

CS FOR HOUSE BILL NO. 293(W&M)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

Offered: 5/12/03

Referred: Finance

Sponsor(s): HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a state sales and use tax; relating to taxes levied by cities and
2 boroughs; providing authority to the Department of Revenue to enter into the
3 Streamlined Sales and Use Tax Agreement; increasing the motor fuel tax and repealing
4 the special tax rates on blended fuels; and providing for an effective date."

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

6 * **Section 1.** AS 28.10.021(a) is amended to read:

7 (a) The owner of a vehicle subject to registration shall apply for registration
8 under this chapter by properly completing the form prescribed by the commissioner
9 under AS 28.05.041. Before the issuance of a certificate of registration by the
10 department, the owner shall

11 (1) pay all registration fees and taxes required under this chapter,
12 [AND] federal heavy vehicle use taxes required under 26 U.S.C. 4481 (Internal
13 Revenue Code of 1954), **and the sales or use tax levied under AS 43.44.010;**

14 (2) unless the owner qualifies as a self-insurer under AS 28.20.400 or

1 is exempted from obtaining liability insurance under AS 28.22.011, certify to the
 2 department the existence of a motor vehicle liability policy that complies with
 3 AS 28.22.011 for the vehicle being registered; in this paragraph, "certify" means to
 4 indicate by check-off on the vehicle registration form prescribed by the department the
 5 existence of a policy of insurance, if a policy is required at that time, and the intention
 6 to continue the policy or obtain a policy as required by this subsection; and

7 (3) comply with other applicable statutes and regulations.

8 * **Sec. 2.** AS 28.10.021(a) is amended to read:

9 (a) The owner of a vehicle subject to registration shall apply for registration
 10 under this chapter by properly completing the form prescribed by the commissioner
 11 under AS 28.05.041. Before the issuance of a certificate of registration by the
 12 department, the owner shall

13 (1) pay all registration fees and taxes required under this chapter **and**
 14 [,] federal heavy vehicle use taxes required under 26 U.S.C. 4481 (Internal Revenue
 15 Code of 1954) [, AND THE SALES OR USE TAX LEVIED UNDER AS 43.44.010];

16 (2) unless the owner qualifies as a self-insurer under AS 28.20.400 or
 17 is exempted from obtaining liability insurance under AS 28.22.011, certify to the
 18 department the existence of a motor vehicle liability policy that complies with
 19 AS 28.22.011 for the vehicle being registered; in this paragraph, "certify" means to
 20 indicate by check-off on the vehicle registration form prescribed by the department the
 21 existence of a policy of insurance, if a policy is required at that time, and the intention
 22 to continue the policy or obtain a policy as required by this subsection; and

23 (3) comply with other applicable statutes and regulations.

24 * **Sec. 3.** AS 29.10.200(51) is amended to read:

25 (51) **AS 29.45.650** [AS 29.45.650(c), (d), (e), AND (f)] (sales and use
 26 tax);

27 * **Sec. 4.** AS 29.10.200(51) is amended to read:

28 (51) **AS 29.45.650(c), (d), (e), and (f)** [AS 29.45.650] (sales and use
 29 tax);

30 * **Sec. 5.** AS 29.10.200(52) is amended to read:

31 (52) **AS 29.45.700** [AS 29.45.700(d)] (sales and use tax);

1 * **Sec. 6.** AS 29.10.200(52) is amended to read:

2 (52) **AS 29.45.700(d)** [AS 29.45.700] (sales and use tax);

3 * **Sec. 7.** AS 29.10.200 is amended by adding a new paragraph to read:

4 (64) AS 29.45.720 (specific taxes on tangible personal property and
5 services).

6 * **Sec. 8.** AS 29.35.110(a) is amended to read:

7 (a) Borough revenues received through taxes **levied** [COLLECTED] on an
8 areawide basis by the borough may be expended on general administrative costs and
9 on areawide functions only. Borough revenues received through taxes **levied**
10 [COLLECTED] on a nonareawide basis may be expended on general administrative
11 costs and functions that render service only to the area outside all cities in the
12 borough.

13 * **Sec. 9.** AS 29.35.110(a) is amended to read:

14 (a) Borough revenues received through taxes **collected** [LEVIED] on an
15 areawide basis by the borough may be expended on general administrative costs and
16 on areawide functions only. Borough revenues received through taxes **collected**
17 [LEVIED] on a nonareawide basis may be expended on general administrative costs
18 and functions that render service only to the area outside all cities in the borough.

19 * **Sec. 10.** AS 29.35.170 is amended to read:

20 **Sec. 29.35.170. Assessment and collection of taxes.** (a) A borough shall
21 assess [AND COLLECT] property [, SALES, AND USE] taxes **and collect taxes,**
22 **other than general sales and use taxes,** that are levied in its boundaries, subject to
23 AS 29.45.

24 (b) Taxes, **other than general sales and use taxes,** levied by a city shall be
25 collected by a borough and returned in full to the levying city. This subsection applies
26 to home rule and general law municipalities.

27 * **Sec. 11.** AS 29.35.170 is amended to read:

28 **Sec. 29.35.170. Assessment and collection of taxes.** (a) A borough shall
29 assess **and collect** property **, sales, and use** taxes [AND COLLECT TAXES, OTHER
30 THAN GENERAL SALES AND USE TAXES,] that are levied in its boundaries,
31 subject to AS 29.45.

1 (b) Taxes [, OTHER THAN GENERAL SALES AND USE TAXES,] levied
 2 by a city shall be collected by a borough and returned in full to the levying city. This
 3 subsection applies to home rule and general law municipalities.

4 * **Sec. 12.** AS 29.45.650 is repealed and reenacted to read:

5 **Sec. 29.45.650. General sales and use tax.** (a) Except as provided in
 6 AS 04.21.010(c) and AS 29.45.750, a borough may levy a general sales tax on the sale
 7 and rental of tangible or intangible property and on services provided in the borough.

8 (b) A borough levying a general sales tax may also by ordinance levy a use tax
 9 on the storage, use, or consumption of tangible personal property and on the use of
 10 services in the borough. The use tax rate must equal the sales tax rate, and the use tax
 11 shall be levied only on purchasers.

12 (c) A tax authorized under this section shall be administered and collected by
 13 the state under AS 43.44. The exemptions to a tax authorized under this section shall
 14 be identical to those provided in AS 43.44.

15 (d) After December 31, 2007, a municipality may not levy a sales and use tax
 16 on the sale or use of tangible personal property or the sale of services exceeding six
 17 percent.

18 (e) After December 31, 2009, a municipality may not levy a sales and use tax
 19 on the sale or use of tangible personal property or the sale of services exceeding five
 20 percent.

21 * **Sec. 13.** AS 29.45.650 is repealed and reenacted to read:

22 **Sec. 29.45.650. Sales and use tax.** (a) Except as provided in
 23 AS 04.21.010(c), AS 29.45.750, and in (f) and (g) of this section, a borough may levy
 24 and collect a sales tax on sales, rents, and on services provided in the borough. The
 25 sales tax may apply to any or all of these sources. Exemptions may be granted by
 26 ordinance.

