result of the violation is $500 or more but less than $25,000. Obtaining an unemployment contribution rate by deception in the second degree is a class C felony.

(d) A person commits the crime of obtaining an unemployment contribution rate by deception in the third degree if the value of the difference between the rate that had been assigned to the trade, business, or workforce and the rate assigned as a result of the violation is $50 or more but less than $500. Obtaining an unemployment contribution rate by deception in the third degree is a class A misdemeanor.

(e) A person commits the crime of obtaining an unemployment contribution rate by deception in the fourth degree if the value of the difference between the rate that had been assigned to the trade, business, or workforce and the rate assigned as a result of the violation is less than $50. Obtaining an unemployment contribution rate by deception in the fourth degree is a class B misdemeanor.

(f) A person who attempts to commit the crime of obtaining an unemployment contribution rate by deception commits the crime of attempt under AS 11.31.100.

*** Sec. 5.** AS 23.20.310 is amended by adding new paragraphs to read:

(8) "business" means a trade or business or a part of the trade or business;

(9) "knowingly" has the meaning given in AS 11.81.900;

(10) "recklessly" has the meaning given in AS 11.81.900.

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

TRANSITION: REGULATIONS. The Department of Labor and Workforce Development may proceed to adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory change.

*** Sec. 7.** Sections 1, 2, and 4 of this Act and AS 23.20.297(a) - (c), enacted by sec. 3 of this Act, take effect July 1, 2006.

*** Sec. 8.** Sections 5 and 6 of this Act and AS 23.20.297(d), enacted by sec. 3 of this Act, take effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB242-DOL-WD-UI-01-23-2006**
() Publish Date:

Revision Date/Time (Note if correction):
Title: **Unemployment Insurance Fund & Taxes**

Department: **Labor and Workforce Development**
RDU: **Employment Security**
Component: **Unemployment Insurance**

Sponsor: **Representative Crawford**
Requester: **House L&C**

Component Number: **2276**

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: **None**
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

This legislation adds language to comply with federal legislation. Public Law 108-295 (42 U.S.C. 503) requires that a state's law contain language that will prevent state unemployment tax avoidance schemes and also requires that states apply meaningful civil and criminal penalties against persons who knowingly violate those provisions.

The anticipated fiscal impact as a result of this legislation is approximately $60.0 to $90.0 in data processing costs which will be absorbed by existing federal grant funds.

Prepared by: **Thomas W. Nelson, Director** Phone: **465-5933**
Division: **Employment Security Division** Date/Time: **1/23/06 3:48 PM**
Approved by: **Greg O'Claray, Commissioner** Date: **1/23/2006**
Agency: **Department of Labor and Workforce Development**

(Revised 9/7/2005 OMB)

1/25/06

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HB242 VERS. F

PAT SHIER - DOLWD
CHIEF OF TAX

- EFFECTIVE DATE ?
- 23.21.080 - RATING SCHEME
  1989-1997 - V/I TRUST FUND PAID $500 MIL.

FED. LAW "CATCHING UP" W/ STATE LAW

HB 274 - PRACT. OF ACCOUNTING
- LISA ROGERS, C.P.A.

- JEANETTE JAMES - ASLA
  8.04.005
- BERNADETTE KAPPY - ASLA
  18-26 SHOULD BE DELETED
- DON RULEN - PRES. / ASCPA
- PAULA LAURION
- DAN KENNEDY, C.P.A WASILLA

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D. C. 20210	CLASSIFICATION SUTA Dumping
	CORRESPONDENCE SYMBOL DL
	ISSUE DATE October 13, 2004
RESCISSIONS None	EXPIRATION DATE Continuing

ADVISORY : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 30-04 CHANGE 1

TO : STATE WORKFORCE AGENCIES

FROM : CHERYL ATKINSON s/s
Administrator
Office of Workforce Security

SUBJECT : SUTA Dumping – Amendments to Federal Law affecting the Federal-State Unemployment Compensation Program - Additional Guidance

1. **Purpose.** To provide additional guidance to states concerning the amendments to Federal law designed to prohibit "SUTA Dumping."

2. **Reference.** Public Law (P.L.) No. 108-295, the "SUTA Dumping Prevention Act of 2004," signed by the President on August 9, 2004; the Social Security Act (SSA); the Internal Revenue Code (IRC), including the Federal Unemployment Tax Act (FUTA); and Unemployment Insurance Program Letters (UIPLs) 30-04, 14-84, and 29-83 Change 3.

3. **Background.** UIPL 30-04 informed states of the amendments to Federal unemployment compensation (UC) law made by P.L. No. 108-295, the "SUTA Dumping Prevention Act of 2004." P.L. 108-295 amended the SSA by adding Section 303(k) to establish a nationwide minimum standard for curbing SUTA dumping. States will need to amend their UC laws to conform with the new legislation.

Since the issuance of UIPL 30-04, the Department of Labor has received requests for clarification and other questions on the Federal SUTA dumping requirements. This UIPL is issued to respond to these requests and questions. As was UIPL 30-04, it is a question and answer (Q&A) format. States are especially directed to Q&As 1, 2, 14, and 15, which include additions and modifications to the draft legislative language provided with UIPL 30-04.

4. **Action.** State administrators should distribute this advisory to appropriate staff. States must adhere to the requirements of Federal law contained in this advisory.

5. **Inquiries.** Questions should be addressed to your Regional Office.

6. **Attachment.**

QUESTIONS AND ANSWERS (Q&As)

ATTACHMENT TO UIPL 30-04

QUESTIONS AND ANSWERS (Q&As)

MANDATORY TRANSFERS – SECTION 303(k)(1)(A), SSA

1-1. Question: In anticipation of a major layoff, Employer A transfers the portion of its business and workforce which it will be laying off to a small company, Employer B. Since there is substantially common ownership, experience is also transferred. Employer B then lays off all of the transferred workforce and is charged for the resulting UC payments. Employer B then either ceases operating or operates with a greatly reduced workforce, thereby minimizing its UC costs. May the transfer of experience from Employer A to Employer B be voided in this case? If not, what can be done to avoid this type of SUTA dumping?

Answer: Since there is substantially common ownership, experience must be transferred from Employer A to Employer B under the mandatory transfer provisions.

Although Federal law does not require states to prevent this type of SUTA dumping, states may take action. (States which charge benefits to the separating employer may be particularly vulnerable to this type of SUTA dumping.) If the state determines that a substantial purpose of the transfer of trade or business was to obtain a lower rate, then both Employer A and Employer B's accounts could be treated as a single account for experience rating purposes. This will prevent Employer A from escaping its poor experience. It is consistent with Federal law both because Section 303(k)(2)(B), SSA, permits states to define "employer" and because Section 3303(a)(1), FUTA, has long permitted the establishment of joint accounts. To this end, the draft legislative language contained in Attachment II to UIPL 30-04 is revised as follows:

- By inserting "(1)" after "(a)" in the provision addressing mandatory transfers, and
- By inserting the following new language:

> (2) If, following a transfer of experience under paragraph (1), the Commissioner determines that a substantial purpose of the transfer of trade or business was to obtain a reduced liability for contributions, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate assigned to such account.

The Department recommends that states consider addressing this matter.

Alternatively, nothing prohibits a state from revisiting its determination that Employer B was a separate legal entity for UC purposes. If, for example, the state determines that Employer B has no business existence separate and apart from Employer A, and, therefore, under its law should not have been established as a separate employer for UC purposes, then its establishment as a separate employer may be voided and its experience will revert to Employer A. (Note this approach would not cover transfers to a long-established business that has a separate business identity.)

1-2. Question: Although the answer to Q&A 5 of UIPL 30-04 provides that an "employer's workforce is necessarily a part of its business," the draft legislative language attached to that UIPL does not specifically address transferring workforce. Instead, it simply refers to transfers of trade or

business. May the draft legislative language be modified to specifically cite transfers of workforce or employees?

Answer: Yes. The draft legislative language is just that – draft language. It may, therefore, be modified to explicitly provide that transfers of trade or business include situations where employees are transferred. The following language is added at the end of subsection (a) of the draft legislative language as optional language that the state may consider using:

> The transfer of some or all of an employer's workforce to another employer shall be considered a transfer of trade or business when, as the result of such transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce, and such trade or business is performed by the employer to whom the workforce is transferred.

Care should be taken to assure the state law does not require transfers of experience where an employee is "moved" from one employer to another, without any transfer of trade or business. See Q&A 1-7.

1-3. Question. The answer to Q&A 6 in UIPL 30-04 indicates that the Department is not defining a "bright line" test of what constitutes "substantially common ownership, management, or control." Does this mean state law may contain a test of "substantially common" that requires more than 90 percent commonality? Or more than 50 percent commonality?

Answer: No, a 90 percent test would be a "substantial majority" test, while a 50 percent test would be a simple "majority" test. Congress could have specified either of these tests, but it instead chose a test of "substantial" commonality. Therefore, "substantially" could include less than 50% common ownership, management, or control. "Substantial" common management, for example, might even occur where Company A and Company B share only one manager, but that one manager exercises pervasive control as the chief executive officer of both companies.

1-4. Question: The answer to Q&A 8 in UIPL 30-04 "strongly recommends that states reassign rates immediately upon completion of the transfer" of experience to avoid a SUTA dump between the completion of a transfer and assignment of a new rate. If a state currently lacks the capability to assign two different rates to the same employer for the same year, may it retroactively change the employers' rates to the beginning of the rate year to reflect the transferred experience?

Answer: No. Section 3303(a)(1), FUTA, requires that "reduced rates" be assigned to an employer based on "his" experience during "not less than the 3 consecutive years immediately preceding the computation date." If a rate based on transferred experience is assigned to an employer for a period before it becomes "his" experience, the employer cannot be said to be receiving a rate based on "his" experience for that period.

States have other options to address this concern. States may establish a different employer account number for the employer(s) and assign the recalculated rate to that new account number.

States may also retroactively impose the state's standard rate of contributions or the state's highest rate of contributions since these rates are not "reduced rates" subject to FUTA. (See UIPL 14-84 for guidance in determining the state's standard rate. Caution should be taken in using standard rates since in some states the standard rate may be lower than the employer's experience rate, either prior to or after any transfer.) Although this approach is consistent with FUTA, states should consider

whether retroactively imposing higher rates on employers is equitable since employers will not have budgeted for retroactive costs and because the rates are not based on experience.

1-5. Question: Recalculating an employer's reduced rate in the middle of the rate year may be administratively cumbersome. May a state simply assign the employer the higher of the two rates for the remainder of the rate year? For example, assume Employer A has a rate of 5.0 percent and is purchased by Employer B which has a rate of 4.0 percent. May the state assign a rate of 5.0 percent to Employer B for the remainder of the rate year? (This method is authorized by UIPL 29-83, Change 3, which discusses transfers of experience, but only when Employer B is *not* an existing employer.)

Answer: Yes, the state may assign the higher of the two rates. FUTA's experience rating requirements apply to "reduced rates." This approach always serves to *increase* the employer's rate. As noted in UIPL 29-83, Change 3, "Since assigning the highest rate results in an increased rate (even though it may be less than the standard rate), there is no conflict with FUTA." Although UIPL 29-83, Change 3, addressed only cases where the successor was not an existing employer, this principle also applies to cases where the successor is an employer.

States should note that this approach may raise fairness issues. For example, assuming substantial commonality of ownership, management, or control at the time of the transfer or trade or business, an employer with a workforce of 10 individuals and an experience rate of 5.4 percent could have its trade/business and experience transferred to an employer with a workforce of 1,000 individuals and an experience rate of 2.0 percent. The result of assigning a higher rate would be a significantly higher rate on a significantly larger workforce.

1-6. Question: The answer to Q&A 8 in UIPL 30-04 provides for the option of "immediately" recalculating an employer's rate "after the completion of the transfer of trade or business." This could be problematic since this rate change could occur in the middle of a quarter. May the recalculated rate take effect with the start of the quarter following the transfer?

Answer: Yes. Since nothing in the SUTA dumping amendments requires rates be recalculated prior to the next time the state calculates rates for all employers, states have latitude in this matter.

1-7. Question: The answer to Q&A 9 in UIPL 30-04, says that where "[a]n employee of one legal entity is *moved* to another legal entity," no transfer of experience is required. (Emphasis added.) However, the answer to Q&A 13 in that UIPL says the SUTA Dumping amendment applies to "all transfers, large and small." What is the distinction between the two?

Answer: Q&A 13 applies to cases where there is a transfer of trade or business. (Q&As 5 and 14 in UIPL 30-04 and 1-2 in this UIPL also apply to situations where trade or business is transferred.)

The answer to Q&A 9 applies to cases where an employee is "moved" from one legal entity to another, but where there is *no* transfer of trade or business. For example, an owner of two separate legal entities "moves" an individual from head of widget making for Entity A to head of graphic design for Entity B, but does not transfer any of the widget-making trade/business to Entity B. In this case, no trade or business is transferred and the "move" of the individual is in the nature of a reassignment.

In cases where no trade or business has been transferred, experience may not be transferred. Therefore, when an employee's "move" is merely in the nature of a reassignment, the state may not

transfer experience.

1-8. Question. State law allows employers to voluntarily combine their experience rating histories into joint accounts under certain conditions. Does the SUTA dumping legislation affect this?

Answer: No. Joint accounts may continue to be established in accordance with state law.

The SSA's mandatory transfer provisions affect joint accounts in the same way they affect individual employer accounts. That is, if an employer participating in a joint account transfers trade or business to another employer and a transfer of experience is required under provisions of state law implementing the SSA's mandatory transfer provisions, then any subsequent calculation of the experience rate of the joint account must take into account this transfer.

1-9. Question: Do the amendments mandating a transfer of experience affect what constitute taxable wages?

Answer: The amendments address the transfer of experience and of rates based on that experience. They do not affect determinations of what constitute taxable wages under the state's law. As a result, after trade and business is transferred, the state may either give effect to taxable wages paid by the predecessor in determining whether the taxable wage base is met, or "restart" the taxable wage base for the individual at zero.

