earnings. Individuals will not be liable for more than \$100 total in a calendar year.

This bill separates requirements for reporting and remitting taxes for employers and self-employed individuals to capitalize on requirements already in place for employers to report employment security contributions to the Department of Labor (DOL). Taxes will be reported and remitted as follows.

	<i>Employers</i>	<i>Self-employed Individuals</i>
Tax Base	Employee Compensation	Self-employment earnings
Withholding by	Employer	Self-employed Individual
Report and Remit to	Department of Labor	Department of Revenue
Filing Frequency	Quarterly	Quarterly
Filing Due Dates	30th of January, April, July, and October	15th of January, April, July, and October

Under this bill, employers and self-employed individuals are required to withhold 10% of compensation or earnings until the \$100 tax limit is met.

The Department of Revenue (DOR) will be the lead agency for administering the employment tax. DOR will administer all aspects of the employment tax program for self-employed individuals since they have no reporting requirements to DOL.

DOL's role in administering this tax will be that of a servicing agency to DOR to collect and account for withholdings by employers. The two department's will work closely with each other to exchange tax information to ensure program compliance.

Employers will be required to furnish employees by February 1 a record of the amount of tax withheld from the employee's compensation in a preceding year. DOR envisions that employers will meet this requirement by including amounts withheld on the employee's W-2. Employers will pay a \$10 penalty for each failure to provide the record of withholding.

The records will be used as a basis for refunding employees who had more than \$100 withheld during the preceding year. DOR will be responsible for refunding tax overpayments, assessing taxes and penalties and enforcing tax collections.

This bill provides for restrictions on issuing licenses, registrations and permits to individuals who fail to file a return or pay or remit the employment tax. DOR will be responsible for promulgating regulations to administer the employment tax program.

Operating Costs

Personal Services. DOR will need the following positions to administer the employment tax program. All positions will be located in Juneau.

<i>Position</i>	<i>Range</i>	<i>Function</i>	<i>FY 95¹</i>	<i>FY 96 - 00</i>
Document Processor II	8	Process returns and payments. Data capture information.	\$16.5	\$33.0
Clerk Typist III	8	Data capture information and issue refunds.	16.5	33.0
Accounting Technician I	12	Reconcile payments and DOL information, collect delinquent accounts.	20.2	40.4
Tax Examiner I	12	Examine tax returns, compliance, taxpayer correspondence.	20.2	40.4
Seasonal Clerk Typist III ² (3 positions)	8	Answer phone calls, data capture information and issue refunds.	49.5	49.5
Total Personal Services			\$122.9	\$196.3

¹ Costs for half of FY 95. Positions will be hired beginning January 1, 1995.

² Three positions will be hired for the period January through June each year in conjunction with increased seasonal workload.

Contractual	<u>FY 95</u>	<u>FY 96 - 00</u>
Programming (FY95 only)	\$30.0	\$0.0
Phones (FY 95 only)	1.5	0.0
Regulations Promulgation (FY 95 only)	5.0	0.0
Forms	5.0	5.0
Communications	<u>5.0</u>	<u>5.0</u>
Total	<u>\$76.5</u>	<u>\$10.0</u>

Travel. DOR anticipates that this program can be administered at the office level and will not require field travel. DOR will perform compliance through exchange of information with DOL and IRS.

Equipment. One-time request for FY 95 to provision each of the seven positions with the following equipment.

Computers	\$28.0
Office Equipment	<u>10.5</u>
Total	<u>\$38.5</u>

Supplies. \$1000 for each of the seven positions.

Revenue

According to Department of Labor employment statistics for calendar year 1992, the following number of employees and self-employed persons will be subject to the employment tax. For purposes of calculating the impact of the bill's tax exclusion for employees under 19, we assumed that 15% of the workforce is under 19. Department of Labor does not maintain data on age of employees. Although statistics are not available, Department of Revenue estimates that 20,000 contractors doing business in Alaska will be subject to the employment tax. Total tax revenue for each year will vary depending on employment in the State.

This bill will generate the following revenue stream. Note that the revenue estimate for FY 95 reflects first quarter activity only because it is the only quarter in which the remittance due date falls within the fiscal year.

	FY 95		FY 96 - FY 00	
	Earnings ≥ \$1000	Earnings < \$1000	Earnings ≥ \$1000	Earnings < \$1000
Number of Employees	201,500	32,000	300,800	37,500
Adult Workforce Factor ¹	85%	85%	85%	85%
Adult Workforce	171,275	27,200	255,680	31,875
Number of Self-employed	14,300	7,000	21,300	0
Number of Contractors	13,400	6,600	20,000	0
Total	198,975	40,800	296,980	31,875
Tax Calculation Base ²	\$1000	\$500	\$1000	\$500
Gross Earnings (Total x Base)	\$198,975,000	\$20,400,000	\$296,980,000	\$15,937,500
Tax Rate	10%	10%	10%	10%
Tax Revenue	\$19,897,500	\$2,040,000	\$29,698,000	\$1,593,750

¹ Adjustment for 15% of workforce assumed under 19.