27 (b) A borough levying a sales tax may also by ordinance levy a use tax on the
 28 storage, use, or consumption of tangible personal property in the borough. The use tax
 29 rate must equal the sales tax rate and the use tax shall be levied only on buyers.

30 (c) A person who furnishes proof, in the form required by the borough tax
 31 collector, that the person has paid a sales tax on the source on which a use tax is levied

1 by the borough is required to pay the use tax only to the extent of the difference
2 between the amount of the sales tax paid and the amount of the use tax levied by the
3 borough. This subsection applies to a sales tax levied in any taxing jurisdiction
4 whether inside or outside the state.

5 (d) If the assembly charges interest on sales taxes not paid when due, the rate
6 of interest may not exceed 15 percent a year on the delinquent taxes and shall be
7 charged from the due date until paid in full. This subsection applies to home rule and
8 general law municipalities.

9 (e) A borough may provide for the creation, recording, and notice of a lien on
10 real or personal property to secure the payment of a sales and use tax, and the interest,
11 penalties, and administration costs in the event of delinquency. When recorded, the
12 sales tax lien has priority over all other liens except (1) liens for property taxes and
13 special assessments; (2) liens that were perfected before the recording of the sales tax
14 lien for amounts actually advanced before the recording of the sales tax lien; (3)
15 mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or
16 notices of right to lien under AS 34.35.064 have been recorded before the recording of
17 the sales tax lien. This subsection applies to home rule and general law municipalities.

18 (f) A borough may not levy and collect a sales tax on a purchase made with
19 (1) food coupons, food stamps, or other type of allotment issued under 7 U.S.C. 2011 -
20 2036 (Food Stamp Program); or (2) food instruments, food vouchers, or other type of
21 certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for
22 Women, Infants, and Children). For purposes of this subsection, the value of a food
23 stamp allotment paid in the form of a wage subsidy as authorized under
24 AS 47.25.975(b) is not considered to be an allotment issued under 7 U.S.C. 2011 -
25 2036 (Food Stamp Program). This subsection applies to home rule and general law
26 municipalities.

27 (g) A borough may not levy or collect a sales tax on sales, rents, and services,
28 or a use tax on the storage, use, or consumption of personal property on the following
29 activities:

30 (1) the sale, lease, rental, storage, consumption, or distribution in this
31 state of or the provision of services relating to an orbital space facility, space

1 propulsion system, or space vehicle, satellite, or station of any kind possessing space
2 flight capacity, including the components of them;

3 (2) the sale, lease, rental, storage, consumption, or use of tangible
4 personal property placed on or used aboard an orbital space facility, space propulsion
5 system, or space vehicle, satellite, or station of any kind, regardless of whether the
6 tangible personal property is returned to this state for subsequent use, storage, or
7 consumption; an exemption under this paragraph is not affected by the failure of a
8 launch to occur, or the destruction of a launch vehicle or a component of a launch
9 vehicle.

10 * **Sec. 14.** AS 29.45.660(a) is amended to read:

11 (a) If the borough levies [AND COLLECTS] only a **general** sales tax and use
12 tax, the assembly shall provide a notice substantially in the form set out in
13 AS 29.45.020. In providing notice under this subsection, the assembly shall substitute
14 for the millage equivalency its estimate of the equivalent sales tax rate for each of the
15 categories of financial assistance set out in AS 29.45.020. Notice shall be provided

16 (1) by publishing in a newspaper of general circulation in the borough
17 a copy of the notice once each week for a period of three successive weeks, with
18 publication to occur not later than 45 days after the final adoption of the borough's
19 budget; or

20 (2) if there is no newspaper of general circulation in the borough, by
21 posting a copy of the notice for at least 20 days in at least two public places in the
22 borough, with posting to occur not later than 45 days after the final adoption of the
23 borough's budget.

24 * **Sec. 15.** AS 29.45.660(a) is amended to read:

25 (a) If the borough levies **and collects** only a [GENERAL] sales tax and use
26 tax, the assembly shall provide a notice substantially in the form set out in
27 AS 29.45.020. In providing notice under this subsection, the assembly shall substitute
28 for the millage equivalency its estimate of the equivalent sales tax rate for each of the
29 categories of financial assistance set out in AS 29.45.020. Notice shall be provided

30 (1) by publishing in a newspaper of general circulation in the borough
31 a copy of the notice once each week for a period of three successive weeks, with

1 publication to occur not later than 45 days after the final adoption of the borough's
2 budget; or

3 (2) if there is no newspaper of general circulation in the borough, by
4 posting a copy of the notice for at least 20 days in at least two public places in the
5 borough, with posting to occur not later than 45 days after the final adoption of the
6 borough's budget.

7 * **Sec. 16.** AS 29.45.700 is repealed and reenacted to read:

8 **Sec. 29.45.700. Power of levy.** A city may levy a sales and use tax in the
9 manner provided for boroughs under AS 29.45.650.

10 * **Sec. 17.** AS 29.45.700 is repealed and reenacted to read:

11 **Sec. 29.45.700. Power of levy.** (a) A city in a borough that levies and collects
12 areawide sales and use taxes may levy sales and use taxes on all sources taxed by the
13 borough in the manner provided for boroughs. Except as provided in (d) of this
14 section, the assembly may by ordinance authorize a city to levy and collect sales and
15 use taxes on other sources.

16 (b) A city in a borough that does not levy and collect sales and use taxes for
17 areawide borough functions may levy and collect sales and use taxes in the manner
18 provided for boroughs.

19 (c) A city outside a borough may levy and collect sales and use taxes in the
20 manner provided for boroughs.

21 (d) A city that levies and collects sales and use taxes under (a) of this section
22 may not levy and collect a sales tax on a purchase made with (1) food coupons, food
23 stamps, or other types of allotments issued under 7 U.S.C. 2011 - 2036 (Food Stamp
24 Program); or (2) food instruments, food vouchers, or other type of certificate issued
25 under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants, and
26 Children). For purposes of this subsection, the value of a food stamp allotment paid in
27 the form of a wage subsidy as authorized under AS 47.25.975(b) is not considered to
28 be an allotment issued under 7 U.S.C. 2011 - 2036 (Food Stamp Program). This
29 subsection applies to home rule and general law municipalities.

30 * **Sec. 18.** AS 29.45 is amended by adding a new section to read:

31 **Article 5B. Specific Taxes on Tangible Personal Property and Services.**

1 **Sec. 29.45.720. Specific taxes on tangible personal property and services.**

2 Except as specifically prohibited or limited, a municipality may levy and collect
3 specific sales or excise taxes on single categories of tangible or intangible property or
4 services, such as bed taxes and fish taxes.

5 * **Sec. 19.** AS 29.45.810(a) is amended to read:

6 (a) A party to a contract approved by the legislature as a result of submission
7 of a proposed contract developed under AS 43.82 or as a result of acts by the
8 legislature in implementing the purposes of AS 43.82, and the property, gas, products,
9 and activities associated with the approved qualified project that is subject to the
10 contract, are exempt, as specified in the contract, from all taxes identified in the
11 contract that would be levied [AND COLLECTED] by a municipality under state law
12 as a consequence of the participation by the party in the approved qualified project.