1-10. Question: Do the mandatory transfer provisions for SUTA Dumping apply when an employer is "reorganized?"

Answer: The keys under Section 303(k)(1)(A), SSA, are whether there is a transfer of trade or business and whether there is substantially common ownership, management, or control. Thus, the answer depends on whether the reorganization involves a transfer of trade or business between entities under substantially common ownership, management or control.

As used in bankruptcy law, a reorganization is a "financial restructuring of a corporation, esp. in the repayment of debts, under a plan created by a trustee and approved by a court." (Black's Law Dictionary (8th edition, 2004).) Thus, if a single employer simply "financially restructures" itself, without transferring trade or business, then the mandatory transfer provisions do not apply.

In other cases, reorganizations are mergers of corporations which involve a transfer of trade or business. For example, a reorganization may be a "restructuring of a corporation, as by a merger or recapitalization, in order to improve its tax treatment under the Internal Revenue Code." (Black's Law Dictionary (8th edition, 2004).) When there is a merger, the mandatory transfer provisions will apply if there is substantially common ownership, management, or control at the time of the transfer of trade or business.

Note the mandatory transfer provision of Section 303(k)(1)(A), SSA, does not speak in terms of "acquisitions." In many reorganizations, there may be mergers involving stock swaps or stock-for-asset exchanges, and it may be argued that no "acquisition" has occurred, even though workforce has been moved to another legal entity within a corporate umbrella. For purposes of the mandatory SUTA dumping amendments, whether there has been an "acquisition" is immaterial. What is significant is whether trade or business was transferred when, at the time of the transfer, there is substantially common ownership, management, or control. If this occurs, then the experience must also be transferred.

REQUIRED PENALTIES – SECTION 303(k)(1)(D), SSA

1-11. Question: The draft legislative language attached to UIPL 30-04 provides that, in addition to any civil penalty, "any violation of this section *may be* prosecuted as a" criminal offense. (Emphasis added.) Does this mean that inclusion of criminal penalties is optional on the part of the state?

Answer: No, Section 303(k)(1)(D), SSA, clearly requires that state law must provide that "meaningful civil and criminal penalties" are imposed under certain circumstances. (See Q&A 19 in UIPL 30-04.) The draft legislative language quoted in the question merely indicates that the state has discretion to apply criminal penalties as appropriate. As noted in Q&A 20 in UIPL 30-04, "States will take into account the amounts at issue and the likelihood of successful prosecution in determining which cases will result in criminal prosecutions."

1-12. Question: State law must provide for the imposition of penalties for persons who "knowingly" violate or attempt to violate those provisions of state law that implement Section 303 (k), SSA, and for those who "knowingly" advise another person to violate such provisions. Since it is often difficult to prove that an action is done "knowingly," may state law provide that penalties may be imposed using a lower level of proof?

Answer: Yes. The "knowingly" test is the minimum standard that state law must contain to meet the requirements of Section 303(k)(1)(D), SSA. States must assure that any such test is at least as encompassing as the "knowingly" standard.

STATUTE OF LIMITATIONS

1-13. Question: Assume a "SUTA dump" occurred five years before the state identified it. The state's statute of limitations prevents the state from assessing contributions more than three years prior to the date of detection. Does this statute of limitations conflict with the SUTA dumping amendments?

Answer: No. Nothing in the SUTA dumping legislation overrides a state's statute of limitations. As a result, in the above example, the state may limit its assessment of contributions to the three-year period provided in its statute of limitations.

DRAFT LEGISLATIVE LANGUAGE

1-14. Question. Subsection (c)(1) of the draft legislative language attached to UIPL 30-4 provides for civil penalties for persons knowingly violating or attempting to violate "subsections (a) *and* (b) or any other provision of this Chapter related to determining the assignment of a contribution rate?" (Emphasis added.) Should the "and" be an "or"?

Answer: Yes. The word "and" could be read to mean that the person must have violated, or attempted to violate, both the mandatory transfer provision and the prohibited transfer provision. Therefore the draft legislative language should be corrected by changing "and" to "or".

Also, note there is a typo in subsection (e)(2) of the draft legislative language. "Trade *of* business" should be corrected to "Trade *or* business." (Emphasis added.)

1-15. Question. Subsection (c)(4) of the draft legislative language attached to UIPL 30-4 provides

that "In addition to the penalty imposed by paragraph (1), any violation of this section may be prosecuted . . . ." May "section" be changed to "Chapter"?

Answer: Yes. Using the word "chapter" will have the effect of making the criminal penalties applicable to any other provision of the state's UC law related to determining the assignment of a contribution rate. Note that states are not required to apply the penalties they develop for SUTA dumping to other violations of state law. (See Q&A 24 in UIPL 30-04.)

ATTACHMENT I

DETAILED EXPLANATION OF SECTION 303(k), SSA
QUESTIONS AND ANSWERS

IN GENERAL

1. Question: How do the SUTA dumping amendments affect the federal-state UC program?

Answer: States must assure their UC laws provide for the following:

- **Mandatory Transfers.** Unemployment experience must be transferred whenever there is substantially common ownership, management or control of two employers, and one of these employers transfers its trade or business (including its workforce), or a portion thereof, to the other employer. This requirement applies to both total and partial transfers of business.

- **Prohibited Transfers.** Unemployment experience may not be transferred, and a new employer rate (or the state's standard rate) will instead be assigned, when a person who is not an employer acquires the trade or business of an existing employer. This prohibition applies only if the UC agency finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions.

- **Penalties for SUTA Dumping.** "Meaningful" civil and criminal penalties must be imposed on persons "knowingly" violating or *attempting to violate* the two requirements discussed above. These penalties must also be applicable to any person (including the person's employer) who knowingly gives advice leading to such a violation.

- **Procedures.** Procedures for identifying SUTA dumping must be established. The exact procedures do not need to be specified in state law, but state law must specifically provide for the establishment of such procedures.

These are the minimum requirements which all state laws must meet. States may provide for more stringent provisions, provided they are otherwise consistent with Federal UC law. For example, instead of requiring a partial transfer of experience only when there is common ownership, management or control, a state may require transfers of experience whenever a partial transfer of trade or business occurs.

2. Question: Do the SUTA dumping amendments require my state to completely overhaul its provisions relating to transfers of experience?

Answer. No. The amendments do not change the way states handle transfers except as discussed in the preceding Q&A. As a result, a state may leave its current provisions intact while amending its law to provide that any state law provisions implementing Section 303(k), SSA, override these other provisions. The draft legislative language attached to this UIPL takes this approach.

MANDATORY TRANSFERS – SECTION 303(k)(1)(A), SSA

3. Question: Under what conditions must experience be transferred?

Answer: Unemployment experience must be transferred whenever there is substantially common

ownership, management or control of two employers, and one of these employers transfers its trade or business, or a portion thereof, to the other employer. Thus, this requirement applies to both total and partial transfers.

4. Question: Provide an example of when experience must be transferred under the amendments.

Answer: Corporation A is assigned the state's maximum UC contribution rate of 5.4%. It establishes a shell corporation that is treated as a separate employer for UC purposes. The shell eventually qualifies for the state's minimum UC contribution rate of .5%. (How the new entity obtains this rate may vary depending on how it was established and on the state's UC law. It may, for example, simply wait out a new employer period. If state law permits, it may use voluntary contributions to "buy down" to the minimum rate.) Corporation A then transfers all or some of its workforce to that shell. The result, absent the amendments, would be that, even though Corporation A controls the shell and its operations, it escapes a rate of 5.4% on the transferred workforce and instead pays at a rate of .5%.

Under the amendments, if the workforce is transferred to the shell, then the unemployment experience attributable to the transferred workforce must also be transferred to the shell. The shell's experience would be recomputed based on its experience as well as the experience transferred from Corporation A. Assuming a total transfer of workforce and experience to the shell, the shell might even continue to receive the maximum rate of 5.4%.

It does not matter whether the employer transfers all or some of its trade or business to the shell. Experience commensurate with the trade or business transferred must be transferred to the shell.

5. Question: Why is the employer's workforce part of the employer's "trade or business," and thus subject to the SUTA dumping amendments?

Answer: The employer's workforce is necessarily a part of its business and is the means by which an employer effectuates its trade or business. Without a workforce, there would be neither trade nor business. Thus, when some or all of the workforce is transferred, the employer no longer has the means of performing its trade or business with respect to the transferred workforce.

As noted elsewhere in this UIPL, the best-known means of SUTA dumping is the manipulation of an employer's workforce/payroll. Senate Majority Leader Frist specifically addressed this manipulation on the floor of the Senate when he stated that the amendment "prohibits shifting employees into shell companies..." (150 Cong. Rec. S8804 (daily ed. July 22, 2004).) The mandatory transfer provisions of the SUTA dumping amendments would have little, if any, effect if the workforce/payroll were not considered to be part of the employer's trade or business.

6. Question: How does a state determine if there is "substantially" common ownership, management, or control of two employers?

Answer: The state must examine the facts of each case using reasonable factors. Among other things, the state would consider the extent of commonality or similarity of: ownership; any familial relationships; principals or corporate officers; organizational structure; day-to-day operations; assets and liabilities; and stated business purposes. The Department is not at this time establishing a bright line test of what constitutes "substantially" common ownership, management, or control.

Nothing prohibits a state from exceeding the minimum Federal requirement by lowering this threshold test to "any" common ownership, management or control. This will meet the Federal law requirement as

it will include all cases where "substantially common ownership, management or control" exists.

7. Question: When is the transfer of trade or business effective?

Answer: When an acquisition of trade or business is concluded is usually determined by examining the legal documents related to any purchase or acquisition of the trade or business. However, in SUTA dumping cases among businesses with common ownership, management, or control, such an acquisition will generally not take place. Instead, there may simply be a different entity issuing the paychecks. That a different entity is issuing paychecks is both an indication of the transfer of the workforce and the effective date of the transfer of the workforce.

8. Question: Following the mandatory transfer of experience, when must states reassign the employers' rates?

Answer: Although the amendments require that the experience be combined, it does not specify when revised rates must be reassigned. As a result, states may either (1) assign revised rates for the predecessor and successor employers immediately upon completion of the transfer of trade or business, or (2) assign revised rates for the predecessor and successor the next time the state calculates rates for all employers.

For purposes of implementing this new mandatory transfer, the Department strongly recommends that states reassign rates immediately upon completion of the transfer. If rates are not reassigned until a later date, it is possible that a successful "SUTA dump" will be achieved during the period between the completion of the transfer and the assignment of a new rate. For example, if an employer with a rate of 5.4% transfers 1,000 employees into a shell with a rate of .1% on the first day of the rate year, the employer will have accomplished a "SUTA" dump for that rate year.

9. Question: An employee of one legal entity is moved to another legal entity. Although each entity is treated as a separate employer for UC purposes, there is substantially common control over the two entities. Does this mean that unemployment experience must be transferred?

Answer: No. When a single person is moved from one entity to another, it is merely a transfer of an individual rather than a transfer of trade or business.

10. Question: A state's UC law provides that any corporate shell or spin-offs where there is "a continuity of control of the business enterprise" will not be treated as a new employer for UC purposes, but instead as the same employer. Does this constitute an acceptable alternative to the mandatory transfer requirement?

Answer: While this provision prohibits many (if not most) SUTA dumps, it will not necessarily address all situations where there are cases of "substantially common *ownership, management*, or control." (Emphasis added.) There may, for example, be cases where substantially common ownership exists, but that ownership does not exert a controlling interest. (For example, it is possible that a majority owner of two corporations could have non-voting stock.) This situation would require a transfer of experience under Section 303(k), SSA, even if "substantially common control" did not exist.

States with such "continuity" provisions will meet the requirements of Section 303(k)(1)(A), SSA, concerning mandatory transfers if they amend their provisions to be as specific as the Federal requirement. That is, the "continuity" provision may be amended to provide that there is no new employer where there is "substantially common ownership, management, or control."

Instead of providing for amendments addressing the mandatory transfer of experience, states may wish to amend their laws to provide for a "continuity" provision. A "continuity" provision may be easier to administer because, if all entities with substantially common ownership, management and control are always treated as being a single employer under the state UC law, the issue of transfers of experience would not arise. An example of such a law is California's, which was quoted in UIPL 34-02. (Note that California's law is limited to continuity of control, and thus, does not currently meet the Federal requirement.) The penalties described below would need to apply to violations and attempted violations of any "continuity" provision.

11. Question: How are professional employer organizations (PEOs) affected by the new mandatory transfer requirement?

Answer: The same rules apply to PEOs as any other employer. If a PEO sets up a shell corporation and transfers some or all of its trade or business to the shell, then the unemployment experience associated with the transferred trade or business must be transferred to the shell. Similarly, if the conditions prohibiting transfers of experience are met, as discussed in Questions and Answers 16-18, they would apply to PEOs.

Except for these mandatory/prohibited transfers, the amendments do not otherwise affect the relationship between the PEO and its clients. States currently vary in their treatment of PEOs and their clients for experience rating purposes. Some states treat the client as the employer for experience rating purposes and others treat the PEO as the employer for these purposes. The amendments do not require states to change this treatment.

12. Question: A PEO sets up several different shells. Each year it shifts all its clients to a different shell. For example, in the first year the client contracts with Shell A; in the second, it contracts with Shell B; and in the third it contracts with Shell C. When this occurs, must experience be transferred from Shell A to Shell B and then to Shell C?

Answer: Yes. By dictating that the client must sign with a particular shell (or otherwise manipulating which shell the client signs with), the PEO is effectively transferring its trade/business – that is, the trade/business of performing services as a PEO for a client - from Shell A to Shell B and then to Shell C. The control exercised by the PEO over which shell is the contracting entity meets the test of "substantial control." Since a transfer of trade/business has occurred and substantial commonality of control exists, experience must be transferred.

13. Question: May my state limit the mandatory transfer provision to large transfers of experience, such as those where 300 or more employees are transferred?

Answer: No. The SUTA dumping amendments apply to all transfers, large and small, where there is substantially common ownership, management or control.

14. Question: Current state law requires partial transfers of experience only when an "identifiable and segregable" component of an employer has been transferred to another employer. Is this an acceptable limitation on partial transfers?