² Average earnings for employees earning less than \$1000 were not available from the Department of Labor. The median of \$0 and \$1000 or \$500 was chosen for calculating revenue generated from these employees.

<i>Employment Tax Revenue Summary</i>		
	FY 95	FY 96
Earnings ≥ \$1000	\$19,897,500	\$29,698,000
Earnings < \$1000	2,040,000	1,593,750
Total Revenue	\$21,937,500	\$31,291,750

FISCAL NOT

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BI

No. 1

Bill Version: SB 344

(S) Publish Date: 3-9-94

Revision Date: _____

Title: Employment Tax Collection

Department Affected: Labor

BRU: Employment Security

Componer Employment/Unemployment Services

Sponsor: Rules by Request

Requestor: Rules by Request

COMPONENT SERIAL NO. 1807

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	74.2	77.9	81.8	85.9	90.2	94.7
TRAVEL						
CONTRACTUAL	587.8	481.7	625.8	531.1	557.7	585.6
SUPPLIES	2.0	2.1	2.2	2.3	2.4	2.6
EQUIPMENT	7.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	671.5	561.8	709.8	619.3	650.3	682.8

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	671.5	561.8	709.8	619.3	650.3	682.8
1005 GF/Program Rec						
1006 GF/MHTIA						
1007 IA Receipts						
TOTAL	671.5	561.8	709.8	619.3	650.3	682.8

POSITIONS:

FULL-TIME	2.0	2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ none

ANALYSIS: (Attach a separate page if necessary)	date	Comte Aide (initial)
(see attached)		
Changes in <u>CSSB 344 (LAC)</u> reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate. <u>3/24/94</u> <u>9102</u>		

Prepared by: Judy Knight, Director Phone: 465-2711

Division: Employment Security Date: 3/3/94

Approved by Commissioner: Charles W. Marshall

Agency: Department of Labor Date: 3/3/94

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Fiscal Note Analysis for

"An Act relating to the establishment, collection, and enforcement of an employment tax....."

This bill establishes a tax on individuals 19 or older who receive compensation for services performed or self-employment earnings from business activities in Alaska effective January 1, 1995. The tax will be 10% of the first \$1000 of compensation or earnings. Individuals will not be liable for more than \$100 total in a calendar year.

This bill separates requirements for reporting and remitting taxes for employers and self-employed individuals to capitalize on requirements already in place for employers to report employment security contributions to the Department of Labor (DOL). Taxes will be reported and remitted as follows. Under this bill, employers and self-employed individuals are required to withhold 10% of compensation or earnings until the \$100 tax limit is met.

The Department of Revenue (DOR) will be the lead agency for administering the employment tax. DOR will administer all aspects of the employment tax program for self-employed individuals since they have no reporting requirements to DOL.

DOL's role in administering this tax will be that of a servicing agency to DOR to collect and account for withholdings by employers. The two department's will work closely with each other to exchange tax information to ensure program compliance. The Employment Security tax unit will collect the employment tax for approximately 340,000 employees through the employers' quarterly reports for payment of unemployment insurance taxes. Revenues from the employment tax will be transferred to the Department of Revenue for deposit in the General Fund.

Employers will be required to furnish employees by February 1 a record of the amount of tax withheld from the employee's compensation in a preceding year. DOR envisions that employers will meet this requirement by including amounts withheld on the employee's W-2. Employers will pay a \$10 penalty for each failure to provide the record of withholding.

The records will be used as a basis for refunding employees who had more than \$100 withheld during the preceding year. DOR will be responsible for refunding tax overpayments, assessing taxes and penalties and enforcing tax collections.

Revenue projections are included in the fiscal note prepared by the Department of Revenue.

Operating Costs:

A 5% inflation factor, minus one-time items, was included in fiscal years (FY'96-00) displayed on the fiscal note.

Effective date of January 1, 1995 is assumed.

Personal Services:

DOL will need two positions to administer the employment tax program. Both positions will be located in Juneau.

Accounting Technician I	40.4
Clerk III	<u>33.8</u>
Total Personal Services	74.2

These two positions will perform the following tasks: examine and process quarterly returns and payments from employers; reconcile payments from employer; respond to written and telephonic questions; and provide information and training to individuals who prepare quarterly reports.

Travel:

No travel required or anticipated specific to this additional tax collection.

Contractual Services:

Federal Cost Allocation Plan (Prorated share of tax operations)	290.0
Additional key punch items from quarterly reports for employment tax collection.	39.8
One-time reprinting of tax reporting forms, informational outreach to employers.	39.0
Communications expenses.	6.0
Data processing chargeback services.	50.0
Department indirect cost plan based on 12% of personal service costs.	26.5
Existing system data processing conversion programming contract.*	119.0
Postage & advertising.	<u>17.5</u>
Total contractual services:	587.8

Supplies:

Figured at \$1000 for each employee.	2.0
--------------------------------------	-----

Equipment:

One-time requests for FY'95 purchase of standard office equipment for two positions.	
Computers	5.0
Office equipment	<u>2.5</u>
Total equipment:	7.5

*NOTE: FY'97 data processing programming contract to convert existing system to relational database (120.0).