13 * **Sec. 20.** AS 29.45.810(a) is amended to read:

14 (a) A party to a contract approved by the legislature as a result of submission
15 of a proposed contract developed under AS 43.82 or as a result of acts by the
16 legislature in implementing the purposes of AS 43.82, and the property, gas, products,
17 and activities associated with the approved qualified project that is subject to the
18 contract, are exempt, as specified in the contract, from all taxes identified in the
19 contract that would be levied **and collected** by a municipality under state law as a
20 consequence of the participation by the party in the approved qualified project.

21 * **Sec. 21.** AS 43.40.010(a) is amended to read:

22 (a) There is levied a tax of **20** [EIGHT] cents a gallon on all motor fuel sold or
23 otherwise transferred within the state, except that

24 (1) the tax on aviation gasoline is four and seven-tenths cents a gallon;

25 (2) the tax on motor fuel used in and on watercraft of all descriptions is
26 five cents a gallon; **and**

27 (3) the tax on all aviation fuel other than gasoline is three and two-
28 tenths cents a gallon [; AND

29 (4) THE TAX RATE ON MOTOR FUEL THAT IS BLENDED
30 WITH ALCOHOL IS THE SAME TAX RATE A GALLON AS OTHER MOTOR
31 FUEL; HOWEVER,

1 (A) IN AN AREA AND DURING THE MONTHS IN WHICH
2 FUEL CONTAINING ALCOHOL IS REQUIRED TO BE SOLD,
3 TRANSFERRED, OR USED IN AN EFFORT TO ATTAIN AIR QUALITY
4 STANDARDS FOR CARBON MONOXIDE AS REQUIRED BY FEDERAL
5 OR STATE LAW OR REGULATION, THE TAX RATE ON MOTOR FUEL
6 THAT IS BLENDED WITH ALCOHOL IS SIX CENTS A GALLON LESS
7 THAN THE TAX ON OTHER MOTOR FUEL NOT DESCRIBED IN (1) -
8 (3) OF THIS SUBSECTION;

9 (B) NOTWITHSTANDING (A) OF THIS PARAGRAPH,
10 THROUGH JUNE 30, 2004, THE TAX ON MOTOR FUEL SOLD OR
11 OTHERWISE TRANSFERRED WITHIN THE STATE IS EIGHT CENTS A
12 GALLON LESS THAN THE TAX ON OTHER MOTOR FUEL NOT
13 DESCRIBED IN (1) - (3) OF THIS SUBSECTION IF THE MOTOR FUEL

14 (i) IS AT LEAST 10 PERCENT ALCOHOL BY
15 VOLUME, HAS BEEN PRODUCED FROM THE PROCESSING OF
16 LIGNOCELLULOSE DERIVED FROM WOOD, AND WAS
17 PRODUCED IN A FACILITY THAT PROCESSES
18 LIGNOCELLULOSE FROM WOOD, BUT THIS REDUCTION IN
19 THE RATE OF TAX APPLIES TO MOTOR FUEL SOLD OR
20 TRANSFERRED THAT CONTAINS ALCOHOL THAT WAS
21 PRODUCED ONLY DURING THE FIRST FIVE YEARS OF THE
22 FACILITY'S PROCESSING OF LIGNOCELLULOSE FROM
23 WOOD; OR

24 (ii) IS AT LEAST 10 PERCENT ALCOHOL BY
25 VOLUME, HAS BEEN PRODUCED FROM THE PROCESSING OF
26 WASTE SEAFOOD, AND WAS PRODUCED IN A FACILITY
27 THAT PROCESSES ALCOHOL FROM WASTE SEAFOOD, BUT
28 THIS REDUCTION IN THE RATE OF TAX APPLIES TO MOTOR
29 FUEL SOLD OR TRANSFERRED THAT CONTAINS ALCOHOL
30 THAT WAS PRODUCED ONLY DURING THE FIRST FIVE
31 YEARS OF THE FACILITY'S PROCESSING OF ALCOHOL FROM

1 WASTE SEAFOOD].

2 * **Sec. 22.** AS 43.40.010(a) is amended to read:

3 (a) There is levied a tax of **eight** [20] cents a gallon on all motor fuel sold or
4 otherwise transferred within the state, except that

5 (1) the tax on aviation gasoline is four and seven-tenths cents a gallon;

6 (2) the tax on motor fuel used in and on watercraft of all descriptions is
7 five cents a gallon; [AND]

8 (3) the tax on all aviation fuel other than gasoline is three and two-
9 tenths cents a gallon; **and**

10 **(4) the tax rate on motor fuel that is blended with alcohol is the**
11 **same tax rate a gallon as other motor fuel; however, in an area and during the**
12 **months in which fuel containing alcohol is required to be sold, transferred, or**
13 **used in an effort to attain air quality standards for carbon monoxide as required**
14 **by federal or state law or regulation, the tax rate on motor fuel that is blended**
15 **with alcohol is six cents a gallon less than the tax on other motor fuel not**
16 **described in (1) - (3) of this subsection.**

17 * **Sec. 23.** AS 43.40.010(b) is amended to read:

18 (b) There is levied a tax of **20** [EIGHT] cents a gallon on all motor fuel
19 consumed by a user, except that

20 (1) the tax on aviation gasoline consumed is four and seven-tenths
21 cents a gallon;

22 (2) the tax on motor fuel used in and on watercraft of all descriptions is
23 five cents a gallon; **and**

24 (3) the tax on all aviation fuel other than gasoline is three and two-
25 tenths cents a gallon [; AND]

26 (4) THE TAX RATE ON MOTOR FUEL THAT IS BLENDED
27 WITH ALCOHOL IS THE SAME TAX RATE A GALLON AS OTHER MOTOR
28 FUEL; HOWEVER,

29 (A) IN AN AREA AND DURING THE MONTHS IN WHICH
30 FUEL CONTAINING ALCOHOL IS REQUIRED TO BE SOLD,
31 TRANSFERRED, OR USED IN AN EFFORT TO ATTAIN AIR QUALITY

1 STANDARDS FOR CARBON MONOXIDE AS REQUIRED BY FEDERAL
 2 OR STATE LAW OR REGULATION, THE TAX RATE ON MOTOR FUEL
 3 THAT IS BLENDED WITH ALCOHOL IS SIX CENTS A GALLON LESS
 4 THAN THE TAX ON OTHER MOTOR FUEL NOT DESCRIBED IN (1) -
 5 (3) OF THIS SUBSECTION;

6 (B) NOTWITHSTANDING (A) OF THIS PARAGRAPH,
 7 THROUGH JUNE 30, 2004, THE TAX ON MOTOR FUEL CONSUMED
 8 BY A USER WITHIN THE STATE IS EIGHT CENTS A GALLON LESS
 9 THAN THE TAX ON OTHER MOTOR FUEL NOT DESCRIBED IN (1) -
 10 (3) OF THIS SUBSECTION IF THE MOTOR FUEL

11 (i) IS AT LEAST 10 PERCENT ALCOHOL BY
 12 VOLUME, HAS BEEN PRODUCED FROM THE PROCESSING OF
 13 LIGNOCELLULOSE DERIVED FROM WOOD, AND WAS
 14 PRODUCED IN A FACILITY THAT PROCESSES
 15 LIGNOCELLULOSE FROM WOOD, BUT THIS REDUCTION IN
 16 THE RATE OF TAX APPLIES TO MOTOR FUEL CONSUMED BY
 17 A USER THAT CONTAINS ALCOHOL THAT WAS PRODUCED
 18 ONLY DURING THE FIRST FIVE YEARS OF THE FACILITY'S
 19 PROCESSING OF LIGNOCELLULOSE FROM WOOD; OR

20 (ii) IS AT LEAST 10 PERCENT ALCOHOL BY
 21 VOLUME, HAS BEEN PRODUCED FROM THE PROCESSING OF
 22 WASTE SEAFOOD, AND WAS PRODUCED IN A FACILITY
 23 THAT PROCESSES ALCOHOL FROM WASTE SEAFOOD, BUT
 24 THIS REDUCTION IN THE RATE OF TAX APPLIES TO MOTOR
 25 FUEL CONSUMED BY A USER THAT CONTAINS ALCOHOL
 26 THAT WAS PRODUCED ONLY DURING THE FIRST FIVE
 27 YEARS OF THE FACILITY'S PROCESSING OF ALCOHOL FROM
 28 WASTE SEAFOOD].