Answer: No. States must transfer experience whenever "a part" of an existing business is transferred.

The bill that eventually became P.L. 108-295 was H.R. 3463. As introduced, H.R. 3463 required transfers of experience only when there was a transfer of an "identifiable and segregable" component of

the employer. That language was deleted after the Department alerted Congressional staff of concerns that it would create a loophole allowing SUTA dumping. Thus, states must transfer experience whenever "a part" of an existing business is transferred.

For example, larger businesses are often divided into separate legal entities. Under the "identifiable and segregable" test as commonly applied under many current state UC laws, a transfer of experience would be mandated only if *all* of the trade and business of one legal entity is acquired by another legal entity. Conversely, if only a part of the entity is acquired by another entity, then no "identifiable and segregable" component could be identified and no transfer of experience would be required. As a result, the limitation relating to an "identifiable and segregable" component could easily be circumvented through transferring the majority of employees from one entity into a shell that had earned the state's minimum tax rate.

15. Question: How is experience transferred when no identifiable and segregable component of a business can be identified? For example, Business A sets up a shell. Business A then transfers 90% of its workforce to the shell.

Answer: States may prorate the payroll of the employees transferred against benefit charges/reserve balance/benefit wages, whichever is appropriate. In determining the payroll transferred, the state may use either taxable or total payroll, but it must be the payroll immediately prior to the transfer of workforce.

Thus, assuming a state uses total payroll, if 90% of Business A's total payroll was transferred to the shell, 90% of the experience attributable to Business A (that is, benefit charges, reserve balance, or benefit wages, or payroll, whichever is appropriate) must be transferred to the shell. This method is acceptable only when no identifiable and segregable component can be identified.

It should be noted that, in this case, a "continuity" provision, as discussed in Question and Answer # 10, would hold that the shell is not a separate employer. As a result, the issue of a transfer of experience would not arise.

PROHIBITED TRANSFERS – SECTION 303(k)(1)(B), SSA

16. Question: Under what conditions are states prohibited from transferring experience under the SUTA dumping amendments?

Answer: Unemployment experience may not be transferred, and a new employer rate or the state's standard rate will instead be assigned, when a person who is not an employer acquires the trade or business of an existing employer. However, this prohibition applies only if the UC agency finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. (The identification of a state's standard rate is explained in UIPL 15-84.)

17. Question: Provide an example of when experience may not be transferred under the amendments.

Answer: The amendment prohibiting transfers is intended to address situations where a person, who is *not* an employer, purchases a small business solely or primarily for the purpose of obtaining its low rate of contributions when it commences its new business. Generally, the small business is converted to a different type of business.

For example, Person A is not an employer. Person A purchases a flower shop, which has earned the

minimum UC rate of .5 percent to begin a manufacturing business. Person A either stops the flower business, or it becomes incidental as non-flower-shop payroll overwhelms it. Had Person A not purchased the flower shop, it would have been assigned a new employer rate of 4.5 percent based on its non-flower shop industry. The facts here should lead the state UC agency to conclude that the purchase was primarily for the purpose of obtaining a lower rate of contributions. Thus, under the amendments, state laws may not permit the experience of the flower shop to be transferred to Person A. Instead, Person A will be assigned the applicable new employer rate (or the state's standard rate) until such time as Person A qualifies for a rate based on experience.

18. Question: How will a state determine if the acquisition of an employer was made "solely or primarily for the purpose of obtaining a lower rate of contributions?"

Answer: The state should "use objective factors which may include the cost of acquiring the business, whether the person continued the business enterprise of the acquired business, how long such business enterprise was continued, or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition." (The quoted language is from the Draft Legislative Language in Attachment II.) The cost of acquiring a business may be used as an objective factor because this cost, as compared with any potential savings in contributions costs, will indicate the extent to which UC tax savings may accrue.

State law may not arbitrarily limit the criteria to be used. For example, some state laws currently consider only whether the business enterprise of the acquired business is continued. This limitation would allow an impermissible SUTA dump to occur as it does not address situations where the purchaser continues the acquired business while flooding the business (and the experience account) with a substantial number of employees performing duties unrelated to the acquired business. For this reason, the draft legislative language is written to refer to "objective factors *which include*" th se listed. (Emphasis added.)

REQUIRED PENALTIES – SECTION 303(k)(1)(D), SSA

19. Question: What penalties must be imposed under state law?

Answer: State law must provide that "meaningful civil and criminal penalties" are imposed with respect to—

- Persons who "knowingly violate or attempt to violate" those provisions of the state's UC law that implement Section 303(k), SSA.
- Persons who "knowingly advise another person to violate those provisions of" state UC laws that implement Section 303(k), SSA.

"Knowingly" is defined as "having actual knowledge of *or* acting with deliberate ignorance of *or* reckless disregard for the prohibition involved." (Emphasis added. Section 303(k)(2)(E), SSA.)

20. Question: Must penalties be imposed in every case of SUTA dumping that is identified?

Answer: No. The penalties only apply to persons who "knowingly violate or attempt to violate" the SUTA dumping provisions of state law

However, when a determination issued by the appropriate authority or a consent order establishes that a

person "knowingly" violated (or attempted to violate) a state's SUTA dumping provisions, then civil penalties must be imposed. States will take into account the amounts at issue and the likelihood of successful prosecution in determining which cases will result in criminal prosecutions.

In cases where a SUTA dumping investigation results in a settlement between the state and the employer in which the employer admits no wrongdoing, there has been no clear establishment of SUTA dumping. In such cases, Federal law does not require the imposition of a penalty.

21. Question: What is a "meaningful" penalty?

Answer: To be "meaningful," the penalty must have the effect of curtailing SUTA dumping. Minimal penalties will not accomplish this end.

Concerning cases where only civil penalties are imposed, a monetary penalty must be of sufficient size that an employer will not be tempted to SUTA dump. A flat fine against SUTA dumping may not be a meaningful deterrent. For example, if a corporation that attempted to dump $2 million in SUTA taxes is fined $5,000, this will likely not be a meaningful deterrent against future attempts to SUTA dump. For that reason, the draft legislative language attached to this UIPL takes the approach that an employer who violated (or attempted to violate) the SUTA dumping prohibitions be assessed the maximum tax rate, or, if assigning the maximum rate does not result in a rate increase of at least 2% of taxable wages, then a penalty rate of 2% of taxable wages will instead be assessed for the rate year in which the violation occurred (or was attempted) and the following three years. States are free to vary this penalty (including assessing both rate increases and fines) but any penalty must have significant financial impact to have a deterrent effect.

22. Question: May state law limit the civil penalties to rate increases?

Answer: No. UC rate increases are not applicable to self-employed individuals who knowingly advise employers to SUTA dump. As a result, state law also needs to provide for fines against individuals. The draft legislative language attached to this UIPL takes the approach that rate increases will be applied to employers and fines to non-employers.

23. Question: Do the SUTA dumping amendments specify the uses of any financial penalties collected by the UC agency?

Answer: No. The draft legislative language attached to this UIPL operates on the assumption that, as is the case with any other UC contributions payable under a state's UC law, any amounts paid due to any rate increase will be deposited in the state's unemployment fund in which case they may be withdrawn *only* for the payment of benefits. Also, under the draft legislative language, any fines will be deposited in the state's penalty and interest account. States may limit the use of these fines to SUTA dumping and other integrity activities.

PAYROLLING

24. Question: Do the SUTA dumping amendments address situations where one employer reports its payroll under another employer's account?

Answer: No. Although this practice, commonly called "payrolling," has been known for some time, it is not addressed by the amendments. "Payrolling" may also include cases where two unrelated businesses negotiate for a fee to have all or part of the employer with the higher UC rate report its payroll as

belonging to the other employer. A PEO was recently found to be "payrolling" by shifting *its* payroll to the account of a client with a lower rate. In each case, the employers are fraudulently reporting who is the employer of an individual.

Unlike the manipulations the SUTA dumping amendments are designed to prevent, "payrolling" should already be explicitly prohibited under all states' UC laws since it involves an employer submitting fraudulent documents concerning who is an individual's employer for UC purposes.

Recognizing that "payrolling" has the same effect as SUTA dumping, the Draft Legislative Language is written so that its penalties will apply to "payrollers." It provides that the penalties apply not just to the mandatory and prohibited transfers required by new Section 303(k), SSA, but also to violations or attempted violations of "any other provision of this Chapter related to determining the assignment of a contribution rate."

ESTABLISHING PROCEDURES – SECTION 303(k)(1)(E), SSA

25. Question: What must my state law say regarding establishing procedures to detect SUTA dumping?

Answer: The state law must say that the state will establish procedures to "identify the transfer or acquisition of a business for purposes of" detecting SUTA dumping. (Section 303(k)(1)(E), SSA.) The state law is not required to specify the procedures. The Department does not believe that it is desirable to legislate what these procedures *must* be as the most effective procedures may vary over time. As a result, the Draft Language does not specify procedures. However, the state must implement procedures to detect SUTA dumping.

OTHER

26. Question: What does "person" mean for purposes of the amendments?

Answer: "Person" has "the meaning given such term by section 7701(a)(1) of the Internal Revenue Code of 1986." (Section 303(k)(2)(F), SSA.) Section 7701(a)(1), IRC, defines "person" as meaning "an individual, a trust, estate, partnership, association, company or corporation." Thus, the term "person" is very broad; it includes entities that may be employers under state law and it includes individuals who are not employers.

27. Question: What does "employer" mean for purposes of the amendments?

Answer: "Employer" means "an employer as defined under state law." (Section 303(k)(2)(B), SSA.) Typically, "employer" will mean an entity that pays sufficient wages based on employment to be subject to the state's UC law. If state UC law does not use the term "employer," then, for purposes of determining what entity is an employer, the state should use whatever term it uses to describe this entity. For example, many states use the term "employing unit" to describe this entity.

28. Question: What does "business" mean for purposes of the amendments?

Answer: "Business" means "a trade or business (or a part thereof)." (Section 303(k)(2)(c), SSA.)

EFFECTIVE DATE

29. Question: By what date must the states amend their UC laws?

Answer: The amendments do not specify a date. Instead, they apply to "rate years beginning after the end of the 26-week period beginning on the first day of the first regularly scheduled session of the State legislature beginning on or after the date of the enactment" of P.L. 108-295, which was August 9, 2004. (See Section 2(c) of P.L. 108-295.) Thus, transfers of experience required or prohibited under the amendments must be effective for such rate years. Nothing prohibits states from providing for earlier effective dates. Indeed, states are encouraged to make their amendments effective as soon as possible.

All states currently have rate years beginning either January 1 or July 1. Also, almost all states' first legislative sessions following the date of enactment will begin in the first three months of 2005. As a result, after taking into account the 26-week grace period, the amendments in most states must be effective for rate years beginning on or after January 1, 2006, or on or after July 1, 2006, whichever is applicable in the state.

For purposes of determining when the 26-week period ends, the state should start counting on the first day of the first regularly scheduled session of the state legislature and count up to 182 (26 weeks x 7 days = 182 days). Any rate year beginning after the 182nd day must apply the SUTA dumping amendments.

The following table indicates the required effective dates:

EFFECTIVE DATES		
First Day of State's First Regularly Scheduled Session	**State's Rate Year Begins**	**Effective for Rate Years Beginning**
January 1 – July 3, 2005	January 1	January 1, 2006
	July 1	July 1, 2006
July 4 – December 31, 2005	January 1	January 1, 2007
	July 1	July 1, 2006
January 1 – July 3, 2006	January 1	January 1, 2007
	July 1	July 1, 2007

30. Question: The state's legislature has adjourned. However, it is scheduled to meet in a one-day session that is limited to over-riding vetoes. This one-day session is consistently scheduled to occur a specified number of days after the state legislature has adjourned. Although the legislature adjourned prior to the date of enactment of P.L. 108-295, the one-day session occurs after the date of enactment. Does this veto session count as the "first day of the first regularly scheduled session" following enactment?

Answer: No. The effective date provisions recognize that states need time to amend their laws. A legislative session where the introduction and enactment of *new* legislation is prohibited will, therefore, not be considered as starting the clock for purposes of determining when rates must be assigned consistent with new Section 303(k), SSA. If, on the other hand, legislation may be introduced and enacted in such a one-day session, the clock will start.

DRAFT LEGISLATIVE LANGUAGE

The following language is provided for state use in developing language that meets the requirements of Section 303(k), SSA, as added by P.L. 108-295, on SUTA dumping.

States will need to modify the language to accord with state usage. For example, "Commissioner" should be changed to the name of the agency administering the state's UC program if that is the state convention. Similarly, legal usages, such as "Chapter" to refer to the state's UC law, should be changed to accord with state convention.

The following language assumes the state wishes to add a separate section addressing SUTA dumping. States may chose instead to integrate the following provisions into existing state law. If this is the case, states should use this language in conjunction with the Checklist in Attachment III to assure all necessary amendments are made. Similarly, states modifying the language should test such modifications against the Checklist.

Section _____. Special Rules Regarding Transfers of Experience and Assignment of Rates. Notwithstanding any other provision of law, the following shall apply regarding assignment of rates and transfers of experience:

(a) If an employer transfers its trade or business, or a portion thereof, to another employer and, at the time of the transfer, there is substantially common ownership, management or control of the two employers, then the unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom such business is so transferred. The rates of both employers shall be recalculated and made effective immediately upon the date of the transfer of trade or business.[1]

(b) Whenever a person[2] who is not an employer[3] under this Chapter at the time it acquires the trade or business of an employer, the unemployment experience of the acquired business shall not be transferred to such person if the Commissioner finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, such person shall be assigned the [applicable][4] new employer rate under section [*insert section of state law*]. In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the Commissioner shall use objective factors which may include the cost of acquiring the business, whether the person continued the business enterprise of the acquired business, how long such business enterprise was continued, or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

(c)(1) If a person knowingly violates or attempts to violate subsections (a) and (b) or any other provision of this Chapter related to determining the assignment of a contribution rate,[5] or if a person knowingly advises another person in a way that results in a violation of such provision, the person shall be subject to the following penalties:

(A) If the person is an employer, then such employer shall be assigned the highest rate assignable under this Chapter for the rate year during which such violation or attempted violation occurred and the three rate years immediately following this rate year. However, if the person's business is already at such highest rate for any year, or if the amount of

increase in the person's rate would be less than 2 percent for such year, then a penalty rate of contributions of 2 percent of taxable wages shall be imposed for such year.