Position Title Accounting Tech II		No. of Positions 1	Range/Step 14B	Barg. Unit GGU
Time Status FT	Staff Months 12	Location Juneau		Election District 4
Type of Expenditure		Amount		
Salary	\$32,808			
Benefits	13,785			
Premium Pay				
Other				
Total Personal Services		\$46,593		
Travel		0		
Contractual		5,500		
Commodities		500		
Equipment		3,750		
Other				
Total Cost		\$56,343		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	56,343		
I-A Receipts	1007			
CIP Receipts	1061			
Other				
<p>Justification</p> <p>This position will provide direct support for the Employment Tax program. This includes working with employer and employee inquiries in assisting with all aspects of the program. This position will act as the lead for the Accounting Clerk III position and will have direct responsibilities related to the accounting, forms design, and data processing workload for the employment tax program.</p> <p>Contractual services related to this position include funding for the departments indirect cost plan, phone and long distance costs, and data processing chargeback expenditures. Equipment and supplies include office furniture, personal computer and related software.</p>				

**Request For
New Position**

Agency Labor
 BRU Employment Security
 Component Employment/Unemployment Services

Page 4 of 5
 Revised Date _____

FY 95

Position Title Accounting Clerk III		No. of Positions 1	Range/Step 10B	Barg. Unit GGU
Time Status FT	Staff Months 12	Location Juneau		Election District 4
Type of Expenditure		Amount		
Salary		\$25,524		
Benefits		11,872		
Premium Pay				
Other				
Total Personal Services		\$37,396		
Travel		0		
Contractual		4,500		
Commodities		500		
Equipment		3,750		
Other				
Total Cost		\$46,146		
Funding Source for Total Cost				
Federal Receipts		1002		
G. F. Match		1003		
General Fund		1004 46,146		
I-A Receipts		1007		
CIP Receipts		1061		
Other				
<p>Justification</p> <p>This position will assist the Accounting Tech II position and respond to employer and employee inquiries, assist in forms design, and data processing information review. This position will have direct responsibilities related to the accounting of the employment tax program.</p> <p>Contractual services related to this position include funding for the departments indirect cost plan, phone and long distance costs, and data processing chargeback expenditures. Equipment and supplies include office furniture, personal computer and related software.</p>				

**Request For
New Position**

Agency Labor
 BRU Employment Security
 Component Employment/Unemployment Services

Page 5 of 5
 Revised Date

FY 95



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 7, 1994

342

*The Honorable Rick Halford
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill instituting an employment tax of \$100 per year on individuals working in Alaska.

This employment tax bill is one of several relatively modest revenue proposals I am offering this session to help offset the large revenue shortfalls that Alaska is facing in fiscal year 1995 and will be facing in the years to follow. Tax proposals are never popular, but it is time for Alaska's leaders to face the reality that with lower oil revenue, Alaska can no longer afford to provide necessary state services without a larger contribution from both Alaska residents and non-resident workers.

Budget cuts alone cannot fill the revenue shortfalls without causing a major impact on the state economy. Some use of the state's reserve funds will undoubtedly be necessary to help balance the budget, but relying solely on reserves to make ends meet will deplete these funds rapidly and leave the state in a more serious fiscal situation two to three years from now.

Relying on reserve funds to solve this year's fiscal dilemma would be the easy way out, but our leadership responsibilities require state leaders to make some tough decisions, and to reach a fiscal solution that does not solve this year's problem at the expense of aggravating Alaska's future fiscal health. New revenue is an essential part of this solution.

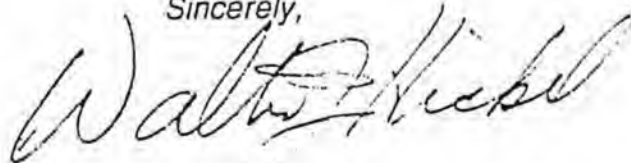
It is important to keep in mind that if the employment tax and the other proposals that I have introduced are all enacted into law, Alaskans will still have by far the lowest state tax burden in the nation. And when the permanent fund dividend is included, Alaskans will still on balance pay nothing for state services, because the dividend will continue to more than offset the total of state taxes and fees collected from individuals.

The Honorable Rick Halford
March 7, 1994
Page 2

The employment tax would be levied on individuals age 19 and older working in Alaska, whether employed by others or self-employed. At \$100 per year, the tax is expected to generate about \$31 million annually, with about 25 percent of the total tax collections contributed by non-resident workers. Remittance of the employment tax withheld by employers would be streamlined by linking the remittance with the other payroll taxes that employers are required to report and remit to the state. In addition, the bill contains a provision to minimize the burden of the tax by spreading the collection of the tax over more than one paycheck for low-wage or part-time workers.

In summary, the employment tax is a modest revenue measure that will help balance the state budget not only in fiscal year 1995, but in the following years as well. I urge your support for this legislation.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel". The signature is written in dark ink and is positioned above the printed name and title.