29 * **Sec. 24.** AS 43.40.010(b) is amended to read:

30 (b) There is levied a tax of eight [20] cents a gallon on all motor fuel
 31 consumed by a user except that

1 (1) the tax on aviation gasoline consumed is four and seven-tenths
2 cents a gallon;

3 (2) the tax on motor fuel used in and on watercraft of all descriptions is
4 five cents a gallon; [AND]

5 (3) the tax on all aviation fuel other than gasoline is three and two-
6 tenths cents a gallon ; **and**

7 **(4) the tax rate on motor fuel that is blended with alcohol is the**
8 **same tax rate a gallon as other motor fuel; however, in an area and during the**
9 **months in which fuel containing alcohol is required to be sold, transferred, or**
10 **used in an effort to attain air quality standards for carbon monoxide as required**
11 **by federal or state law or regulation, the tax rate on motor fuel that is blended**
12 **with alcohol is six cents a gallon less than the tax on other motor fuel not**
13 **described in (1) - (3) of this subsection.**

14 * **Sec. 25.** AS 43.40.010(g) is amended to read:

15 (g) The proceeds of the revenue from the tax on all motor fuels, except as
16 provided in (e), (f), **(j), and (m)** [AND (j)] of this section, shall be deposited in a
17 special highway fuel tax account in the state general fund. The legislature may
18 appropriate funds from it for expenditure by the Department of Transportation and
19 Public Facilities directly or as matched with available federal-aid highway money for
20 maintenance of highways, construction of highway projects and ferries included in the
21 program provided for in AS 19.10.150, including approaches, appurtenances and
22 related facilities and acquisition of rights-of-way or easements, and other highway
23 costs including surveys, administration, and related matters. All departments of the
24 state government authorized to spend funds collected from taxes imposed by this
25 chapter shall perform, when feasible, all construction or reconstruction projects by
26 contract after the projects have been advertised for competitive bids, except that, when
27 feasible, arrangements shall be made with political subdivisions to carry out the
28 construction or reconstruction projects. If it is not feasible for the work to be
29 performed by state engineering forces, the commissioner of transportation and public
30 facilities may contract on a professional basis with private engineering firms for road
31 design, bridge design, and services in connection with surveys. If more than one

1 private engineering firm is available for the work the contracts shall be entered into on
2 a negotiated basis.

3 * **Sec. 26.** AS 43.40.010(g) is amended to read:

4 (g) The proceeds of the revenue from the tax on all motor fuels, except as
5 provided in (e), (f), and (i) [(j) AND (m)] of this section, shall be deposited in a
6 special highway fuel tax account in the state general fund. The legislature may
7 appropriate funds from it for expenditure by the Department of Transportation and
8 Public Facilities directly or as matched with available federal-aid highway money for
9 maintenance of highways, construction of highway projects and ferries included in the
10 program provided for in AS 19.10.150, including approaches, appurtenances and
11 related facilities and acquisition of rights-of-way or easements, and other highway
12 costs including surveys, administration, and related matters. All departments of the
13 state government authorized to spend funds collected from taxes imposed by this
14 chapter shall perform, when feasible, all construction or reconstruction projects by
15 contract after the projects have been advertised for competitive bids, except that, when
16 feasible, arrangements shall be made with political subdivisions to carry out the
17 construction or reconstruction projects. If it is not feasible for the work to be
18 performed by state engineering forces, the commissioner of transportation and public
19 facilities may contract on a professional basis with private engineering firms for road
20 design, bridge design, and services in connection with surveys. If more than one
21 private engineering firm is available for the work the contracts shall be entered into on
22 a negotiated basis.

23 * **Sec. 27.** AS 43.40.010 is amended by adding a new subsection to read:

24 (m) An amount equal to the revenue obtained from six cents of the tax
25 collected under (a) and (b) of this section, excluding the amounts collected under
26 (a)(1) - (4) and (b)(1) - (4) of this section, shall be separately accounted for in the
27 special highway fuel tax account under AS 43.40.010(g). The annual estimated
28 balance of the amount separately accounted for may be appropriated by the legislature
29 to the Department of Community and Economic Development for distribution to
30 municipalities according to AS 29.60.110.

31 * **Sec. 28.** AS 43.40.030(a) is amended to read:

1 (a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to
 2 operate an internal combustion engine is entitled to a refund of 18 [SIX] cents a gallon
 3 if

4 (1) the tax on the motor fuel has been paid;

5 (2) the motor fuel is not aviation fuel, or motor fuel used in or on
 6 watercraft; and

7 (3) the internal combustion engine is not used in or in conjunction with
 8 a motor vehicle licensed to be operated on public ways.

9 * **Sec. 29.** AS 43.40.030(a) is amended to read:

10 (a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to
 11 operate an internal combustion engine is entitled to a refund of six [18] cents a gallon
 12 if

13 (1) the tax on the motor fuel has been paid;

14 (2) the motor fuel is not aviation fuel, or motor fuel used in or on
 15 watercraft; and

16 (3) the internal combustion engine is not used in or in conjunction with
 17 a motor vehicle licensed to be operated on public ways.

18 * **Sec. 30.** AS 43 is amended by adding a new chapter to read:

19 **Chapter 44. Sales and Use Tax.**

20 **Article 1. Levy and Collection of the Tax.**

21 **Sec. 43.44.010. Levy of sales and use tax.** (a) There is levied a sales tax on
 22 sales and rents of tangible personal property and on sales of services.

23 (b) For the privilege of using property in this state, there is levied a use tax on
 24 the person using property that was

25 (1) manufactured by the person using the property in this state; or

26 (2) acquired outside this state as the result of a transaction that would
 27 have been subject to the sales tax had it occurred in this state.

28 (c) For the privilege of using services in this state, there is levied a use tax on
 29 the person using services.

30 (d) The rate of levy of the sales tax levied under (a) of this section and of the
 31 use taxes levied under (b) and (c) of this section is three percent of the sales price or

1 purchase price of the tangible personal property or service.