(B) If the person is not an employer, such person shall be subject to a civil money penalty of not more than $5,000. Any such fine shall be deposited in the penalty and interest account established under [*insert appropriate section of state law*]. [6]

(2) For purposes of this section, the term "knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(3) For purposes of this section, the term "violates or attempts to violate" includes, but is not limited to, intent to evade, misrepresentation or willful nondisclosure. [7]

(4) In addition to the penalty imposed by paragraph (1), any violation of this section may be prosecuted as a [*insert appropriate language; for example "a class A felony" or "a Class B misdemeanor"*] under Section [*insert appropriate section*] of the Criminal Code. [8]

(d) The Commissioner shall establish procedures to identify the transfer or acquisition of a business for purposes of this section.

(e) For purposes of this section—

(1) "Person" has the meaning given such term by section 7701(a)(1) of the Internal Revenue Code of 1986, and
(2) "Trade of business" shall include the employer's workforce. [9]

(f) This section shall be interpreted and applied in such a manner as to meet the minimum requirements contained in any guidance or regulations issued by the United States Department of Labor. [10]

---

[1]See Question and Answer 8, which contains the Department's recommendation that rates be recomputed immediately.

[2]The term "person" is used consistent with the usage in Section 3(k)(1)(B), SSA. It encompasses a broad range of entities who are not "employers." It includes both entities who are not "employers" because they have no payroll or insufficient payroll. Note the definition of "person" given in subsection (e)(1) of the draft language.

[3]States should determine if "employer" is the appropriate term here and in other appearances in this draft language. For example, a state may use the term "employing unit," "subject employer," or "employer liable for contributions" to describe an entity that is subject to taxation under the state's UC law.

[4]The word "applicable" is intended to address situations where not all "new" employers receive the same rate. For example, many states assign new employer rates by industry code.

[5]See Question and Answer 24 regarding payrolling.

[6]This provision permits a penalty to be applied to self-employed financial advisors and individual employees of businesses. See Question and Answer 23 regarding the deposit of the fines in the penalty and interest account.

[7]This provision – paragraph (3) - is optional. An actual listing of violations may help to deter these violations.

[8]States should assure that the criminal penalties cited are applicable to both individuals and corporations.

[9]See Question and Answer 5 regarding whether workforce is part of the employer's "trade or business." This definition assures that questions will not arise about whether an employer's workforce is included in "trade or business."

[10]Subsection (f) is optional. States are encouraged to include such language to avoid potential conflicts with any Federal regulations finalized after enactment of state law. The language is written in terms of minimum Federal requirements to assure states are free to adopt more stringent protections to avoid SUTA dumping.

24-LS0821\F
Wayne
1/20/06

CS FOR HOUSE BILL NO. 242( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE CRAWFORD

A BILL

FOR AN ACT ENTITLED

"An Act requiring an employing unit with a change in ownership, management, or control or similar change to notify the Department of Labor and Workforce Development of the ownership change; relating to the unemployment contribution rate of an employing unit; defining 'business' for purposes of statutes setting unemployment contribution rates; establishing the crime of obtaining an unemployment rate by deception; and providing for an effective date."

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

*** Section 1.** AS 23.20 is amended by adding a new section to read:

Sec. 23.20.293. Requirement to notify the department of a business change and acquisitions. An employing unit that has a change in ownership, management, or control, or that succeeds to or acquires all or part of another employing unit's trade or business, shall notify the department in writing in accordance with regulations adopted by the department.

* **Sec. 2.** AS 23.20.295(d) is amended to read:

(d) This section does not apply to an acquisition**, transfer of a trade or business, or transfer of an employers' workforce conducting the trade or business** if the acquisition **or transfer** is determined by the commissioner

(1) to have been primarily for the purpose of obtaining a more favorable rate of contributions under AS 23.20.280 - 23.20.310,

(2) to be inequitable to the parties, [OR]

(3) to be contrary to the public interest**, or**

(4) to be a violation of 42 U.S.C. 503(k) (SUTA Dumping Prevention Act of 2004).

* **Sec. 3.** AS 23.20 is amended by adding a new section to read:

Sec. 23.20.297. Special standards addressing transfers of experience and assignment of rates. (a) The following standards apply regarding assignment of rates and transfers of experience. For the purposes of AS 23.20.295(d)(1) and (4),

(1) if an employer transfers its trade or business, its workforce conducting the trade or business, or a portion of that trade, business, or workforce, to another employer and, at the time of the transfer, there is substantially common ownership, management, or control of the two employers, then the unemployment experience attributable to the transferred trade, business, or workforce is transferred to the employer to whom that trade, business, or workforce is transferred; the rates of both employers are recalculated and made effective immediately upon the date of the transfer;

(2) if a person is not an employer at the time the person acquires the trade, business, or workforce of an employer, the unemployment experience of the acquired trade, business, or workforce may not be transferred to that person if the commissioner finds that the person acquired the trade, business, or workforce in order to obtain a lower rate of contributions; instead, the person is assigned the applicable new employer rate under AS 23.20.170(b).

(b) An employer who knowingly or recklessly violates or attempts to violate, or who advises another employer to violate, (a) of this section or any other provision of this chapter related to determining the assignment of a contribution rate, or fails to

notify the department of a trade, business, or workforce change or acquisition in order to obtain a more favorable rate of contributions, is not eligible for a rate determination under AS 23.20.280 - 23.20.310. The employer shall pay one of the following as assigned by the department:

(1) contributions at the highest rate provided for the rate year of the violation and for the three succeeding rate years; or

(2) if the employer's trade, business, or workforce is already at the highest rate for the rate year of the violation, contributions at the highest rate for the three succeeding rate years and a cash penalty of two percent of taxable wages for the rate year of the violation and three succeeding rate years.

(c) A person who knowingly or recklessly advises another person or employer to transfer or acquire a trade, business, or workforce under the provisions of this section in order to obtain a more favorable rate of contributions in violation of (a) of this section is subject to a civil penalty of not more than $5,000.

(d) The department may interpret and apply this section in such a manner as to meet the minimum requirements by the United States Department of Labor.

* **Sec. 4.** AS 23.20 is amended by adding a new section to read:

Sec. 23.20.299. Obtaining an unemployment contribution rate by deception. (a) A person who violates AS 23.20.297(b) or (c) commits the crime of obtaining an unemployment contribution rate by deception.

(b) A person commits the crime of obtaining an unemployment contribution rate by deception in the first degree if the value of the difference between the rate that had been assigned to the trade, business, or workforce and the rate assigned as a result of the violation is $25,000 or more. Obtaining an unemployment contribution rate by deception in the first degree is a class B felony.

(c) A person commits the crime of obtaining an unemployment contribution rate by deception in the second degree if the value of the difference between the rate that had been assigned to the trade, business, or workforce and the rate assigned as a result of the violation is $500 or more but less than $25,000. Obtaining an unemployment contribution rate by deception in the second degree is a class C felony.

(d) A person commits the crime of obtaining an unemployment contribution

rate by deception in the third degree if the value of the difference between the rate that had been assigned to the trade, business, or workforce and the rate assigned as a result of the violation is $50 or more but less than $500. Obtaining an unemployment contribution rate by deception in the third degree is a class A misdemeanor.

(e) A person commits the crime of obtaining an unemployment contribution rate by deception in the fourth degree if the value of the difference between the rate that had been assigned to the trade, business, or workforce and the rate assigned as a result of the violation is less than $50. Obtaining an unemployment contribution rate by deception in the fourth degree is a class B misdemeanor.

(f) A person who attempts to commit the crime of obtaining an unemployment contribution rate by deception commits the crime of attempt under AS 11.31.100.

*** Sec. 5.** AS 23.20.310 is amended by adding new paragraphs to read:

(8) "business" means a trade or business or a part of the trade or business;

(9) "knowingly" has the meaning given in AS 11.81.900;

(10) "recklessly" has the meaning given in AS 11.81.900.

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

TRANSITION: REGULATIONS. The Department of Labor and Workforce Development may proceed to adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory change.

*** Sec. 7.** Sections 1, 2, and 4 of this Act and AS 23.20.297(a) - (c), enacted by sec. 3 of this Act, take effect July 1, 2006.

*** Sec. 8.** Sections 5 and 6 of this Act and AS 23.20.297(d), enacted by sec. 3 of this Act, take effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB242-DOLWD-UI-04-11-05**
() Publish Date:

Revision Date/Time (Note if correction):
Title: **Unemployment Insurance Fund & Taxes**

Department: **Labor and Workforce Development**
RDU: **Employment Security**
Component: **Unemployment Insurance**

Sponsor: **Representative Crawford**
Requester: **House L&C**

Component Number: **2276**

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other Training and Building Fund)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: None
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

This legislation adds language to comply with federal legislation. Public Law 108-295 (42 U.S.C. 503) requires that a state's law contain language that will prevent state unemployment tax avoidance schemes and also requires that states apply meaningful civil and criminal penalties against persons who knowingly violate those provisions.

There is no anticipated fiscal impact to the department as a result of this legislation.

Prepared by: **Thomas W. Nelson, Director** Phone: **465-5933**
Division: **Employment Security Division** Date/Time: **4/11/05 2:35 PM**
Approved by: **Greg O'Claray, Commissioner** Date: **4/11/2005**
Agency: **Department of Labor and Workforce Development**

(Revised 9/23/2004 OMB)

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Representative Harry Crawford
District 21

SPONSOR STATEMENT FOR HB 242

Recently passed federal law requires states to enact legislation to combat unemployment insurance tax avoidance schemes This occurs when employers manipulate tax rating systems to achieve an artificially low tax rate.

Tax avoidance schemes hurt Alaskan businesses by inflating the overall tax rate and unfairly shifting the cost of unemployment insurance to other businesses. Alaska faces significant federal penalty if we fail to pass this legislation, including decertification of our program and the loss of millions of dollars in federal funding and credits. By enacting this legislation not only will Alaska ensure compliance with federal law, we will also strengthen the integrity of our tax rating system.

I urge your support of this legislation.

E-mail: Representative_Harry_Crawford@legis.state.ak.us

Sectional Analysis
Draft CS (24-LS0821\F)
House Bill 242

Section 1. Adds a new section, AS 23.20.293 and requires an employer to notify the department in writing of any changes in ownership, management and control or when an employer acquires all or a part of another employer's trade or business. This provision will help the department detect tax avoidance and will help ensure employers are assigned the correct tax rate.

Section 2. Amends AS 23.20.295(d) to conform to federal law, which requires State laws to contain language which prevents unemployment insurance tax avoidance.

Section 3. Adds a new section, AS 23.20.297 to address transfers of payroll history and assignment of tax rates to conform to the tax avoidance prevention provisions, and establishes required civil and criminal penalties against persons who knowingly violate those provisions.

Section 4. Adds a new section that establishes criminal penalties against an employer or person(s) who knowingly or recklessly obtains or advises another person or employer to obtain an unemployment rate under false pretenses.

Section 5. Amends AS 23.20.310 to add new definitions to clarify the tax avoidance provisions.

Section 6. Adds new language to allow the department to adopt regulations necessary to implement the changes made by the above sections.

Section 7. Provides for an effective date of July 1, 2006 for Sections 1, 2, and 4 and for AS 23.20.297(a)-(c) enacted by Section 3.

Section 8. Provides for an immediate effective date for Sections 5 and 6 and for AS 23.20.297(d), enacted by Section 3.

Prepared by Alaska Department of Labor and Workforce Development
Employment Security Division, Unemployment Insurance Technical Unit
January 23, 2006, 10:15 AM

Unemployment Insurance Federal Compliance

Recent federal law requires state law change:
In August 2004, President Bush signed P.L. 108-295, amending the Social Security Act of 1935 and requiring states to enact legislation that will prevent the practice of State Unemployment Tax Avoidance schemes. This activity occurs when employers find ways to manipulate state unemployment insurance (UI) tax rating systems such that the employer pays UI taxes at an artificially low rate.

State laws must include:

- Mandatory transfers of unemployment experience when a trade or business is acquired by or transferred to another employer.
- Prohibition of transfers when a transfer or an acquisition is solely or primarily for the purpose of obtaining a lower UI tax rate.
- Penalties when tax avoidance schemes are detected.
- Procedures for identifying tax avoidance schemes.

Penalty for Noncompliance:

- If Alaska fails to enact required legislation, Alaska's UI program will be de-certified and all employers in the state would lose their federal offset credit of 5.4 percent which would amount to $103.9 million in additional taxes. Also, Alaska loses $30.8 million in administrative and operational funding for supporting unemployment insurance programs.

UI Tax Avoidance Mainly Occurs in Two Ways:

- An employer sets up a new company and then transfers some or all of its workforce (and accompanying payroll) to the new company after it has earned a lower UI rate. The transferred payroll is then taxed at the lower rate.
- A new business entity purchases an existing business with a lower UI tax rate. Instead of being assigned the higher industry rate for a new business, the entity receives the existing lower rate. Typically, the new business ceases the activity of the purchased business and commences a different type of activity.

Harmful Effects of UI Tax Avoidance Schemes:

- Lost revenue will result in higher tax rates overall and unfairly shifts the cost of UI benefits to other employers.
- UI tax avoidance eliminates the incentive for employers to stabilize their workforce and keep employees working.

Benefits of State Unemployment Tax Avoidance Legislation:

- Maintains the integrity and equity of our tax rating system and trust fund.
- Helps keep employer UI tax rates from increases due to under funding.
- Prevents tax rate avoidance schemes by imposing meaningful penalties in cases where a violation is detected.