Walter J. Hickel
Governor

NFIB Alaska

National Federation of
Independent Business

POSITION PAPER

OF

NATIONAL FEDERATION OF INDEPENDENT BUSINESS
(NFIB/ALASKA)

OPPOSING

SB 344 ESTABLISHING AN EMPLOYMENT TAX

9159 Skywood Lane
Juneau, AK 99801



The Guardian of
Small Business

- N.F.I.B. POSITION PAPER -

CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS RESA JERREL, AND I AM THE STATE DIRECTOR FOR NATIONAL FEDERATION OF INDEPENDENT BUSINESS - NFIB/ALASKA. I AM HERE TODAY IN OPPOSITION TO SB 344.

NFIB/ALASKA IS COMPRISED OF 4,400 SMALL AND INDEPENDENT BUSINESS OWNERS. THE LEGISLATIVE AGENDA OF NFIB/ALASKA IS DETERMINED BY OUR BALLOT. THE BALLOT IS OUR ANNUAL POLL OF OUR MEMBERS ON A SERIES OF ISSUES DEEMED CRITICAL TO SMALL BUSINESS. A MAJORITY VOTE, OF THE MEMBERS IN RESPONSE TO THE POLL, SETS OUR POLICY AND POSITION ON LEGISLATIVE ISSUES. WE THEN SHARE THE RESULTS OF OUR POLL WITH THE LEGISLATURE AND ADMINISTRATION. THERE IS NOT ENOUGH SPACE ON THE ANNUAL POLL TO PLACE EVERY POSSIBLE ISSUE BEFORE OUR MEMBERS. THEREFORE, WE ALSO USE THE PREVIOUS YEARS BALLOT RESULTS AS GUIDANCE ON ISSUES.

THE 1993 SURVEY OF NFIB/ALASKA MEMBERS FOUND OVERWHELMING SUPPORT - 92 PERCENT - TO REDUCE STATE GOVERNMENT SPENDING BEFORE INCREASING PRESENT TAXES. NFIB/ALASKA OPPOSES SB 344 BECAUSE THE LACK OF REVENUE IS NOT THE REAL ISSUE, EXPENDITURES ARE THE ISSUE. THE STATE OF ALASKA IS SPENDING BEYOND ITS MEANS. THERE IS NO WAY TO BALANCE THE BUDGET WITHOUT REDUCING GOVERNMENT SPENDING. (See attached "My Turn" News Paper Article)

I OFFER THE FOLLOWING SUGGESTION FOR HELPING TO REDUCE THE OPERATING BUDGET - PROHIBIT OR REDUCE THE COMMERCIAL ACTIVITIES OPERATED BY STATE AND LOCAL AGENCIES. SMALL BUSINESSES, IN ALASKA, FACE COMPETITION FROM STATE AND LOCAL GOVERNMENT IN A WIDE VARIETY OF COMMERCIAL AREAS. THE MANY SMALL BUSINESSES FACING GOVERNMENT COMPETITION ARE:

- PRINTING FIRMS
- GIFT SHOPS
- VIDEOTAPE OUTLETS

- DAY-CARE CENTERS
- SERVICE STATIONS
- LANDSCAPING
- ROAD REPAIR AND MAINTENANCE
- LABORATORIES
- MEDICAL CARE PROVIDERS
- PHARMACIES
- ARCHITECTURE AND ENGINEERING FIRMS
- OFFICE FURNITURE
- AUTO BODY REPAIR

GETTING GOVERNMENT OUT OF BUSINESS WOULD GO A LONG WAY TO BRING THE SIZE AND COST OF STATE AND LOCAL GOVERNMENT DOWN TO REASONABLE AND AFFORDABLE LEVELS - WITHOUT RAISING TAXES.

NFIB/ALASKA THANKS YOU FOR THE OPPORTUNITY TO COMMENT ON THIS LEGISLATION. IF YOU HAVE ANY QUESTIONS, I WILL TRY TO ANSWER THEM.

MY TURN

Time running out for budget cuts

By SEN. DICK ELIASON

My good friend, the late Rep. Earl Hilstrand of Anchorage, would often refer to state spending in the course of addressing the House of Representatives. "The state is careening down fiscal fiasco freeway," he asserted, "and at the end of this freeway is a stone wall."

Nobody could really challenge that, but nobody really bothered much about it, including myself. In the early 1970s, the prospect of fiscal difficulties seemed relegated to the distant future.

Earl Hilstrand was warning us, but apparently the members of the Legislature were unable to see beyond the next election.

Unfortunately, the end of the freeway is now in sight. Fiscal projections into the near future indicate very clearly that we are still careening down fiscal fiasco freeway and picking up speed as we near the "wall" of 1996.

It is hard to dispute the evidence. Given the decline in Prudhoe Bay production (Department of Revenue spring '92 forecast), and the estimated price of oil (Alaska North Slope

Lower 48 average price of \$15.86 for fiscal year 1993 and a five-year average of \$16.97 for the subsequent three years), we can determine approximately how much unrestricted general-fund revenue we will have coming in.

We know the total size of the spending package for the current fiscal year, so we know how much is going out.

Even if we can contain spending at the current year level (it appears we are having difficulty doing that this session), even if we keep it at that level for four consecutive years, even if we spend every available dollar on the budget including the Permanent Fund earnings reserve (\$708 million), the constitutional budget reserve account (\$456 million), the statutory budget reserve account (\$167 million), and other pots and funds totaling an additional \$600 million or so, by the year 1996 we will be in debt to the tune of about \$1.6 billion.