2 **Sec. 43.44.015. Relationship to municipal levies.** (a) The rate of levy under
3 this subsection is decreased in a borough or city that levies taxes under AS 29.45.650
4 or 29.45.700 so that the total sales and use tax levied in that borough or city, including
5 the sales and use tax under this chapter, does not exceed eight percent. This decrease
6 only applies in conjunction with borough or city sales and use tax rates approved or in
7 effect on April 1, 2003.

8 (b) A municipality may not increase the rate of a municipal sales and use tax
9 above the rate in effect on April 1, 2003, if that increase would cause the total
10 combined state and municipal sales and use taxes in a municipality to exceed eight
11 percent.

12 (c) Except as provided in (d) of this section, the total combined state and
13 municipal sales and use taxes in a municipality may not exceed eight percent. In a
14 municipality

15 (1) subject to both a city sales and use tax and a borough sales and use
16 tax, if the total combined municipal sales and use tax rates exceed eight percent, the
17 borough shall be entitled to levy the borough sales and use tax at its full rate, not to
18 exceed eight percent, the city shall reduce the rate of its sales and use tax accordingly,
19 and the rate of the state sales and use tax within that municipality shall be zero;

20 (2) subject to both a city sales and use tax and a borough sales and use
21 tax, where the total combined municipal sales and use tax rates do not exceed eight
22 percent, the borough shall be entitled to levy the borough sales and use tax at its full
23 rate, the city shall be entitled to levy the city sales and use tax at its full rate, and the
24 state shall reduce the rate of the state sales and use tax within that municipality
25 accordingly;

26 (3) subject only to a borough sales and use tax or a city sales and use
27 tax, but not both, if the total combined municipal and state sales and use tax rates
28 exceed eight percent, the municipality shall be entitled to levy the municipal sales and
29 use tax at its full rate, not to exceed eight percent, and the state shall reduce the rate of
30 the state sales and use tax within that municipality accordingly.

31 (d) A municipality may levy a general sales and use tax or increase the rate of

1 an existing sales and use tax so that the combined state and municipal sales tax rate
 2 exceeds eight percent if it is approved by the voters in a referendum election under
 3 AS 29.45.670. The proposed total combined rate as well as the proposed municipal
 4 rate must be clearly stated to the voters in the referendum question. In a municipality
 5 that imposes a general sales and use tax at a rate that, combined with a three percent
 6 state sales and use tax rate, exceeds eight percent, the rate of the state sales and use tax
 7 imposed under this chapter shall be three percent, notwithstanding any other provision
 8 of this chapter or AS 29.

9 **Sec. 43.44.020. Collection of tax.** (a) The tax described in AS 43.44.010(a)
 10 is imposed on the purchaser and must be collected by the seller and paid to the
 11 department by the seller as provided in AS 43.44.340. The seller holds all taxes
 12 collected in trust for the state. The tax must be applied to the sales price.

13 (b) The purchaser of property subject to the tax described in AS 43.44.010(b)
 14 is responsible for payment of the tax as provided in AS 43.44.340.

15 (c) The purchaser of services subject to the tax described in AS 43.44.010(c)
 16 is responsible for payment of the tax as provided in AS 43.44.340.

17 **Sec. 43.44.030. Presumption of taxability; sales price and purchase price.**

18 (a) In order to prevent evasion of the sales tax or use tax and to aid in its
 19 administration, it is presumed that

20 (1) all sales by a person engaging in business are subject to the sales
 21 tax or use tax; and

22 (2) all property purchased or sold by any person for delivery into this
 23 state is purchased or sold for a taxable use in this state.

24 (b) In a sale in which the amount of money paid does not represent the
 25 purchase price of the property or service purchased, the use tax must be imposed on
 26 the purchase price of the property or service purchased.

27 (c) For purposes of this section, the sales price or purchase price of property
 28 must be determined as of the time of acquisition, introduction into this state, or
 29 conversion to use, whichever is latest.

30 **Sec. 43.44.040. Separate statement of tax; no advertising to absorb or**
 31 **refund tax.** (a) If any person collects a tax in excess of the tax imposed by

1 AS 43.44.010(a), both the tax and the excess tax must be remitted to the department.

2 (b) The sales tax must be stated separately for all sales, except for sales from
3 coin-operated or currency-operated machines.

4 (c) A person may not advertise, hold out, or state to the public or to any
5 customer that the tax imposed by AS 44.43.010(a) will be absorbed or refunded.

6 **Sec. 43.44.050. Liability of user for payment of use tax.** (a) A person in
7 this state who uses property is liable to the state for payment of the use tax if the tax is
8 payable on the purchase price of the property but has not been paid.

9 (b) The liability imposed by this section is discharged if the purchaser has paid
10 the sales or use tax to the seller for payment to the department.

11 **Sec. 43.44.060. Nexus.** To the fullest extent permitted under the Constitution
12 of the United States, a person who has nexus with the State of Alaska and whose sales
13 are not subject to the sales tax shall collect the use tax from the purchaser and pay the
14 tax collected to the department.

15 **Article 2. Exemptions.**

16 **Sec. 43.44.090. Exemption: government agencies.** (a) Sales by, sales to, or
17 uses by the United States are exempt from the sales tax and use tax.

18 (b) Sales to or uses by the state or an instrumentality of the state, as that term
19 is defined in AS 39.52.960, an Indian tribe included on the list published under 25
20 U.S.C. 479a-1, or a foreign government are exempt from the sales and use tax.

21 **Sec. 43.44.095. Exemption for corporations exempt from taxation under**
22 **26 U.S.C. 501(c)(3).** With the exception of sales governed by AS 05.15, all sales by,
23 sales to, or uses by a corporation that is exempt from taxation under 26 U.S.C.
24 501(c)(3) (Internal Revenue Code) are exempt from the sales tax and use tax.

25 **Sec. 43.44.100. Exemption for food stamps and special supplemental**
26 **nutrition program for women, infants, and children.** The sale of an item lawfully
27 purchased with food stamp program benefits issued under 7 U.S.C. 2011 - 2025 (Food
28 Stamp Act) or purchased with food instruments, food vouchers, or other type of
29 certificate issued under 42 U.S.C. 1786 (special supplemental nutrition program for
30 women, infants, and children) is exempt from the sales tax and use tax.

31 **Sec. 43.44.110. Exemption for intangibles.** The following are exempt from

1 the sales tax and use tax, even if they are construed to be tangible personal property or
2 a service:

3 (1) wages, salaries, commissions, and any other form of remuneration
4 for personal services if paid by an employer to an employee; the terms used in this
5 section have the meanings given in 26 U.S.C. 3121 (Internal Revenue Code);

6 (2) interest on money loaned or deposited;

7 (3) dividends or interest from stocks, bonds, or securities; and

8 (4) proceeds from the sale of stocks, bonds, or securities.

9 **Sec. 43.44.120. Financial services.** Financial services related to the sale or
10 purchase of financial instruments, including stocks, bonds, and securities, are exempt
11 from the sales and use tax.

12 **Sec. 43.44.140. Exemption for isolated or occasional sale or lease of**
13 **property or services.** The isolated or occasional sale or lease of property or the
14 performance of a service by a person who is not regularly engaged in or who does not
15 intend to engage in the business of selling or leasing the same or a similar property or
16 service is exempt from the sales tax and use tax. Occasional sales include sales that
17 are occasional but not continuous and that are made for the purpose of fundraising by
18 nonprofit organizations, including but not limited to youth clubs, service clubs, and
19 fraternal organizations.