Prepared by Alaska Department of Labor and Workforce Development,
Employment Security Division
January 4, 2006

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington D.C. 20210

DEC 7

The Honorable Frank Murkowski
Governor of Alaska
Box 110001
Juneau, Alaska 99811

Dear Governor Murkowski:

In my letter to you dated June 10, 2005, I called your attention to amendments to Alaska's unemployment compensation law that are needed for the state to remain eligible for Federal grants to administer its unemployment compensation (UC) program. Unfortunately, since that time there has been no action on this legislation, which must be in effect in Alaska on January 1, 2006, to conform with requirements of Federal UC law.

On August 9, 2004, the President signed P.L. 108-295, the SUTA Dumping Prevention Act of 2004. This legislation amended the Social Security Act to add a new Section 303(k), establishing a nationwide minimum standard for curbing certain practices that some employers have used to manipulate state unemployment insurance tax rates and avoid their fair share of unemployment taxes. All states are required to amend their UC laws to conform with the requirements of Section 303(k), SSA, as a condition for receiving grants for the administration of the state's UC law.

Labor and Workforce Development Commissioner O'Claray informed me by letter dated June 23, 2005, that Alaska is poised to secure enactment in the second session of the legislature. In order to hold in abeyance initiation of proceedings to withhold certification for the administrative grant, I must have your assurance that you will make every effort to secure enactment of legislation meeting the Federal requirements and making any transfers of experience that occur after January 1, 2006, until the effective date of the enactment, retroactive to January 1, 2006, to ensure conformity with Federal law.

Please provide this assurance before January 1, 2006, that Alaska will enact the required legislation expeditiously in the next legislative session.

Sincerely,

Emily Stover DeRocco

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210

DEC 7

The Honorable Frank Murkowski
Governor of Alaska
Box 110001
Juneau, Alaska 99811

Dear Governor Murkowski:

In my letter to you dated June 10, 2005, I called your attention to amendments to Alaska's unemployment compensation law that are needed for the state to remain eligible for Federal grants to administer its unemployment compensation (UC) program. Unfortunately, since that time there has been no action on this legislation which must be in effect in Alaska on January 1, 2006, to conform with requirements of Federal UC law.

On August 9, 2004, the President signed P.L. 108-295, the SUTA Dumping Prevention Act of 2004. This legislation amended the Social Security Act to add a new Section 303(k), establishing a nationwide minimum standard for curbing certain practices that some employers have used to manipulate state unemployment insurance tax rates and avoid their fair share of unemployment taxes. All states are required to amend their UC laws to conform with the requirements of Section 303(k), SSA, as a condition for receiving grants for the administration of the state's UC law.

Labor and Workforce Development Commissioner O'Claray informed me by letter dated June 23, 2005, that Alaska is poised to secure enactment in the second session of the legislature. In order to hold in abeyance initiation of proceedings to withhold certification for the administrative grant, I must have your assurance that you will make every effort to secure enactment of legislation meeting the Federal requirements and making any transfers of experience that occur after January 1, 2006, until the effective date of the enactment, retroactive to January 1, 2006, to ensure conformity with Federal law.

Please provide this assurance before January 1, 2006, that Alaska will enact the required legislation expeditiously in the next legislative session.

Sincerely,

Emily Stover DeRocco

ATTACHMENT IV

TEXT OF P.L. 108-295

An Act

To amend titles III and IV of the Social Security Act to improve the administration of unemployment taxes and benefits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'SUTA Dumping Prevention Act of 2004'.

SEC. 2. TRANSFER OF UNEMPLOYMENT EXPERIENCE UPON TRANSFER OR ACQUISITION OF A BUSINESS.

(a) IN GENERAL- Section 303 of the Social Security Act (42 U.S.C. 503) is amended by adding at the end the following:

'(k)(1) For purposes of subsection (a), the unemployment compensation law of a State must provide--

'(A) that if an employer transfers its business to another employer, and both employers are (at the time of transfer) under substantially common ownership, management, or control, then the unemployment experience attributable to the transferred business shall also be transferred to (and combined with the unemployment experience attributable to) the employer to whom such business is so transferred,

'(B) that unemployment experience shall not, by virtue of the transfer of a business, be transferred to the person acquiring such business if--

'(i) such person is not otherwise an employer at the time of such acquisition, and

'(ii) the State agency finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions,

'(C) that unemployment experience shall (or shall not) be transferred in accordance with such regulations as the Secretary of Labor may prescribe to ensure that higher rates of contributions are not avoided through the transfer or acquisition of a busines ,

'(D) that meaningful civil and criminal penalties are imposed with respect to--

'(i) persons that knowingly violate or attempt to violate those provisions of the State law which implement subparagraph (A) or (B) or regulations under subparagraph (C), and

'(ii) persons that knowingly advise another person to violate those provisions of the State law which implement subparagraph (A) or (B) or regulations under subparagraph (C), and

'(E) for the establishment of procedures to identify the transfer or acquisition of a

business for purposes of this subsection.

`(2) For purposes of this subsection--

`(A) the term `unemployment experience', with respect to any person, refers to such person's experience with respect to unemployment or other factors bearing a direct relation to such person's unemployment risk;

`(B) the term `employer' means an employer as defined under the State law;

`(C) the term `business' means a trade or business (or a part thereof);

`(D) the term `contributions' has the meaning given such term by section 3306(g) of the Internal Revenue Code of 1986;

`(E) the term `knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibition involved; and

`(F) the term `person' has the meaning given such term by section 7701(a)(1) of the Internal Revenue Code of 1986.'.

(b) STUDY AND REPORTING REQUIREMENTS-

(1) STUDY- The Secretary of Labor shall conduct a study of the implementation of the provisions of section 303(k) of the Social Security Act (as added by subsection (a)) to assess the status and appropriateness of State actions to meet the requirements of such provisions.

(2) REPORT- Not later than July 15, 2007, the Secretary of Labor shall submit to the Congress a report that contains the findings of the study required by paragraph (1) and recommendations for any Congressional action that the Secretary considers necessary to improve the effectiveness of section 303(k) of the Social Security Act.

(c) EFFECTIVE DATE- The amendment made by subsection (a) shall, with respect to a State, apply to certifications for payments (under section 302(a) of the Social Security Act) in rate years beginning after the end of the 26-week period beginning on the first day of the first regularly scheduled session of the State legislature beginning on or after the date of the enactment of this Act.

(d) DEFINITIONS- For purposes of this section--

(1) the term `State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

(2) the term `rate year' means the rate year as defined in the applicable State law; and

(3) the term `State law' means the unemployment compensation law of the State, approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1986.

SEC. 3. USE OF NEW HIRE INFORMATION TO ASSIST IN ADMINISTRATION OF UNEMPLOYMENT COMPENSATION PROGRAMS.

Section 453(j) of the Social Security Act (42 U.S.C. 653(j)) is amended by adding at the end the following:

`(8) INFORMATION COMPARISONS AND DISCLOSURE TO ASSIST IN ADMINISTRATION OF UNEMPLOYMENT COMPENSATION PROGRAMS-

'(A) IN GENERAL- If, for purposes of administering an unemployment compensation program under Federal or State law, a State agency responsible for the administration of such program transmits to the Secretary the names and social security account numbers of individuals, the Secretary shall disclose to such State agency information on such individuals and their employers maintained in the National Directory of New Hires, subject to this paragraph.

'(B) CONDITION ON DISCLOSURE BY THE SECRETARY- The Secretary shall make a disclosure under subparagraph (A) only to the extent that the Secretary determines that the disclosure would not interfere with the effective operation of the program under this part.

'(C) USE AND DISCLOSURE OF INFORMATION BY STATE AGENCIES-

'(i) IN GENERAL- A State agency may not use or disclose information provided under this paragraph except for purposes of administering a program referred to in subparagraph (A).

'(ii) INFORMATION SECURITY- The State agency shall have in effect data security and control policies that the Secretary finds adequate to ensure the security of information obtained under this paragraph and to ensure that access to such information is restricted to authorized persons for purposes of authorized uses and disclosures.

'(iii) PENALTY FOR MISUSE OF INFORMATION- An officer or employee of the State agency who fails to comply with this subparagraph shall be subject to the sanctions under subsection (l)(2) to the same extent as if such officer or employee was an officer or employee of the United States.

'(D) PROCEDURAL REQUIREMENTS- State agencies requesting information under this paragraph shall adhere to uniform procedures established by the Secretary governing information requests and data matching under this paragraph.

'(E) REIMBURSEMENT OF COSTS- The State agency shall reimburse the Secretary, in accordance with subsection (k)(3), for the costs incurred by the Secretary in furnishing the information requested under this paragraph.'.

Rep Anderson
Smith

On page 1 line 9 add (a)

On page 1 line 13 add language that reads:

(b) For the purposes of this section, a change in ownership, management or control means a change of a person(s), entity(ies) or responsible party(ies) who is under a duty to pay unemployment insurance contributions as required by law.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **0065-DOLWD-UI-01-23-06**
() Publish Date:

Revision Date/Time (Note if correction):
Department: **Labor and Workforce Development**
Title: **State Training and Employment Program Contributions**
RDU: **Employment Security**
Component: **Unemployment Insurance**
Sponsor: **Rules Committee**
Requester: **Governor**
Component Number: **2276**

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: None
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

There is no anticipated financial impact to the Unemployment Insurance component as a result of this legislation.

Prepared by: **Tom Nelson, Director** Phone: **465-2712**
Division: **Employment Security Division** Date/Time: **1/23/06 4:19 PM**
Approved by: **Greg O'Claray, Commissioner** Date: **1/23/2006**
Agency: **Department of Labor and Workforce Development**

(Revised 9/7/2005 OMB)

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **0065-DOLWD-BSC-01-23-06**
() Publish Date:

Revision Date/Time (Note if correction):
Title: **State Training and Employment Program Contributions**
Sponsor: **Rules Committee**
Requester: **Governor**

Department: **Labor and Workforce Development**
RDU: **Business Partnerships**
Component: **Business Services**
Component Number: **2658**

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	35.1	140.2	140.2	140.2	140.2	
Travel	8.0	22.3	22.3	22.3	22.3	
Contractual	19.7	44.3	44.3	44.3	44.3	
Supplies	1.0	3.0	3.0	3.0	3.0	
Equipment						
Land & Structures						
Grants & Claims	2,228.8	5,030.2	5,030.2	5,030.2	2,737.6	
Miscellaneous						
TOTAL OPERATING	**2,292.6**	**5,240.0**	**5,240.0**	**5,240.0**	**2,947.4**	**0.0**
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )	**2,292.6**	**5,240.0**	**5,240.0**	**5,240.0**	**2,947.4**	

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1054 State Employment & Training	2 292.6	5,240.0	5,240.0	5,240.0	2,947.4	
TOTAL	**2,292.6**	**5,240.0**	**5,240.0**	**5,240.0**	**2,947.4**	**0.0**

Estimate of any current year (FY2006) cost: None
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	1	2	2	2	2	
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

See Attached.

Prepared by: **Corine Geldhof, Acting Director** Phone: **465-5937**
Division: **Business Partnerships Division** Date/Time: **1/23/06 4:19 PM**
Approved by: **Greg O'Claray, Commissioner** Date: **1/23/2006**
Agency: **Department of Labor and Workforce Development**

ANALYSIS: (continued)

The bill would increase the revenue collected for the State Training and Employment Program allowing additional training opportunities to be provided to Alaskans.

The increased number of grantees receiving funding would require additional staff to provide program support such as technical assistance, grant preparation and grant monitoring. Increased staff would include one Employment Security Analyst II, range 17 and one Grant Administrator II, range 17. As FY 2007 would only receive increased revenue for half the year, grant activity is anticipated to be at a lower level and only one of the positions would be required for 6 months of the fiscal year. In FY 2008 and beyond both positions would be required for the full year. While the contribution rate decreases in FY 2011 both positions would be needed for the fiscal year because the grants issued would continue for the entire fiscal year.

The additional travel allocation would be used for staff to provide program support, technical assistance and grant monitoring of grantees. The contractual allocation includes the management assessment fee paid to the Alaska Workforce Investment Board as well as office space lease and other program costs associated with the added staff. The supplies allocation includes normal operating supplies for staff.

The amount in the grants line would be used to provide training opportunities. In FY 2005 the average cost to provide training was $2,890 per participant. Using that per participant average the grant funds would provide training opportunities to 793 participants in FY 2007 and 1,813 per year for FY 2008 through 2010 and 1,019 in FY 2011.

The amount of revenue anticipated in FY 2007 using a start date of January 1, 2007 is $2,292.6; and the amount anticipated in FY 2011 using an end date of January 1, 2011 is $2,947.4. The reason the amounts of anticipated receipts for these two six month collection periods doesn't equal 50 percent of the amount of revenue anticipated during a twelve month collection period is because the collection will begin in a period of the calendar year where the state typically has a smaller workforce employed. As the calendar year progresses and employment increases with the start of the tourist and construction seasons the amount of revenue increases which is why the FY 2011 amount exceeds 50 percent of a 12 month collection period. We anticipate the revenue for a full year to be $5,240.0.

ATTACHMENT IV

TEXT OF P.L. 108-295

An Act

To amend titles III and IV of the Social Security Act to improve the administration of unemployment taxes and benefits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'SUTA Dumping Prevention Act of 2004'.

SEC. 2. TRANSFER OF UNEMPLOYMENT EXPERIENCE UPON TRANSFER OR ACQUISITION OF A BUSINESS.

(a) IN GENERAL- Section 303 of the Social Security Act (42 U.S.C. 503) is amended by adding at the end the following:

'(k)(1) For purposes of subsection (a), the unemployment compensation law of a State must provide--

'(A) that if an employer transfers its business to another employer, and both employers are (at the time of transfer) under substantially common ownership, management, or control, then the unemployment experience attributable to the transferred business shall also be transferred to (and combined with the unemployment experience attributable to) the employer to whom such business is so transferred,

'(B) that unemployment experience shall not, by virtue of the transfer of a business, be transferred to the person acquiring such business if--

'(i) such person is not otherwise an employer at the time of such acquisition, and

'(ii) the State agency finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions,

'(C) that unemployment experience shall (or shall not) be transferred in accordance with such regulations as the Secretary of Labor may prescribe to ensure that higher rates of contributions are not avoided through the transfer or acquisition of a business,

'(D) that meaningful civil and criminal penalties are imposed with respect to--

'(i) persons that knowingly violate or attempt to violate those provisions of the State law which implement subparagraph (A) or (B) or regulations under subparagraph (C), and

'(ii) persons that knowingly advise another person to violate those provisions of the State law which implement subparagraph (A) or (B) or regulations under subparagraph (C), and

'(E) for the establishment of procedures to identify the transfer or acquisition of a

business for purposes of this subsection.

