

From: [Susan A](#)
To: [Senate Finance Committee](#)
Subject: SB 113
Date: Thursday, March 06, 2025 1:01:46 PM

Public Testimony on Senate Bill 113: Concerns and Recommendations

To the Honorable Members of the Alaska State Legislature,

I am writing to express my concerns regarding Senate Bill 113, which aims to amend existing tax structures for digital businesses in Alaska. While the bill's intent to address revenue generation is understandable, I believe it poses several legal, economic, and social challenges that require careful consideration. Below are the primary issues with SB 113:

1. Constitutional and Legal Issues

Commerce Clause Violations: SB 113 could potentially violate the Commerce Clause of the U.S. Constitution by imposing burdensome taxation and compliance requirements on out-of-state digital businesses. This could create a discriminatory tax structure that impacts interstate commerce, as evidenced by the Supreme Court's ruling in *South Dakota v. Wayfair, Inc.* (2018), where the Court found that such taxation could disproportionately affect out-of-state sellers (*South Dakota v. Wayfair, Inc.*, 2018).

Retroactive Taxation: The retroactive application of tax changes outlined in SB 113 could face legal challenges under due process protections, especially if businesses are penalized for periods before the law was enacted. Retroactive taxation is a constitutional concern that could be challenged in court, as businesses would have no way of preparing for these retroactive tax liabilities.

2. Economic and Business Impacts

Economic Burden on Small Businesses: SB 113 could impose significant compliance costs and administrative burdens on small businesses, particularly digital platforms, which may struggle to meet new requirements. This could especially affect small Alaska Native corporations (ANCs) and businesses run by Alaska Native entrepreneurs, as they may not have the resources to manage the new regulations (Reeves, 2022). The complexity and costs could hinder the growth of small businesses, further entrenching economic disparity.

Increased Costs for Consumers: By imposing additional taxes on digital businesses, SB 113 could result in higher prices for consumers, especially those who rely on online shopping for affordable goods. Low-income individuals, particularly in rural and remote areas, would be disproportionately impacted by increased costs. For many, digital commerce represents a vital economic lifeline, and price increases would make essential goods less accessible.

3. Equity and Discriminatory Impacts

Impact on Low-Income Individuals: The increased costs of goods due to new taxation would directly affect low-income individuals who are already struggling to afford basic necessities. The bill risks raising the cost of living for these individuals, who are highly reliant on affordable digital products and services. This economic pressure would disproportionately

affect rural Alaskans and low-income urban residents, further exacerbating economic inequality (Baker, 2020).

Disproportionate Burden on Rural Communities: Digital commerce is especially important in rural Alaska, where access to goods can be limited. SB 113 may impose higher prices on essential goods, disproportionately affecting those living in isolated areas. This could further isolate these communities, making them more economically vulnerable.

Digital Entrepreneurs and Equity: Many low-income individuals turn to the digital economy as a source of income through freelance work, online sales, and other ventures. However, SB 113 does not provide any special relief or exemptions for low-income digital entrepreneurs. These individuals may struggle to meet compliance requirements, resulting in further economic barriers for those trying to escape poverty through digital businesses.

4. Violation of Alaska Native Rights and Tribal Sovereignty

Impact on Alaska Native Corporations and Tribes: SB 113 does not explicitly account for the potential impact on Alaska Native corporations (ANCs) or tribal sovereignty. Many ANCs are involved in digital business, and additional tax burdens could harm their economic sustainability. Tribal businesses could also face the risk of disproportionate financial strain if the tax law does not adequately account for their unique status under federal law, including the Alaska Native Claims Settlement Act (ANCSA) (Kenyon & Turner, 2021).

Conflict with Subsistence Economies: Native communities, particularly those with strong ties to subsistence economies, may find it difficult to participate in the digital economy if tax burdens make it unprofitable to do so. The bill does not seem to consider how these taxes may affect Native communities' ability to sustain their traditional livelihoods while simultaneously engaging in the modern digital economy.

5. Regulatory and Administrative Issues

Lack of Clear Implementation Guidelines: SB 113 introduces new requirements without providing adequate implementation guidelines or transitional provisions. Small businesses, especially those in low-income areas, may find it difficult to adjust to the new regulatory environment without clear instructions. This lack of clarity could lead to non-compliance and unnecessary penalties.

Confusion Over Local Taxing Authority: The bill's provisions could lead to conflicts with local governments regarding taxing authority. Local municipalities may seek to impose additional taxes, creating a complex and inconsistent taxation landscape across Alaska. This could create burdens for businesses, particularly small and digital ones, that operate across various localities.

6. Recommendations for Improvement

Introduce exemptions for small businesses and digital entrepreneurs in low-income and rural communities to mitigate the impact of these taxes.

Clarify how Alaska Native corporations and tribes will be affected by the changes and ensure that their rights are respected.

Provide a grace period and clear guidance to help businesses transition to the new tax system without facing immediate penalties.

Ensure that taxes do not disproportionately impact low-income consumers or raise the cost of essential goods, especially in rural or remote areas.

I strongly oppose this bill as written.

Susan Allmeroth

Two Rivers

Myself

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