20 **Sec. 43.44.150. Exemption for personal effects.** The use by an individual of
21 personal or household effects brought into the state for the establishment by the
22 individual of an initial residence in this state and the use of property brought into the
23 state by a nonresident for the nonresident's own nonbusiness use while temporarily
24 within this state is exempt from the use tax.

25 **Sec. 43.44.155. Exemption for motor vehicles, watercraft, aircraft, and**
26 **mobile homes.** The sales price or purchase price of a motor vehicle, watercraft,
27 aircraft, or mobile home in excess of \$5,000 is exempt from the sales tax and use tax.
28 For purposes of this section, "motor vehicle" has the meaning given in AS 28.40.100.

29 **Sec. 43.44.160. Exemption for the sale of property for resale.** The sale of
30 property is exempt from the sales tax and use tax if the purchaser resells the property
31 either by itself or in combination with other property in the ordinary course of

1 business and the property will be subject to the sales tax imposed by AS 43.44.010(a).

2 **Sec. 43.44.165. Exemption for the conveyance and improvement of real**
 3 **property.** The sale, lease, or rental of real property, and improvements depreciated
 4 under 26 U.S.C. (Internal Revenue Code) to real property, are exempt from the sales
 5 and use tax.

6 **Sec. 43.44.170. Exemption for the sale of service for resale.** The sale of a
 7 service for resale is exempt from the sales tax and use tax if

8 (1) the purchaser resells the service and separately states the sales price
 9 of the service purchased in the charge for the service in the subsequent sale; and

10 (2) the subsequent sale is in the ordinary course of business and subject
 11 to the sales tax imposed by AS 43.44.010(a).

12 **Sec. 43.44.180. Exemption for a sale to a miner or manufacturer.** (a) The
 13 sale of property to a purchaser engaged in the business of mining or manufacturing is
 14 exempt from the sales tax and use tax if the purchaser incorporates the property as an
 15 ingredient or component part of the product in the business of mining or
 16 manufacturing.

17 (b) For the purposes of this section, electrical energy or electricity used or
 18 consumed by electrolytic reduction used in the reduction or refinement of ores is
 19 considered a component part of the product.

20 **Sec. 43.44.190. Exemption for property held for lease.** The sale, use, lease,
 21 or rental of property held for lease is exempt from the sales and use tax if the person
 22 holding the property for lease, or purchasing, leasing, or renting the property for the
 23 purpose of holding the property for lease

24 (1) is engaged in a business that derives more than 50 percent of its
 25 receipts from leasing or selling property of the type held;

26 (2) does not use the property in any manner other than holding it for
 27 lease or sale or leasing or selling it either by itself or in combination with other
 28 tangible personal property in the ordinary course of business;

29 (3) does not use the property in a manner incidental to the performance
 30 of a service; and

31 (4) the subsequent lease or rental is subject to the tax imposed by

1 AS 43.44.010(a).

2 **Sec. 43.44.200. Exemption for transactions subject to other taxes.** (a)
3 Motor fuel transactions subject to tax under AS 43.40 are exempt from the sales tax
4 and use tax.

5 (b) Transactions subject to tax under AS 43.52 are exempt from the sales tax
6 and use tax.

7 (c) Insurance premiums subject to tax under AS 21.09.210 are exempt from
8 the sales tax and use tax.

9 **Sec. 43.44.210. Exemption for certain intrastate transportation and**
10 **services in interstate commerce.** (a) The transport of persons or property from one
11 point within this state to another point within this state is exempt from the sales tax
12 and use tax if the persons or property, including any reasonably necessary services, are
13 being transported in interstate or foreign commerce under a single contract.

14 (b) Handling, storage, drayage, or packing of property or another accessorial
15 service on property is exempt from the sales tax and use tax if

16 (1) the property has been or will be moved in interstate or foreign
17 commerce;

18 (2) the services are performed by a local agent for a carrier or by a
19 carrier; and

20 (3) the services are performed under a single contract in relation to
21 interstate transportation services.

22 **Sec. 43.44.220. Exemption for health care.** The following are exempt from
23 the sales tax and use tax:

24 (1) health care services provided by a person licensed or certified to
25 provide those services under AS 08 or a "health care facility" as that term is defined in
26 AS 08.68.395(g)(2);

27 (2) drugs, durable medical equipment, mobility enhancing equipment,
28 and prosthetic devices obtained on prescription from a person licensed to prescribe
29 those goods under AS 08 or from a health care facility, as that term is defined in
30 AS 08.68.395(g)(2).

31 **Sec. 43.44.230. Exemption for child care services.** Child care services are

1 exempt from the sales tax and use tax.

2 **Article 3. Collection and Payment Provisions.**

3 **Sec. 43.44.240. Tax credit for sales or use tax paid to another state.** (a) A
4 buyer liable for use tax on tangible personal property or services is entitled to a full
5 credit for the amount of sales or use tax paid on the tangible personal property or
6 services to another state.

7 (b) The credit shall be applied first against the amount of use tax levied under
8 this chapter. Any unused portion of the credit shall then be applied against the amount
9 of use tax levied by a municipality under AS 29.45.650 or 29.45.700.

10 **Sec. 43.44.250. Exempt sales.** All exempt sales under AS 43.44.090 -
11 43.44.230 must be documented in an invoice. The department shall prescribe by
12 regulation the requirements for an invoice.

13 **Sec. 43.44.252. Exemption certificate: form.** (a) The department shall
14 provide for a uniform exemption certificate. A purchaser shall use the certificate
15 when purchasing goods or services for resale or for other exempt transactions.

16 (b) At a minimum, the certificate must provide

17 (1) the number of the seller's permit issued to the purchaser as
18 provided in AS 43.44.260 or the number of the direct pay permit issued to the
19 purchaser as provided in AS 43.44.255, as applicable;

20 (2) the general character of property or service sold by the purchaser in
21 the regular course of business;

22 (3) the property or service purchased;

23 (4) the name and address of the purchaser; and

24 (5) a signature line for the purchaser.

25 **Sec. 43.44.254. Exemption certificate: requirements.** (a) An exemption
26 certificate executed by a purchaser or lessee must be in the possession of the seller or
27 lessor at the time that an exempt transaction occurs.

28 (b) An exemption certificate must contain the information and be in the form
29 prescribed by the department.

30 (c) If the seller or lessor accepts an exemption certificate and believes in good
31 faith that the purchaser or lessee will employ the property or service transferred in an

1 exempt manner, the properly executed exemption certificate is considered conclusive
2 evidence, as to the seller or lessor, that the sale is exempt.

3 **Sec. 43.44.255. Direct pay permit.** A direct pay permit authorizes its holder
4 to purchase tangible personal property and services without paying tax to the seller
5 and authorizes the seller to not collect any tax on a sale to the permit holder. A person
6 who purchases tangible personal property or services under a direct pay permit issued
7 under this section is liable for any sales and use tax due. The tax due must be paid by
8 the permit holder on a quarterly basis on a schedule established by the department. To
9 obtain a direct pay permit, a person must apply to the department and satisfy criteria
10 for direct pay permit holders established by the department by regulation.