'(2) For purposes of this subsection--

'(A) the term 'unemployment experience', with respect to any person, refers to such person's experience with respect to unemployment or other factors bearing a direct relation to such person's unemployment risk;

'(B) the term 'employer' means an employer as defined under the State law;

'(C) the term 'business' means a trade or business (or a part thereof);

'(D) the term 'contributions' has the meaning given such term by section 3306(g) of the Internal Revenue Code of 1986;

'(E) the term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibition involved; and

'(F) the term 'person' has the meaning given such term by section 7701(a)(1) of the Internal Revenue Code of 1986.'.

(b) STUDY AND REPORTING REQUIREMENTS-

(1) STUDY- The Secretary of Labor shall conduct a study of the implementation of the provisions of section 303(k) of the Social Security Act (as added by subsection (a)) to assess the status and appropriateness of State actions to meet the requirements of such provisions.

(2) REPORT- Not later than July 15, 2007, the Secretary of Labor shall submit to the Congress a report that contains the findings of the study required by paragraph (1) and recommendations for any Congressional action that the Secretary considers necessary to improve the effectiveness of section 303(k) of the Social Security Act.

(c) EFFECTIVE DATE- The amendment made by subsection (a) shall, with respect to a State, apply to certifications for payments (under section 302(a) of the Social Security Act) in rate years beginning after the end of the 26-week period beginning on the first day of the first regularly scheduled session of the State legislature beginning on or after the date of the enactment of this Act.

(d) DEFINITIONS- For purposes of this section--

(1) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

(2) the term 'rate year' means the rate year as defined in the applicable State law; and

(3) the term 'State law' means the unemployment compensation law of the State, approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1986.

SEC. 3. USE OF NEW HIRE INFORMATION TO ASSIST IN ADMINISTRATION OF UNEMPLOYMENT COMPENSATION PROGRAMS.

Section 453(j) of the Social Security Act (42 U.S.C. 653(j)) is amended by adding at the end the following:

'(8) INFORMATION COMPARISONS AND DISCLOSURE TO ASSIST IN ADMINISTRATION OF UNEMPLOYMENT COMPENSATION PROGRAMS-

'(A) IN GENERAL- If, for purposes of administering an unemployment compensation program under Federal or State law, a State agency responsible for the administration of such program transmits to the Secretary the names and social security account numbers of individuals, the Secretary shall disclose to such State agency information on such individuals and their employers maintained in the National Directory of New Hires, subject to this paragraph.

'(B) CONDITION ON DISCLOSURE BY THE SECRETARY- The Secretary shall make a disclosure under subparagraph (A) only to the extent that the Secretary determines that the disclosure would not interfere with the effective operation of the program under this part.

'(C) USE AND DISCLOSURE OF INFORMATION BY STATE AGENCIES-

'(i) IN GENERAL- A State agency may not use or disclose information provided under this paragraph except for purposes of administering a program referred to in subparagraph (A).

'(ii) INFORMATION SECURITY- The State agency shall have in effect data security and control policies that the Secretary finds adequate to ensure the security of information obtained under this paragraph and to ensure that access to such information is restricted to authorized persons for purposes of authorized uses and disclosures.

'(iii) PENALTY FOR MISUSE OF INFORMATION- An officer or employee of the State agency who fails to comply with this subparagraph shall be subject to the sanctions under subsection (l)(2) to the same extent as if such officer or employee was an officer or employee of the United States.

'(D) PROCEDURAL REQUIREMENTS- State agencies requesting information under this paragraph shall adhere to uniform procedures established by the Secretary governing information requests and data matching under this paragraph.

'(E) REIMBURSEMENT OF COSTS- The State agency shall reimburse the Secretary, in accordance with subsection (k)(3), for the costs incurred by the Secretary in furnishing the information requested under this paragraph.'.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB242-DOLWD-UI-04-11-05**
() Publish Date:

Revision Date/Time (Note if correction):
Title: **Unemployment Insurance Fund & Taxes**

Department: **Labor and Workforce Development**
RDU: **Employment Security**
Component: **Unemployment Insurance**

Sponsor: **Representative Crawford**
Requester: **House L&C**

Component Number: **2276**

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other Training and Building Fund)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: None
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

This legislation adds language to comply with federal legislation. Public Law 108-295 (42 U.S.C. 503) requires that a state's law contain language that will prevent state unemployment tax avoidance schemes and also requires that states apply meaningful civil and criminal penalties against persons who knowingly violate those provisions.

There is no anticipated fiscal impact to the department as a result of this legislation.

Prepared by: **Thomas W. Nelson, Director** Phone: **465-5933**
Division: **Employment Security Division** Date/Time: **4/11/05 2:35 PM**
Approved by: **Greg O'Claray, Commissioner** Date: **4/11/2005**
Agency: **Department of Labor and Workforce Development**

Alaska State Legislature

House of Representatives

Alaska State Capitol
Juneau, Alaska 99801-1182
1-907-465-3438 (phone)
1-888-478-3438 (toll free)
1-907-465-4565 (fax)

Interim Address
716 West Fourth Avenue
Anchorage, Alaska 99501-2133
(phone) 1-907-269-0100
(fax) 1-907-269-0105

Representative Harry Crawford
District 21

SPONSOR STATEMENT FOR HB 242

Recently passed federal law requires states to enact legislation to combat unemployment insurance tax avoidance schemes. This occurs when employers manipulate tax rating systems to achieve an artificially low tax rate.

Tax avoidance schemes hurt Alaskan businesses by inflating the overall tax rate and unfairly shifting the cost of unemployment insurance to other businesses. Alaska faces significant federal penalty if we fail to pass this legislation, including decertification of our program and the loss of millions of dollars in federal funding and credits. By enacting this legislation not only will Alaska ensure compliance with federal law, we will also strengthen the integrity of our tax rating system.

I urge your support of this legislation.

E-mail: Representative_Harry_Crawford@legis.state.ak.us

Sectional Analysis
Draft CS (24-LS0821\F)
House Bill 242

Section 1. Adds a new section, AS 23.20.293 and requires an employer to notify the department in writing of any changes in ownership, management and control or when an employer acquires all or a part of another employer's trade or business. This provision will help the department detect tax avoidance and will help ensure employers are assigned the correct tax rate.

Section 2. Amends AS 23.20.295(d) to conform to federal law, which requires State laws to contain language which prevents unemployment insurance tax avoidance.

Section 3. Adds a new section, AS 23.20.297 to address transfers of payroll history and assignment of tax rates to conform to the tax avoidance prevention provisions, and establishes required civil and criminal penalties against persons who knowingly violate those provisions.

Section 4. Adds a new section that establishes criminal penalties against an employer or person(s) who knowingly or recklessly obtains or advises another person or employer to obtain an unemployment rate under false pretenses.

Section 5. Amends AS 23.20.310 to add new definitions to clarify the tax avoidance provisions.

Section 6. Adds new language to allow the department to adopt regulations necessary to implement the changes made by the above sections.

Section 7. Provides for an effective date of July 1, 2006 for Sections 1, 2, and 4 and for AS 23.20.297(a)-(c) enacted by Section 3.

Section 8. Provides for an immediate effective date for Sections 5 and 6 and for AS 23.20.297(d), enacted by Section 3.

Prepared by Alaska Department of Labor and Workforce Development
Employment Security Division, Unemployment Insurance Technical Unit
January 23, 2006, 10:15 AM

Unemployment Insurance Federal Compliance

Recent federal law requires state law change:
In August 2004, President Bush signed P.L. 108-295, amending the Social Security Act of 1935 and requiring states to enact legislation that will prevent the practice of State Unemployment Tax Avoidance schemes. This activity occurs when employers find ways to manipulate state unemployment insurance (UI) tax rating systems such that the employer pays UI taxes at an artificially low rate.

State laws must include:

- Mandatory transfers of unemployment experience when a trade or business is acquired by or transferred to another employer.
- Prohibition of transfers when a transfer or an acquisition is solely or primarily for the purpose of obtaining a lower UI tax rate.
- Penalties when tax avoidance schemes are detected.
- Procedures for identifying tax avoidance schemes.

Penalty for Noncompliance:

- If Alaska fails to enact required legislation, Alaska's UI program will be de-certified and all employers in the state would lose their federal offset credit of 5.4 percent which would amount to $103.9 million in additional taxes. Also, Alaska loses $30.8 million in administrative and operational funding for supporting unemployment insurance programs.

UI Tax Avoidance Mainly Occurs in Two Ways:

- An employer sets up a new company and then transfers some or all of its workforce (and accompanying payroll) to the new company after it has earned a lower UI rate. The transferred payroll is then taxed at the lower rate.
- A new business entity purchases an existing business with a lower UI tax rate. Instead of being assigned the higher industry rate for a new business, the entity receives the existing lower rate. Typically, the new business ceases the activity of the purchased business and commences a different type of activity.

Harmful Effects of UI Tax Avoidance Schemes:

- Lost revenue will result in higher tax rates overall and unfairly shifts the cost of UI benefits to other employers.
- UI tax avoidance eliminates the incentive for employers to stabilize their workforce and keep employees working.

Benefits of State Unemployment Tax Avoidance Legislation:

- Maintains the integrity and equity of our tax rating system and trust fund.
- Helps keep employer UI tax rates from increases due to under funding.
- Prevents tax rate avoidance schemes by imposing meaningful penalties in cases where a violation is detected.

Prepared by Alaska Department of Labor and Workforce Development,
Employment Security Division
January 4, 2006

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210

DEC 7

The Honorable Frank Murkowski
Governor of Alaska
Box 110001
Juneau, Alaska 99811

Dear Governor Murkowski:

In my letter to you dated June 10, 2005, I called your attention to amendments to Alaska's unemployment compensation law that are needed for the state to remain eligible for Federal grants to administer its unemployment compensation (UC) program. Unfortunately, since that time there has been no action on this legislation, which must be in effect in Alaska on January 1, 2006, to conform with requirements of Federal UC law.

On August 9, 2004, the President signed P.L. 108-295, the SUTA Dumping Prevention Act of 2004. This legislation amended the Social Security Act to add a new Section 303(k), establishing a nationwide minimum standard for curbing certain practices that some employers have used to manipulate state unemployment insurance tax rates and avoid their fair share of unemployment taxes. All states are required to amend their UC laws to conform with the requirements of Section 303(k), SSA, as a condition for receiving grants for the administration of the state's UC law.

Labor and Workforce Development Commissioner O'Claray informed me by letter dated June 23, 2005, that Alaska is poised to secure enactment in the second session of the legislature. In order to hold in abeyance initiation of proceedings to withhold certification for the administrative grant, I must have your assurance that you will make every effort to secure enactment of legislation meeting the Federal requirements and making any transfers of experience that occur after January 1, 2006, until the effective date of the enactment, retroactive to January 1, 2006, to ensure conformity with Federal law.

Please provide this assurance before January 1, 2006, that Alaska will enact the required legislation expeditiously in the next legislative session.

Sincerely,

Emily Stover DeRocco

HB

243

STATE OF ALASKA

DEPARTMENT OF COMMERCE
COMMUNITY AND ECONOMIC DEVELOPMENT
REGULATORY COMMISSION OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

701 WEST EIGHTH AVENUE, SUITE 300
ANCHORAGE, ALASKA 99501-3469
PHONE: (907) 276-6222
FAX: (907) 276-0160
TTY: (907) 276-4533
WEBSITE: www.state.ak.us/rca/

April 25, 2005

The Honorable Norman Rokeberg
House Labor and Commerce Committee
Alaska House of Representatives
Alaska State Capitol Room 214
Juneau, AK 99801-1182

Re: HB 243

Dear Representative Rokeberg:

This is in response to your request for a history of the Regulatory Commission of Alaska's Regulatory Cost Charges (RCC). During the House Labor and Commerce Committee meeting last week, you also asked whether any portion of temporary increase in the RCC rate would be subject to Commerce overhead charges. We answer both questions in this letter.

RCC History: Prior to 1992, the RCA's predecessor agencies were funded through the general fund. In 1992, the Seventeenth Legislature adopted the Regulatory Cost Charge (RCC) which required certificated public utilities and pipeline carriers to pay the cost of funding the RCA's budget. These costs are commonly passed through the regulated entity to ratepayers as an RCC surcharge on their monthly bills.

In creating the RCC funding mechanism, the Legislature capped the total amount the RCA can collect in a manner similar to a tax cap. Changing the RCC rate requires legislative action. Between 1992 and 1994, the RCC was capped at 0.61 percent of regulated gross revenues In 1995 through June 30, 2004, the cap was 0.8 percent. The cap was increased beginning July 1, 2005 to 0.87 percent to fund the Attorney General's public advocacy function. The RCC is now shared between the Department of Law, which receives 0.17 percent, and the RCA, which receives 0.7 percent.[1]

[1] The public advocacy function was moved to the Department of Law in 2003.

The following table illustrates the revenues generated from the RCC since 1995 to fund the Regulatory Commission of Alaska's activities.

RCC Revenue History		
FY	**Rate**	**Revenues**
1995	0.80	$3,400,000
1996	0.80	$3,300,000
1997	0.80	$3,800,000
1998	0.80	$3,700,000
1999	0.80	$4,200,000
2000	0.80	$4,200,000
2001	0.80	$5,200,000
2002	0.80	$5,600,000
2003	0.80	$5,800,000
2004	0.80	$6,000,000
2005 - RCA	0.70	$5,200,000
2005 - Law	0.17	$1,300,000

The RCA has adjusted its operations to reflect the lower projected 2005 revenues by reducing staff by 12%, effective May 2, 2005.