Sure, there are other potential sources of income. The largest single source would likely be a personal income tax. That would bring in about

\$250 million to \$300 million a year. If that tax was in place this year, and we doubled it, our revenues and expenditures for the current fiscal year would just about balance. This is no the magic solution.

We could look at other revenue sources: retail sales tax, services tax, corporate income tax increases, highway fuel tax, raw fish tax increases, and fees for state government services. At the maximum these might generate an additional \$200 million a year. This is not the magic solution.

There is no magic answer to our revenue shortfall. Lack of revenue is not the real issue, expenditures are the issue. The state of Alaska is spending beyond its means. There is no way to balance our budget without substantially reducing government spending this year and each future year for at least four years.

We don't face a serious problem this year or next year because we have the money to cover our expenditures, provided we keep spending at its current level. That would certainly be the politically expedient thing to do, the easy way out

However, the question we must ask as we travel down the fiscal fiasco freeway is not, "Are we going to hit the wall?" The question is, "How hard are we going to hit it?"

Unfortunately, despite hours of legislative hearings and earnest effort to reduce spending on the operations of state government, I don't see any indication that this Legislature or this gubernatorial administration has the foresight, will, or commitment to make the hard decision to hit the brakes.

During the budget-cutting process, legislators hear from few people who urge them to cut the budget, and from hundreds of people asking that specific programs and services be spared the sharp edge of the budget ax.

Perhaps legislators will be unable to bite the bullet on the budget until the people they represent make it clear that they support the kind of action that needs to be taken to avert a major shock to the economy.

 Sen. Dick Eliason, a Sitka Republican, is president of the Alaska State Senate.

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

DATE: 3/9/94

FURTHER: Judiciary
Finance

Date of 5-Day Notice: 3/17/94
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3-24-94

L&C Committee considered SB 344

"An Act relating to the establishment, collection, and enforcement of an employment tax; and providing for an effective date."

and recommends:

replace with _____ CS SB 344 (LAC)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

same title
 new title
 technical title change (HB only)

Department	Date	Zero	Fiscal
CRA		<input checked="" type="checkbox"/>	
HSS - Pub Asst		<input checked="" type="checkbox"/>	
Corrections		<input checked="" type="checkbox"/>	
DPS		<input checked="" type="checkbox"/>	
DOT/PF		<input checked="" type="checkbox"/>	
DNR		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
REV			<input checked="" type="checkbox"/>

FISCAL NOTE INFORMATION *all previous Gov.*

Department	Date	Zero	Fiscal
DMVA		<input checked="" type="checkbox"/>	
DEC		<input checked="" type="checkbox"/>	
LAW		<input checked="" type="checkbox"/>	
Admin EEO		<input checked="" type="checkbox"/>	
Admin Finance			<input checked="" type="checkbox"/>
DOED			<input checked="" type="checkbox"/>
Labor			<input checked="" type="checkbox"/>

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

Bob Sharp - No Rec
John Pini - No Recommendation
Judith Salo - Do not pass with new title

Tim Kelly - No Rec
Chair: Signature and Recommendation

No. 14

Bill Version: SB 344

(S) Publish Date: 3-9-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date: _____ Dept. Affected: Community & Regional Affairs 717

Title: "An Act relating to the establishment, and enforcement of an employment tax: . . ." BRU: _____
Component: _____

Sponsor: _____

Requestor: Rules Committee by request of the Governor COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current (FY94) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Remond Henderson *Remond Henderson* Director Phone: 465-4708
 Division: Administrative Services Date: 2/18/94
 Approved for the Commissioner by: Bruce Geraghty Deputy Commissioner Date: _____
 Agency: Community & Regional Affairs *Eva Beth* 2-18-94

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ZERO FISCAL NOTES

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

13
Bill Version: SB 344
(S) Publish Date: 3-9-94

Revision Date: _____ Dept. Affected: Health and Social Services
Title: No Act relating to the establishment, BRU: Public Assistance Administration
collection, and enforcement of an employment tax Component: Public Assistance Administration
Sponsor: _____
Requestor: Governor COMPONENT SERIAL NO. 0233

Expenditures/Revenues:		(Thousands of Dollars)					
OPERATING	FY95	FY96	FY97	FY98	FY99	FY00	
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0	
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0	
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0	
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0	
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0	
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0	
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0	
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0	
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	
CHANGES IN REVENUES	0	0	0	0	0	0	

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

POSITIONS:							
FULL-TIME	0	0	0	0	0	0	
PART-TIME	0	0	0	0	0	0	
TEMPORARY	0	0	0	0	0	0	

Estimate of current year (FY94) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

This bill establishes an employment tax. The bill language in section 43.42.090 requires entities that purchase services under contract to report annually to the Department of Revenue payments made to contractors who are not subject to the license requirements specified in section 43.42.070.