11 **Sec. 43.44.260. Seller's permit.** (a) A person wishing to engage in business
12 in this state shall obtain a seller's permit before engaging in business in this state.

13 (b) Upon an applicant's compliance with this chapter, the department shall
14 issue to the applicant a numbered seller's permit. A permit is valid until revoked or
15 suspended but is not assignable. A permit is valid only for the person in whose name
16 it is issued. A copy of the permit must be conspicuously displayed at all times at the
17 place for which it is issued.

18 **Sec. 43.44.270. Permit application: requirements; place of business; form.**

19 (a) A person wishing to engage in business in this state shall file with the department
20 an application for a seller's permit. If the person has more than one location in which
21 the person maintains an office or other place of business, an application may include
22 multiple locations. A vending machine operator who has more than one vending
23 machine location is considered to have only one place of business for purposes of this
24 section. An applicant who does not maintain an office or other place of business and
25 who moves from place to place is considered to have only one place of business and
26 shall attach the permit to the applicant's cart, stand, truck, or other merchandising
27 device.

28 (b) Each application for a permit must be on a form or in a format prescribed
29 by the department and must set out the name under which the applicant intends to
30 transact business, the location of the applicant's place or places of business, and other
31 information that the department may require. The application must be filed by the

1 owner if the owner is a natural person, by a member or partner if the owner is an
 2 association or partnership, or by a person authorized to sign the application if the
 3 owner is a corporation.

4 **Sec. 43.44.280. Revocation or suspension of permit: hearing; notice;**
 5 **appeal.** (a) Subject to the provisions of (b) of this section, the department may, for
 6 reasonable cause, revoke or suspend a permit held by a person who fails to comply
 7 with the provisions of this chapter.

8 (b) The department shall provide written notice and an opportunity for a
 9 hearing on a proposed revocation or suspension. The hearing must be conducted
 10 informally and is not subject to AS 44.62 (Administrative Procedure Act).

11 (c) If a permit is revoked, the department may not issue a new permit except
 12 upon application accompanied by reasonable evidence of the intention of the applicant
 13 to comply with the provisions of this chapter. The department may, as a condition for
 14 the issuance of a new permit to the applicant, require security in addition to that
 15 authorized by AS 43.44.370 in an amount reasonably necessary to ensure compliance
 16 with this chapter.

17 (d) A person aggrieved by the department's final decision to revoke a permit
 18 as provided in (a) of this section may appeal the decision to the superior court.

19 **Sec. 43.44.290. Improper use of subject of purchase obtained with**
 20 **exemption certificate; penalty.** (a) If a purchaser who uses an exemption certificate
 21 uses the subject of the purchase for a purpose other than one allowed as exempt under
 22 this chapter, the use is considered a taxable sale as of the time of first use by the
 23 purchaser, and the sales price is the price that the purchaser paid. If the sole
 24 nonexempt use is rental while holding for sale, the purchaser shall include in the sales
 25 price the amount of the rental charged. Upon subsequent sale of the property, the
 26 seller shall include the entire amount of the sales price, without deduction of amounts
 27 previously received as rentals.

28 (b) A person who uses an exemption certificate for property that will be used
 29 for purposes other than the purpose claimed is subject to a penalty, payable to the
 30 department, of \$100 or 100 percent of the tax due, whichever is greater, for each
 31 transaction in which an improper use of a certificate has occurred.

1 **Sec. 43.44.300. Commingling exemption certificate goods.** If a purchaser
 2 uses an exemption certificate with respect to the purchase of fungible goods and
 3 commingles these goods with fungible goods that were not purchased with an
 4 exemption certificate but that are so similar that the identity of the goods in the
 5 commingled mass cannot be determined, sales from the mass of commingled goods
 6 are considered to be sales of the goods purchased with the certificate until the quantity
 7 of commingled goods sold equals the quantity of goods originally purchased under the
 8 certificate.

9 **Sec. 43.44.310. Liability for payment of tax; security for retailer without**
 10 **place of business; penalty.** (a) Liability for the payment of the sales tax and use tax
 11 is not extinguished until the taxes have been paid to the department.

12 (b) A retailer who does not maintain an office or other place of business in this
 13 state is liable for the sales tax or use tax on all property sold or leased and services
 14 provided in this state in accordance with this chapter and may be required to furnish
 15 adequate security as provided in AS 43.44.370 to ensure collection and payment of the
 16 taxes. When authorized and except as otherwise provided in this chapter, the retailer
 17 is liable for the taxes on all property sold and services provided in this state in the
 18 same manner as a retailer who maintains an office or other place of business in this
 19 state. The seller's permit provided for in AS 43.44.260 may be canceled at any time if
 20 the department considers the security inadequate or believes that the taxes can be
 21 collected more effectively in another manner.

22 (c) An agent, canvasser, or employee of a retailer doing business in this state
 23 who does not possess a seller's permit issued by the department may not sell, solicit
 24 orders for, or deliver property or services in Alaska. If an agent, canvasser, or
 25 employee violates the provisions of this chapter, the person is subject to a fine of not
 26 more than \$100, or 100 percent of the tax due, whichever is greater, for each separate
 27 transaction or event.

28 **Sec. 43.44.320. Interstate and intrastate carriers as retailers.** A person
 29 engaged in the business of interstate or intrastate transportation of property or
 30 passengers shall register as a retailer with the department and pay the taxes imposed
 31 by AS 43.44.010.

1 **Sec. 43.44.330. Method of accounting.** A person who has a seller's permit
2 shall report and pay the sales and use tax using the same method of accounting that the
3 person uses for federal tax purposes.

4 **Sec. 43.44.340. Returns: payment; authority of department.** (a) A person
5 who has a tax liability under AS 43.44.010 shall file a return on a form or in a format
6 prescribed by the department and pay the tax due monthly. The return shall be filed
7 on or before the 20th day following the end of the month for which the tax is due.
8 Each person engaged in business in this state or using property in this state that is
9 subject to taxation under AS 43.44.010 shall file a return.

10 (b) For the purposes of the sales tax or use tax, a return must be filed by

11 (1) a retailer required to collect the tax; and

12 (2) a person who

13 (A) purchases an item the storage, use, or other consumption of
14 which is subject to the sales tax or use tax; and

15 (B) has not paid the tax to a retailer required to pay the tax.

16 (c) Each return must be authenticated by the person filing the return or by the
17 person's agent authorized in writing to file the return.

18 **Sec. 43.44.345. Methods.** (a) The department shall adopt regulations
19 providing for payment of the sales and use tax based on a rounding method.

20 (b) The department may use sampling principles or methods in lieu of 100
21 percent examination of records in conducting a sales tax or use tax audit.

22 **Sec. 43.44.350. Credit for taxes paid on worthless accounts; taxes paid if**
23 **account collected.** (a) Sales taxes paid on an accrual basis by a person filing a return
24 under AS 43.44.340 on sales found to be worthless and actually deducted by the
25 person as a bad debt for federal income tax purposes may be credited on a subsequent
26 payment of the tax.

27 (b) If the accounts are subsequently collected, the sales tax must be paid on
28 the amount collected.