The revenues to be derived from the temporary 0.2 percent RCC increase will be used to implement systems and efficiencies that will allow the RCA to achieve its regulatory mission once it returns to the 0.7 percent funding level on July 1, 2008.

Overhead: Commerce Administrative staff informs me that our overhead will likely increase over the next few years, but this increase is unrelated to the temporary increase in revenues that would occur with the passage of HB 243/SB 157. Rather, Commerce explains overhead will go up because state core costs such as Human Resources, Telecommunications, Enterprise Productivity Rate, etc., are increasing.

We agreed to provide for your review a summary of the overhead (intergovernmental) charges the RCA pays. The following costs are our estimated fiscal 2005 expenditures for overhead.

Intergovernmental Charges for Services		
73160	DCED Commissioner's Office	38,000
73160	DCED Administrative Services	104,000
73805	Dept. of Administration	28,000
73270	Division of Personnel (EEO Investigation)	800
73807	Div. of Gen. Services (mailroom & storage)	6,400
73814	Div. of Risk Management (Insurance)	2,000
73816	Dept. of Labor (ADA)	500
73270	Dept. of Law Regulation Review	500
	Subtotal - Intergovernmental Charges	180,200

We also pay rent through the State and for Attorney General assistance on our cases, but these are more direct costs rather than the indirect pure overhead costs I believe you were addressing. All told, these indirect overhead charges represent approximately 3 percent of our total revenues.

If you have further questions, please feel free to call me at (907) 263-2110.

Warm regards,

REGULATORY COMMISSION OF ALASKA

Kate Giard
Chairman

cc: Representative Tom Anderson, Chairman, House Labor and Commerce
Representative Pete Kott

DRAFT

April 7, 2005

The Honorable Norman Rokeberg
House Labor and Commerce Committee
Alaska House of Representatives
Alaska State Capitol Room 214
Juneau, AK 99801-1182

Re: HB 243

Dear Representative Rokeberg:

This is in response to your request for a history of the Regulatory Commission of Alaska's Regulatory Cost Charges (RCC).

Prior to 1992, the RCA's predecessor agencies were funded through the general fund. In 1992, the Regulatory Cost Charge (RCC) was adopted by the Seventeenth Legislature. AS 42.05.253 and AS 42.06.285[1] required certificated public utilities and pipeline carriers operating in Alaska to pay regulatory cost charges to fund the budget of the Commission. Regulated utilities and pipeline carriers commonly pass the RCC charge on to ratepayers as an RCC surcharge on customer's bills. However, the total amount the RCA can collect to fund its budget is capped, in a manner similar to a tax cap. Changing the RCC rate requires legislative action.

Initially, the RCC was capped at 0.61 percent of utility or pipeline gross revenues derived from regulated operations. In 1995, the legislature increased the cap to 0.8 percent. In 2004, the legislature increased the cap to .87 percent and then divided RCC between the RCA and the Department of Law. The Department of Law now receives .17 percent and the RCA's portion was reduced to .7 percent.[2]

---

[1] These statutes were repealed and rewritten as AS 42.05.254 and AS 42.06.286 in 1995.
[2] The public advocate function was moved to the Department of Law in 2003.

DRAFT

The following table illustrates the revenues generated from the RCC since 1995.

RCA Revenue History		
FY	**Rate**	**Revenues**
1995	0.80	$3,400,000
1996	0.80	$3,300,000
1997	0.80	$3,800,000
1998	0.80	$3,700,000
1999	0.80	$4,200,000
2000	0.80	$4,200,000
2001	0.80	$5,200,000
2002	0.80	$5,600,000
2003	0.80	$5,800,000
2004	0.80	$6,000,000
2005	0.70	$5,200,000

The decrease in 2005 revenues is estimated base on projected utility and pipeline revenues. The RCA has adjusted its operations to reflect the lower projected revenues by enacting a layoff of 12% of its workforce effective May 2, 2005.

The revenues to be derived from the temporary .2 percent RCC increase will be used to implement systems and efficiencies that will allow the RCA to achieve its regulatory mission once it returns to the .7 percent funding level on July 1, 2008.

If you have further questions, please feel free to call me at (907) 263-2110.

Warm regards,

REGULATORY COMMISSION OF ALASKA

Kate Giard
Chairman

cc: Representative Tom Anderson, Chairman, House Labor and Commerce
Representative Pete Kott

Regulatory Commission of Alaska
History of RCA Revenues
Attachment

RCA Fees GENERATE	AR 29525-93	1994	1995	1996	1997	1998	1999	2000	2000 Special Approp.	2000 Special Approp.	2001	2002	2003	2004	2005
Adjustment	-1300000	-1,261,741													
FY94 1st-3rd Quarter		4,270,723													
FY94 4th Quarter		404,898	372,819												
FY95 1st-3rd Quarter			3,046,424												
FY95 4th Quarter				501,070											
FY96 1st-3rd Quarter				1,868,259											
FY96 4th Quarter				962,448	198,387										
FY97 1st-3rd Quarter					3,140,217										
FY97 4th Quarter					496,301	444,659									
FY98 1st-3rd Quarter						2,828,045									
FY98 4th Quarter						415,779	523,273								
FY99 1st-3rd Quarter							3,335,520								
FY99 4th Quarter							344,650	566,939							
FY00 1st-3rd Quarter								3,089,072	500,000	7,536					
FY00 4th Quarter								507,988			531,596				
FY01 1st-3rd Quarter											3,789,875				
FY01 4th Quarter											844,847	488,403			
FY02 1st-3rd Quarter												4,522,327			
FY02 4th Quarter												633,967	883,105		
FY03 1st-3rd Quarter													4,378,983		
FY03 4th Quarter - #1													537,250	670,681	
(FY03 Adj)													-20,638	20,638	
FY04 1st-3rd Quarter														4,447,664	
FY04 4th Quarter														898,831	523,828
FY05 1st															1,433,346
FY05 2nd Qtr, less DOL															382,369
Totals	-1,300,000	3,413,880	3,419,243	3,331,776	3,834,905	3,688,483	4,203,443	4,163,999	500,000	7,536	5,166,319	5,644,697	5,778,700	6,037,814	2,339,543

4/15/2005

STATE OF ALASKA

DEPARTMENT OF COMMERCE
COMMUNITY AND ECONOMIC DEVELOPMENT
REGULATORY COMMISSION OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

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TTY: (907) 276-4533
WEBSITE: www.state.ak.us/rca/

April 7, 2005

The Honorable Tom Anderson, Chairman
House Labor & Commerce Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

RE: HB 243 - An Act relating to the maximum annual regulatory cost charge collected from certain regulated public utilities and pipeline carriers; and providing for an effective date

Dear Chairman Anderson:

On March 31, 2005, HB 243 (Companion Bill SB 157) was introduced by the House Rules committee on behalf of the Governor and referred to your committee. The purpose of this legislation is to increase the regulatory cost charge (RCC) rate from 0.7 percent to 0.9 percent for three years to fund efforts to improve the RCA's timeliness, accountability and regulatory transparency.

In July 2004, the Commission initiated a comprehensive effort to understand and respond to concerns about aspects of its regulatory operations. Over the past several years, the Commission has received comment that its decisions took too long, that the cost of regulation was burdensome and that utilities could not track the progress of their cases through the RCA's adjudicatory process. While some of these issues naturally exist within the regulatory paradigm, I strongly believe the process itself is within our control and we can improve it.

In the last few months, the Commission significantly reorganized its structure. We visited with CEOs of utilities and pipelines. We opened our 2005 regulations schedule for public and industry comment, a first, I believe. We also proposed to purchase and implement data systems designed to achieve the results sought by regulated entities including (1) a system to track cases, staff resources and timelines; (2) a system to receive, store and retrieve data filed with the RCA electronically; and (3) a web site allowing citizens and regulated entities to electronically track regulatory matters.

Last winter, the Commission held public meetings, taking testimony from interested parties as to whether an increase in the RCC should be used to fund

these data systems. An advisory group volunteered to work with us, reviewing the overall scope of the project and budget. Written and oral testimony from regulated utilities and pipelines supported both implementing the data systems and the RCC funding mechanism.

Regulated entities generally pass the RCC cost to consumers. Having concern for consumer impact, we calculated that this legislation would increase utility costs for consumers by an average of six (6) cents per month, per regulated service. If a consumer uses three regulated services, (generally telephone, gas and electric) the cumulative impact would be $2.16 per year or $6.48 for the three years this legislation is in effect.

We respectfully request that you schedule HB 243 for hearing in your committee, and we urge favorable action on this bill. Attached is the related fiscal note describing impact of the increased RCC. I would be pleased to meet with you and committee Members, if you wish, to provide any other information you may require.

Thank you for considering this request, which we believe is both in the best interest of and supported by industry.

Sincerely,

Kate Giard
Chairman

Attachment: HB 243 Fiscal Note

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HB 243
() Publish Date:

Revision Date: Corrected 4/7/05
Dept. Affected: Commerce

Title: Regulatory Cost Charges: Utilities and Pipelines
RDU: Regulatory Commission of Alaska (399)
Component: Regulatory Commission of Alaska

Sponsor: Rules by Request of the Governor
Requester: House Labor & Commerce
Component No.: 2417

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual	1,300.0	1,300.0	1,300.0			
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**1,300.0**	**1,300.0**	**1,300.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (1141)	**1,300.0**	**1,300.0**	**1,300.0**			

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1141 RCA Receipts	1,300.0	1,300.0	1,300.0			
TOTAL	**1,300.0**	**1,300.0**	**1,300.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

This statutory revision allows for a three year increase in the Regulatory Cost Charge (RCC) rate from .007 to .009 to fund several initiatives that will improve the agency's ability to mitigate regulatory lag, reduce utilities' filing costs and increase transparency in agency activities. It is anticipated that this legislation will increase utility costs by approximately 6 cents per month or 72 cents per year, per regulated utility service. If a consumer uses three regulated services, (generally telephone, gas and electric) the approximate cumulative impact would be $2.16 per year or $6.48 for the three year period.

Prepared by: Kate Giard, Chair
Phone 907.276.6222
Division: Regulatory Commission of Alaska
Date/Time 4/7/05 10:44 AM
Approved by: Edgar Blatchford, Commissioner
Date 4/7/2005
Agency: Commerce, Community, and Economic Development

(Revised 9/23/2004 OMB)

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 243
() Publish Date:

Revision Date/Time: Correction 4/7/05 9:40 a.m.
Dept. Affected: Commerce

Title: Temporary Regulatory Cost Charge Increase
RDU: Regulatory Commission of Alaska (399)
Component: Regulatory Commission of Alaska
Sponsor: Rules
Requester: By Request of the Governor
Component No.: 2417

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual	1,300.0	1,300.0	1,300.0			
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**1,300.0**	**1,300.0**	**1,300.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (1141)	**1,300.0**	**1,300.0**	**1,300.0**			

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1141 RCA Receipts	1,300.0	1,300.0	1,300.0			
TOTAL	**1,300.0**	**1,300.0**	**1,300.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

This statutory revision allows for a three year increase in the Regulatory Cost Charge (RCC) rate from .007 to .009 to fund several initiatives that will improve the agency's ability to mitigate regulatory lag, reduce utilities' filing costs and increase transparency in agency activities. It is anticipated that this legislation will increase utility costs by approximately 6 cents per month or 72 cents per year, per regulated utility service. If a consumer uses three regulated services, (generally telephone, gas and electric) the approximate cumulative impact would be $2.16 per year or $6.48 for the three year period.

Prepared by: Kate Giard, Chair
Phone 907.276.6222
Division: Regulatory Commission of Alaska
Date/Time 4/7/05 10:55 AM
Approved by: Edgar Blatchford, Commissioner
Date 4/7/2005
Agency: Commerce, Community, and Economic Development

HB

249

HOUSE COMMITTEE REPO

(7)

Date Referred to Committee: April 12, 2005 **FURTHER REFERRALS:**

Date of Committee Action: April 25, 2005

The LABOR AND COMMERCE Committee considered: **HB 249**

HOUSE BILL NO. 249 **ENHANCED 911 SURCHARGES**

"An Act relating to enhanced 911 surcharges imposed by a municipality."

Recommends it be replaced with [ ] HCS *or* [X] CS *for* HB 249 (L&C)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR_____ **[ ] Same Title [X] New Title**

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LEG
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

NEW **FISCAL NOTES** *Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

PREVIOUS **FISCAL NOTES**				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
DPS	1			X

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Crawford for	CRAWFORD			✓	
	LYNN	+			
Referred to DOT	LeDOUX			✓	
	GUTTENBERG			X	
	ROKEBRAND			✓	
Chair:	ANDERSON	X			
Chair:					

Representative Mike Hawker
Alaska State Legislature

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State Capitol
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Member:
House Finance Committee
Legislative Budget & Audit Committee

House District 32:
Eagle River
Anchorage
Rainbow
Indian
Bird
Girdwood
Portage
Whittier
Sunrise
Hope

MEMORANDUM

Date: April 22, 2005

To: House Labor and Commerce Committee

From: Representative Mike Hawker MH

Re: Changes in work draft CS for HB 249

House Bill 249 raised the cap on the surcharge to $2; allowed a municipality to exceed the cap with voter approval; and required the surcharge to be assessed equally for wireline and wireless telephone lines.

CS House Bill 249 (CRA) added language requiring the borough to share revenue with each city that incurs costs for E-911.

The proposed work draft CS makes the following changes:

- Adds new sections 1, 5 and 6, which expand the statutory references in current law to include new sections added by this bill and repeal a section made redundant by this bill.
- Rewords the voter approval language on page 2, lines 8-9 (the new language is on page 2, lines 13-14). No substantive change.
- Deletes the amendment adopted in the House CRA committee (see above). This is replaced by new subsection (j) in section 3.
- Adds language requiring notification when a municipality imposes or changes the surcharge. Requires the telephone companies to provide the notice with the municipality bearing the costs.
- Adds section 3, which clarifies what the surcharge may be used to pay and requires a borough that collects the surcharge and a city that incurs costs for enhanced 911 services to agree to duties, responsibilities and revenue distribution before spending revenue from the surcharge.
- Adds section 4, which allows a municipality to pass an ordinance requiring multi-line telecommunications systems to update the ALI database.