Prepared by: Jan L. Hansen, Director Phone: 465-2680
Division: Division of Public Assistance Date: 3/15/94
Approved by Commissioner: Margaret R. Lowe Date: 2/15/94
Agency: Department of Health & Social Services

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ANALYSIS (cont.):

The Division of Public Assistance makes payments to fee agents for accepting public assistance applications and conducting intake interviews. Fee agents are not state employees; they are paid under contract on a piecework basis. Fee agents may not be required to purchase business licenses under AS 43.70 or AS 43.75, and this bill would require DHSS to report payments to fee agents if they exceeded \$100 in a year. Payments to fee agents are issued by the AKSAS system.

We assume that the existing AKSAS vendor payment reports capture the information that would have to be reported to the Department of Revenue under this legislation. We project no additional operating costs for the Division of Public Assistance.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO.

12

Bill Version: SB 344

(S) Publish Date: 3-9-94

Revision Date: _____ Dept. Affected: Corrections
 Title: Employment (School) Tax BRU: Administration and Support
 Component: Administrative Services
 Sponsor: Rules Committee
 Requestor: Governor COMPONENT SERIAL NO. # 0697

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS:	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY94) impact: \$ 0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal note. The Department of Corrections assumes that this act does not apply to prisoners involved in Prisoner Work Programs or Correctional Industries.

Prepared By: Diane Schenker Phone: 465-3315/561-4425
 Division: Office of the Commissioner Date: 2-4-94
 Approved by Commissioner: J. Frank Prewitt, Jr. Date: 2-4-94
 Agency: Department of Corrections

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FISCAL NOTE

No. 11

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL: Bill Version: SB 344

(S) Publish Date: 3-9-94

Revision Date: _____ Dept. Affected: Public Safety
 Title: "An Act relating to the establishment
collection, and enforcement of an employment tax" BRU: _____
 Sponsor: RULES BY REQUEST Component: _____
 Requestor: GOVERNOR COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

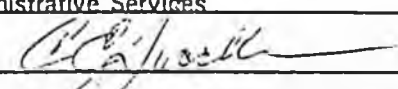
Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

No significant fiscal impact upon the Department of Public Safety is anticipated.

Prepared By: Ken Bischoff Phone: 465-4336
 Division: Director Administrative Services Date: 02/15/94
 Approved by Commissioner:  Date: 02/15/94
 Agency: Richard I. Burton Dept. of Public Safety

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FISCAL NOTE

Revision Date:
Title: Employment (School) Tax

Department Affected: DOT&PF
BRU: E&OS

Sponsor: Governor
Requestor:

Component: D&C
Component Serial Number: 547

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	0	0	0	0	0	0

POSITIONS

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

Estimate of current year (FY94) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Mal Linthwaite/Loren Rasmussen

Phone: 465-2960

Division: E&OS

Date: February 15, 1994

Approved by Commissioner: 
B.A. Campbell

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: February 15, 1994

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FISCAL NOTE No. 9

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SB 374
(S) Publish Date: 3-9-94

Revision Date: Original Dept Affected: Natural Resources
 Title: "An Act relating to the establishment, collection, BRU: Management & Administration
and enforcement of an employment tax; and providing for an..." Component: Administrative Services
 Sponsor: Rules Committee
 Requestor: Governor Component Serial No. 424

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
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	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ None

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

There is no anticipated fiscal impact to DNR associated with this bill.

Prepared by: Jerry Gallagher, Legislative Liaison Phone: 465-2400
 Division: Commissioner's Office Date: 14-Feb-94
 Approved by Commissioner: Harry A. Noah Date: 14-Feb-94
 Agency: Natural Resources

FISCAL NOTE

No. 8

Bill Version: SB 344

(S) Publish Date: 3-9-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Military and Veterans Affairs
 Title: Establishing an employment tax BRU: none
 Component: _____
 Sponsor: Rules Committee by request of Governor
 Requestor: _____ COMPONENT SERIAL NO. _____

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0					
CAPITAL EXPENDITURES	0.0					
CHANGE IN REVENUES ()	0.0					

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

Estimate of any current year (FY94) cost: \$ zero _____

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact

Prepared by: Jeff Morrison, Director Phone: 165-4730
 Division: Administrative Support Services Division Date: February 15, 1994
 Approved by Commissioner: *Morrison for* Hugh L. Cox III Date: February 15, 1994
 Agency: Military and Veterans Affairs

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FISCAL NOTE

No. 7

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL : Bill Version: SB 244
(S) Publish Date: 3-9-94

Revision Date: _____
Title: Employment (School) Tax
Sponsor: _____
Requestor: Governor's Office

Department Affected: Environmental Conservation
BRU: _____
Component: _____

COMPONENT SERIAL NO.