24-LS0853\F
Cook
4/21/05

CS FOR HOUSE BILL NO. 249( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES HAWKER, Holm, Olson, Lynn

A BILL

FOR AN ACT ENTITLED

"An Act relating to enhanced 911 systems and enhanced 911 surcharges imposed by a municipality, public municipal corporation, or village."

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

*** Section 1.** AS 29.10.200(37) is amended to read:

(37) **AS 29.35.131 - 29.35.137** [AS 29.35.131] (enhanced 911 system);

*** Sec. 2.** AS 29.35.131(a) is amended to read:

(a) A municipality may, by resolution or ordinance, elect to provide an enhanced 911 system at public safety answering points **and** [,] may purchase or lease the enhanced 911 equipment or service required to establish or maintain an enhanced 911 system at public safety answering points from a local exchange telephone company or other qualified vendor. **The municipality** [, AND] may impose an enhanced 911 surcharge [, IN AN AMOUNT TO BE DETERMINED BY THE MUNICIPALITY, ON ALL LOCAL EXCHANGE ACCESS LINES THAT PROVIDE TELEPHONE SERVICE TO WIRELINE TELEPHONES IN THE AREA

TO BE SERVED B' THE ENHANCED 911 SYSTEM. A MUNICIPALITY THAT PROVIDES SERVICES UNDER AN ENHANCED 911 SYSTEM MAY ALSO BY RESOLUTION OR ORDINANCE IMPOSE AN ENHANCED 911 SURCHARGE ON EACH WIRELESS TELEPHONE NUMBER THAT IS BILLED TO AN ADDRESS] within the enhanced 911 service area. **An** [FOR A MUNICIPALITY WITH A POPULATION OF 100,000 OR MORE, AN ENHANCED 911 SURCHARGE MAY NOT EXCEED 50 CENTS PER MONTH FOR EACH WIRELESS TELEPHONE NUMBER OR 50 CENTS PER MONTH FOR EACH LOCAL EXCHANGE ACCESS LINE FOR WIRELINE TELEPHONES. FOR A MUNICIPALITY WITH FEWER THAN 100,000 PEOPLE, AN] enhanced 911 surcharge may not exceed **$2.00** [75 CENTS] per month for each wireless telephone number **and $2.00** [OR 75 CENTS] per month for each local exchange access line for wireline telephones. **The maximum surcharge amount of $2.00 provided for in this subsection may be increased above that level if the surcharge amount is approved by the voters of the enhanced 911 service area. The amount of surcharge imposed for each wireless telephone number must equal the amount imposed for each local exchange access line for a wireline telephone.** An enhanced 911 service area may be all of a city, all of a unified municipality, or all or part of the area within a borough and may include the extraterritorial jurisdiction of a municipality in accordance with AS 29.35.020. The governing body of a municipality shall review an enhanced 911 surcharge annually to determine whether the current level of the surcharge is adequate, excessive, or insufficient to meet anticipated enhanced 911 system needs. **When a municipality imposes an enhanced 911 surcharge or the amount of the surcharge is changed, the municipality shall notify in writing the telephone customers subject to the surcharge and provide an explanation of what the surcharge will be used for. A local exchange telephone company that collects the enhanced 911 surcharge shall distribute the notification. However, the municipality shall pay any reasonable incremental costs associated with the notification** [THE MUNICIPALITY MAY ONLY USE THE ENHANCED 911 SURCHARGE FOR THE ENHANCED 911 SYSTEM].

*** Sec. 3.** AS 29.35.131 is amended by adding new sections to read:

(i) A municipality may only use the enhanced 911 surcharge revenue for those costs of the enhanced 911 system that are authorized in this subsection. The surcharge revenue may not be used for any capital or operational costs for emergency responses that occur after the call is dispatched to the emergency responder. The surcharge revenue may not be used for constructing buildings, leasing buildings, maintaining buildings, or renovating buildings, except for the modification of an existing building to the extent that is necessary to maintain the security and environmental integrity of the public safety answering point and equipment rooms. The surcharge revenue may be used for the following costs to the extent the costs are directly attributable to the establishment, maintenance, and operation of an enhanced 911 system:

(1) the acquisition, implementation, and maintenance of public safety answering point equipment and 911 service features;

(2) the acquisition, installation, and maintenance of other equipment, including call answering equipment, call transfer equipment, automatic number identification controllers and displays, automatic location identification controllers and displays, station instruments, 911 telecommunications systems, teleprinters, logging recorders, instant playback recorders, telephone devices for the deaf, public safety answering point backup power systems, consoles, automatic call distributors, and hardware and software interfaces for computer-aided dispatch systems;

(3) the salaries and associated expenses for 911 call takers for that portion of time spent taking and transferring 911 calls;

(4) training costs for public safety answering point call takers in the proper methods and techniques used in taking and transferring 911 calls;

(5) expenses required to develop and maintain all information necessary to properly inform call takers as to location address, type of emergency, and other information directly relevant to the 911 call-taking and transferring function, including automatic location identification and automatic number identification databases.

(j) If a city in an enhanced 911 service area established by a borough incurs costs described under (i) of this section for the enhanced 911 system, before the borough may use revenue from an enhanced 911 surcharge, the borough and city must

execute an agreement addressing the duties and responsibilities of each for the enhanced 911 system and establishing priorities for the use of the surcharge revenue. If the Department of Public Safety also provides services as part of the enhanced 911 system or uses the enhanced 911 system in that enhanced 911 service area, the department must be a party to the agreement.

(k) For purposes of (i) of this section, "call taker" means a person employed in a primary or secondary answering point whose duties include the initial answering of 911 or enhanced 911 calls and routing the calls to the agency or dispatch center responsible for dispatching appropriate emergency services and a person in a primary or secondary answering point whose duties include receiving a 911 or enhanced 911 call either directly or routed from another answering point and dispatching appropriate emergency services in response to the call; the term "call taker" is synonymous with the term "dispatcher" in that it is inclusive of the functions of both answering the 911 or enhanced 911 calls and dispatching emergency services in response to the calls.

* **Sec. 4.** AS 29.35 is amended by adding a new section to read:

Sec. 29.35.134. Multi-line telecommunications systems. A municipality may by ordinance elect to require an enhanced 911 system from a multi-line telecommunications system. A multi-line telecommunications system operator must arrange to update the automatic location identification database with an appropriate master street address guide, valid address, and callback number for each multi-line telecommunications system telephone, so that the location information specifies the emergency response location of the caller. A multi-line telecommunications system operator is considered to be in compliance with this section when the multi-line enhanced telecommunications system complies with E911 generally accepted industry standards as defined by the Regulatory Commission of Alaska. For purposes of this section,

(1) "call back number" means a number used by the public safety answering point to re-contact the location from which a 911 call is placed; the number may or may not be the number of the station used to originate the 911 call;

(2) "emergency response location" means the location to which a 911 emergency response team may be dispatched that is specific enough to provide a reasonable opportunity for the emergency response team to quickly locate a caller

anywhere within it;

(3) "master street address guide" means a database of formatted street names, numerical addresses or address ranges, and other parameters defining valid locations and emergency services zones, and their associated emergency services numbers, that enables the proper routing and response to 911 calls;

(4) "multi-line telephone system" means a system made up of common control units, telephone sets, and control hardware and software, including network and premises based systems such as Centrex and PBX, Hybrid, and Key Telephone Systems, as classified by the Federal Communications Commission under Part 68 Requirements, and including systems owned or leased by governmental agencies or nonprofit entities, as well as for profit entities;

(5) "multi-line telephone system operator" means an entity that owns, leases, or rents from a third party, and operates a multi-line telephone system through which a caller may place a 911 call through a public switched network.

* **Sec. 5.** AS 29.35 is amended by adding a new section to read:

Sec. 29.35.138. Application. AS 29.35.131 - 29.35.137 apply to home rule and general law municipalities.

* **Sec. 6.** AS 29.35.131(h) is repealed.

I am a dispatcher with the Anchorage Police Department (APD) and am currently assigned to our E911 upgrade project. This project brings MOA updated phone systems, a new mapping system to allow tracking of 911 calls from GPS-equipped cell phones, and a much more accurate automatic location information (ALI) database. The ALI database provides the call taker an address when a caller phones 911 from a landline.

I would like to express support of HB249. This bill allows municipalities to raise monies earmarked specifically for their 911 system. There is a serious problem, both statewide and nationally, with recruitment and retention of qualified, professional dispatchers. Additional funding of 911 systems would allow salaries to remain competitive. This ability to earmark funds also provides a safeguard during budget woes that would normally have a negative impact to hiring. Since becoming a dispatch employee in 1989, our center has endured multiple hiring freezes, beginning in the 1980's that to this day still impact my center.

The funding would allow many departments to offer training that is normally unavailable due to staffing and monetary issues. Dispatch employees face a variety of difficult situations while answering 911 calls. One moment a dispatch employee may speak with a victim of domestic violence and the next moment find themselves speaking with a caller about threat to national security. Diversifying training is a key step in lowering liability for individual centers and expanding skill sets for dispatch employees. Just as staffing has become a national problem, ongoing, varied training is lacking.

Karen A Kurtz
Anchorage Police Dispatch
786-8646 or at EOC 343-1466


ANCHORAGE POLICE DEPARTMENT
EMERGENCY COMMUNICATIONS

To the Committee:

I am the manager of the Emergency Communications Center for the Anchorage Police Department. We currently serve over 270,000 residents and are about to implement an upgraded E9-1-1 system with Phase II (cellular phone) service soon to follow. Please consider the following comments, which strongly support House Bill 249.

* The Anchorage Police Department's Emergency Communications Center is currently operating at a significant deficit because of the high cost of upgrading the E9-1-1 system to Phase II standards. It will continue to cost more in the future to maintain this system.
* The cost of maintaining the E9-1-1 Location Information (ALI) database alone has quadrupled to $66,000 per month, an amount that can and should be recovered through an adequate user surcharge.
* Emergency centers nationwide have implemented E9-1-1 surcharges for up to as much as $4.00 per phone line in order to recover costs and avoid having taxpayers who may not even have the service provide the funding for those who do.
* The monies from this surcharge are dedicated solely to E9-1-1 operations throughout the state.

Thank you for allowing me to express my views in support of the bill.

Sgt. Richard O. Stouff, Manager

Anchorage Police Department Emergency Communications Center

Representative Mike Hawker
Alaska State Legislature

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Legislative Budget
& Audit Committee

House District 32
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Anchorage
Rainbow
Indian
Bird
Girdwood
Portage
Whittier
Sunrise
Hope

House Bill 249
Sponsor Statement

"An Act relating to enhanced 911 surcharges imposed by a municipality."

House Bill 249 is simply about saving lives. The "dial 911" emergency services dispatch system is every Alaskan's lifeline. Access to a modern 911 system can be the difference between life and death. HB 249 authorizes the funding mechanisms municipalities need to deliver Enhanced 911 (E-911) services. HB 249 also incorporates limitations protecting taxpayers from excessive charges.

E-911 systems have dramatically improved nationwide emergency response capabilities by utilizing Global Positioning System (GPS) technology to identify the telephone number and location of the caller. E-911 systems direct calls to the appropriate Public Safety Answering Point (PSAP) and automatically provide identifying information to the answering operator. Automatic location notification is critical when a caller is incapacitated or disoriented.

Current statutory caps on the amount municipalities may surcharge telephone services to pay for 911 systems have limited Alaskan communities to Basic 911 services that lack the important technological improvements of E-911. House Bill 249 provides the authority municipalities need to provide E-911 services within constraining parameters to protect their taxpayers.

I appreciate your consideration of this important public safety legislation.

Staff Contact: Jodi Lucky 465-4949 Revised 3/17/2005

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Indian
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Girdwood
Portage
Whittier
Sunrise
Hope

Fact Sheet for House Bill 249

Short Title: ENHANCED 911 SURCHARGES

Current Version: CS HB 249

Contact: Juli Lucky 465-4949

Summary:

- Increases the amount that can be charged for enhanced 911 (E-911) services to $2 per line. (Current caps are based on municipal population - $.75 communities with fewer than 100,000 people and $.50 for larger communities.)
- Provides a mechanism for a municipality to raise the cap with voter approval.
- Removes statutory language that provides for different rates based on a municipality's population.
- Requires equal surcharges for wireless and wireline telephone services.
- Requires a borough that imposes an enhanced 911 surcharge to share revenue with each city in the enhanced 911 service area that incurs costs.

Benefits:

- Allows municipalities to collect sufficient revenue to implement and maintain E-911 systems.

Background:

E-911 systems have dramatically improved public safety across the nation. Among other benefits, the new systems use Global Positioning System (GPS) technology to track a caller's location and phone number. This saves time, which can mean the difference between life and death in an emergency situation.

The current allowable amount for surcharges is inadequate to fund the E-911 system. Raising the amount and removing statutory language that creates different tiers of surcharges based on location and type of phone services will allow Alaskan communities to provide life-saving, enhanced 911 services with everyone paying an equitable share.

Revised 4/22/2005

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FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 249(CRA)
(H) Publish Date: 4/12/05

Revision Date/Time (Note if correction):
Dept. Affected: Public Safety

Title: "An Act relating to enhanced 911 surcharges imposed by a municipality."
RDU: Alaska State Troopers
Component: AST Detachments

Sponsor: Representative Hawker
Requester: House Community & Regional Affairs
Component No.: 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

Passage of this bill will have no fiscal impact on the Department of Public Safety.

The bill allows municipalities to increase the surcharge that is collected related to the enhanced 911 systems. The bill would require that the surcharge be imposed by ordinance approved by the voters of the enhanced 911 service area.

Prepared by: Lieutenant Todd Sharp
Phone 907-465-3223
Division: Alaska State Troopers
Date/Time 4/8/05 2:40 PM
Approved by: Commissioner William Tandeske
Date 4/8/2005
Agency: Department of Public Safety

(Revised 9/23/2004 OMB)