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE

1002 Federal Recei	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ _____

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Bob Pez, Director
Division: Information & Administrative Services

Phone: 465-5010
Date: 2/14/94

Approved by Commissioner: [Signature] FOR JAS
Agency: Department of Environmental Conservation

Date: 2/14/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

No. 6
Bill Version: SB 344
(S) Publish Date: 3-9-94

Revision Date: February 14, 1994
Title: "An Act relating to the establishment, collection and enforcement of an employment tax..."
Sponsor: Rules/Request of Governor
Requestor: Governor's Office

Department Affected: Department of Law
BRU: Legal Services
Component: Operations
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division

Phone: 465-3672
Date: February 14, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law

Date: February 14, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. _____

ANALYSIS CONTINUATION:

This bill adds a new chapter to AS 43 that provides for the establishment, collection and enforcement of an employment tax on an individual of 10 percent of the first \$1,000 of earned income, or \$100 per annum. Among other requirements, the bill imposes the tax on self-employed individuals and further provides that a person whose occupation or profession is regulated by the state may not be issued an initial registration, license, or permit (or a renewal for registration, license or permit) if that person has failed to file a tax return or pay or remit the tax. The Department of Law's primary involvement would be in defending the state in those cases where a person in a regulated occupation or profession appealed the state's action to deny a renewal or deny the initial registration, license or permit. Such appeals, as they may also occur as a result of adoption of this bill, are already handled as interagency receipts-funded activities that the department provides on behalf of the Division of Occupational Licensing. Consequently, no significant fiscal impact is expected.

FISCAL NOTE

No. 5

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SB 344

(S) Publish Date: 3-9-94

Revision Date: _____

Department Affected: Administration

Title: An Act relating to the establishment, collection, and enforcement of an employment tax; and providing for an...

BRU: Personnel/OEEO

Sponsor: _____

Component: Personnel/OEEO

Requestor: _____

COMPONENT SERIAL NO. 56

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ()	0	0	0	0	0	0

FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Kevin C. Ritchie, Director *Michael P. DeRudder*
Division: Personnel/OEEO

Phone: 465-4429
Date: _____

Approved: Commissioner: Nancy Bear Usara
Agency: Department of Administration

Date: 2/17/94

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FISCAL NOTE

No. 4

Bill Version: SR 244

(S) Publish Date: 2-9-94

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Administration

Title: "An Act relating to the ...employment tax

BRU: Finance

Sponsor: Rules/Request of the Governor

Component: Finance

Requestor: _____

COMPONENT SERIAL 59

Expenditures/Revenues:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	32.2	6.8	6.8	6.8	6.8	6.8
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.0	1.0	1.0	1.0	1.0	1.0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND &	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	34.2	7.8	7.8	7.8	7.8	7.8

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	34.2	7.8	7.8	7.8	7.8	7.8
1005 GF/Program	0	0	0	0	0	0
1006 GF/MHTA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

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

Estimate of current year (FY94) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Don Wanie
Division: Finance

Phone: 465-2240
Date: _____

Approved by Commissioner: Nancy Bear Usara
Agency: Administration

Date: 2/17/94

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- # FISCAL NOTES -

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. _____

ANALYSIS: (continued)

Division of Finance

The software vendor for payroll will provide the system changes needed to implement the withholding and reporting provisions for State of Alaska employees. The Division of Finance (DOF) will be required to test the software changes; implement the software changes into the production environment; implement a quarterly reporting mechanism for the Department of Labor, and to administer and maintain the provisions of the proposed legislation.

FISCAL NOTE

Bill Version: SB 344
 (S) Publish Date: 3-9-94

**STATE OF ALASKA
 1994 LEGISLATIVE SESSION**

Revision Date: 2/16/94
 Title: An Act relating to the establishment, collection,
 and enforcement of an employment tax;....
 Sponsor: Governor
 Requestor: _____

Department: Commerce and Economic Dev.
 BRU: Occupational Licensing
 Component: Operations
 COMPONENT SERIAL NO. 1844

Expenditures/Revenues		(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00	
PERSONAL SERVICES	51.2	51.2	51.2	51.2	51.2	51.2	
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0	
CONTRACTUAL	35.0	20.0	10.0	10.0	10.0	10.0	
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0	
EQUIPMENT	3.0						
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
TOTAL OPERATING	95.2	77.2	67.2	67.2	67.2	67.2	
CAPITAL EXPENDITURES							
CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0	

FUND SOURCE		(Thousands of Dollars)					
1002 Federal Receipts							
1003 GF Match							
1004 General Fund	95.2	77.2	67.2	67.2	67.2	67.2	
1005 GF/Program Receipts							
1006 GF/MHTIA							
Other							
TOTAL	95.2	77.2	67.2	67.2	67.2	67.2	

Estimate of any current year (FY 94) cost: \$ None

POSITIONS		FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
FULL-TIME		1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME		0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY		0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

The employment tax bill requires that occupational licensees (32,078) and business licensees (66,000) pay the required employment tax before their professional or business license can be issued. If the individual fail to pay the required employment tax, issuance of a license must be denied; however, if the licensee has filed an administrative or judicial appeal regarding the tax, a temporary registration, license or permit may be issued or renewed during the pendency of appeal. The costs identified in this fiscal note are further explained on the next page.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: 2/15/94
 Approved by Commissioner: Paul Fuhs Date: _____
 Agency: Commerce and Economic Development

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Continuation of Fiscal Note Analysis for DRAFT Bill re: Employment Taxes

The Division of Occupational Licensing anticipates the provisions of this bill will require a support position to:

- a) process applications of licensees whose response is affirmative to owing employment taxes;
- b) monitor issuance of temporary registrations, licenses or permits to individuals who file for an administrative or judicial appeal regarding the tax;
- c) conduct investigation into licensees who have falsified information of their license application;
- d) prepare the division's case on licensees who request an administrative hearing as result of their license denial; and
- e) pursue licensees who continue to practice with an expired license due to the license denial.

A business or occupational licensee who has been denied issuance or renewal of their license for failure to pay the required employment tax is entitled to a hearing, if requested, under the Administrative Procedure Act. The division's funding request in the first year will provide the following:

Personal Services:

1 - Investigator II, Range 16A, 12 months located in Anchorage	\$51.2
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Travel:

Funding for investigative travel throughout the State when necessary.	\$ 5.0
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Contractual Services: \$35.0

Regulations Process: \$15.0

(It is anticipated that this funding will be needed in the first year of operations only. Once the regulations are established, this funding will no longer be required. The fiscal note reflects this reduction in FY 96.)

Printing of Forms: \$10.0

(Since licenses cover a biennial period, it is anticipated that new application forms and license renewal forms being printed in the first year will be revised to accommodate provisions of the bill. License forms for licenses that expire in FY 96 will be amended in that year. The fiscal note reflects this cost being eliminated in FY 97.)

Hearing Costs: \$10.0

(It is difficult at best, to estimate the cost of hearings that may be incurred from license denials generated by this bill. The hearing process can result in great expense to the State. This funding will provide minimal coverage for hearing costs, and can be adjusted later depending on litigation activity.)

Supplies: \$ 1.0

This funding will provide daily operating supplies for the program requirements.

Equipment: \$ 3.0

This funding will provide computer and communications equipment for the investigator position.

Total Cost: \$95.2

Funding Source: The division has requested General Funds to cover the costs associated with this program. Since the requirements of this bill relate to an employment "tax", unlike other licensing costs that are General Fund/Program Receipts funded from licensing fees, licensees should not have to pay increased fees to cover the costs of enforcing a "tax" upon themselves.

FISCAL NOTE

to. 2

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL Bill Version: SB.344

(S) Publish Date: 3-9-94

Revision Date: _____ Dept. Affected: Revenue
 Title: Employment Tax BRU: Revenue Operations
 Component: Income and Excise Audit
 Sponsor: () Rules by Request of the Governor
 Requestor: _____ COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	122.9	196.3	196.3	196.3	196.3	196.3
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	76.5	10.0	10.0	10.0	10.0	10.0
SUPPLIES	7.0	7.0	7.0	7.0	7.0	7.0
EQUIPMENT	38.5	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	244.9	213.3	213.3	213.3	213.3	213.3

CAPITAL

REVENUE FUND SOURCE: General	21,937.5	31,291.8	31,291.8	31,291.8	31,291.8	31,291.8
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

POSITIONS:

FULL-TIME	4	4	4	4	4	4
PART-TIME	3	3	3	3	3	3
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary.)

SEE ATTACHED

Prepared by: Larry E. Mevers Phone: 465-2320
 Division: Income and Excise Audit Date: February 14, 1994
 Approved by Commissioner: Darrel J. Rexwinkel Date: February 14, 1994
 Agency: Department of Revenue

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Bill Analysis

This bill establishes a tax on individuals 19 or older who receive compensation for services performed or self-employment earnings from business activities in Alaska effective January 1, 1995. The tax will be 10% of the first \$1,000 of compensation or earnings. Individuals will not be liable for more than \$100 total in a calendar year.

This bill separates requirements for reporting and remitting taxes for employers and self-employed individuals to capitalize on requirements already in place for employers to report employment security contributions to the Department of Labor (DOL). Taxes will be reported and remitted as follows.

	<i>Employers</i>	<i>Self-employed Individuals</i>
Tax Base	Employee Compensation	Self-employment earnings
Withholding by	Employer	Self-employed Individual
Report and Remit to	Department of Labor	Department of Revenue
Filing Frequency	Quarterly	Quarterly
Filing Due Dates	30th of January, April, July, and October	15th of January, April, July, and October

Under this bill, employers and self-employed individuals are required to withhold 10% of compensation or earnings until the \$100 tax limit is met.

The Department of Revenue (DOR) will be the lead agency for administering the employment tax. DOR will administer all aspects of the employment tax program for self-employed individuals since they have no reporting requirements to DOL.

DOL's role in administering this tax will be that of a servicing agency to DOR to collect and account for withholdings by employers. The two department's will work closely with each other to exchange tax information to ensure program compliance.

Employers will be required to furnish employees by February 1 a record of the amount of tax withheld from the employee's compensation in a preceding year. DOR envisions that employers will meet this requirement by including amounts withheld on the employer's W-2. Employers will pay a \$10 penalty for each failure to provide the record of withholding.

The records will be used as a basis for refunding employees who had more than \$100 withheld during the preceding year. DOR will be responsible for refunding tax overpayments, assessing taxes and penalties and enforcing tax collections.

This bill provides for restrictions on issuing licenses, registrations and permits to individuals who fail to file a return or pay or remit the employment tax. DOR will be responsible for promulgating regulations to administer the employment tax program.