29 **Sec. 43.44.360. Timely filing allowance.** (a) A person filing a return under
30 AS 43.44.340 may claim an allowance for each permitted location in the amount of
31 two percent of the tax determined to be payable to the state or \$75 a month, whichever

1 is less, if the return is timely filed and the tax is timely paid.

2 (b) The allowance may be deducted on the return. The allowance may not be
3 greater than the tax determined to be payable to the state.

4 **Sec. 43.44.370. Security: limitations; sale of security deposit at auction;**
5 **bond.** (a) The department may require a retailer to deposit with the department
6 security in a form and amount that the department determines is appropriate. The
7 deposit may not be more than twice the estimated average liability for the period for
8 which the return is required to be filed or \$10,000, whichever is less. The amount of
9 security may be increased or decreased by the department, subject to the limitations
10 provided in this section.

11 (b) If necessary, the department may sell at public auction property deposited
12 as security to recover a sales tax or use tax amount required to be collected, including
13 interest and penalties. Notice of the sale must be served personally on or sent by
14 certified mail to the person who deposited the security. After the sale, any surplus
15 above the amount due that is not required as security under this section must be
16 returned to the person who deposited the security.

17 (c) In lieu of security, the department may require a retailer to file a bond
18 issued by a surety company authorized to transact business in this state to guarantee
19 solvency and responsibility.

20 (d) In addition to the other requirements of this section, the department may
21 require the corporate officers, directors, or shareholders of a corporation to provide a
22 personal guaranty and assumption of liability for the payment of the tax due under this
23 chapter.

24 **Sec. 43.44.380. Taxpayer quitting business; liability of successor.** (a) All
25 taxes payable under this chapter are due and payable immediately whenever a
26 taxpayer quits business, sells, exchanges, or otherwise disposes of the business or
27 disposes of the stock of goods. The taxpayer shall make a return and pay the taxes due
28 within 10 days after the taxpayer quits business, sells, exchanges, or otherwise
29 disposes of the business or disposes of the stock of goods.

30 (b) Except as provided in (d) of this section, a person who becomes a
31 successor in the taxpayer's business or stock of goods is liable for the full amount of

1 the tax and shall withhold from the sales price payable to the taxpayer a sum sufficient
 2 to pay any tax due until the taxpayer produces either a receipt from the department
 3 showing payment in full of any tax due or a statement from the department that tax is
 4 not due.

5 (c) If a tax is due but has not been paid as provided in (a) of this section, the
 6 successor is liable for the payment of the full amount of tax. The payment of the tax
 7 by the successor is considered to be a payment on the sales price and, if the payment is
 8 greater in amount than the sales price, the amount of the difference becomes a debt
 9 due to the successor from the taxpayer owing the tax under (a) of this section.

10 (d) A successor is not liable for any tax due from the person from whom the
 11 successor acquired a business or stock of goods if (1) the successor gives written
 12 notice to the department of the acquisition; and (2) an assessment is not issued by the
 13 department against the former operator of the business within six months after receipt
 14 of the notice from the successor. If an assessment is issued by the department and a
 15 copy of the assessment is not mailed to the successor, the successor is not liable for the
 16 tax due.

17 **Sec. 43.44.390. Tax as debt.** (a) The tax imposed by this chapter and related
 18 interest and penalties become a personal debt of the person required to file a return
 19 from the time the liability arises, regardless of when the time for payment of the
 20 liability occurs.

21 (b) If the personal representative of an estate has voluntarily distributed the
 22 assets held in that capacity without reserving sufficient assets to pay the taxes, interest,
 23 and penalties, the personal representative is personally liable for any deficiency, to the
 24 extent permitted under AS 13.16.

25 (c) This section applies to corporate officers, directors, or shareholders
 26 required by the department to personally guarantee the payment of the taxes for their
 27 corporation. The officer or employee of a corporation whose duty it is to collect,
 28 truthfully account for, and pay to the state the taxes imposed by this chapter and who
 29 fails to pay the taxes is liable to the state for the taxes imposed by this chapter and the
 30 penalty and interest due on the taxes.

31 **Sec. 43.44.400. Refunds and credits.** The department may credit or refund

1 overpayments of taxes, taxes erroneously or illegally assessed or collected, penalties
 2 collected without authority, and taxes that are found unjustly assessed or excessive in
 3 amount, or otherwise wrongfully collected. The department shall set limitations,
 4 specify the manner in which claims for credits or refunds are made, and give notice of
 5 allowance or disallowance. When a refund is allowed to a taxpayer, it shall be paid
 6 out of the general fund on a warrant issued under a voucher approved by the
 7 department.

8 **Article 4. General Provisions.**

9 **Sec. 43.44.500. Definitions.** In this chapter,

10 (1) "consideration" means a valuable inducement and includes, without
 11 limitation, money, property, and services;

12 (2) "engaging in business" means carrying on or causing to be carried
 13 on any activity with the purpose of direct or indirect benefit;

14 (3) "lease," "leasing," or "rental," regardless of whether a transaction is
 15 characterized as a lease or rental under generally accepted accounting principles, 26
 16 U.S.C. (Internal Revenue Code), AS 45.01 - AS 45.08, AS 45.12, AS 45.14, and
 17 AS 45.29 (Uniform Commercial Code), or other provisions of federal, state, or local
 18 law,

19 (A) means a transfer of possession or control of tangible
 20 personal property for a fixed or indeterminate term for consideration; a lease or
 21 rental may include future options to purchase or extend;

22 (B) does not include

23 (i) a transfer of possession or control of property under
 24 a security agreement or deferred payment plan that requires the transfer
 25 of title upon completion of the required payments;

26 (ii) a transfer of possession or control of property under
 27 an agreement that requires the transfer of title upon completion of
 28 required payments if payment of an option price does not exceed the
 29 greater of one hundred dollars or one percent of the total required
 30 payments; or

31 (iii) providing tangible personal property along with an

1 operator for a fixed or indeterminate period of time; a condition of this
 2 exclusion is that the operator is necessary for the equipment to perform
 3 as designed; for the purpose of this sub-subparagraph, an operator must
 4 do more than maintain, inspect, or set up the tangible personal property;

5 (C) includes agreements covering motor vehicles and trailers if
 6 the amount of consideration may be increased or decreased by reference to the
 7 amount realized upon sale or disposition of the property as defined in 26
 8 U.S.C. 7701(h)(1);

9 (4) "maintaining an office or other place of business" means

10 (A) a person's having or maintaining in this state, directly or by
 11 an affiliate, an office, distribution house, sales house, warehouse, or place of
 12 business; or

13 (B) an agent's operating within this state under the authority of
 14 the person or its affiliate, whether the place of business or agent is located in
 15 the state permanently or temporarily or whether the person or affiliate is
 16 authorized to do business in the state;

17 (5) "manufacturing" means combining or processing components or
 18 materials, including the processing of ores in a mill, smelter, refinery, or reduction
 19 facility, to increase the value of the components or materials for sale in the ordinary
 20 course of business; "manufacturing" does not include construction;

21 (6) "permit" or "seller's permit" means a seller's permit as described in
 22 AS 43.44.260;

23 (7) "person" means an individual, estate, trust, receiver, cooperative
 24 association, club, corporation, company, firm, partnership, joint venture, syndicate, or
 25 other entity, including a gas, water, or electric utility owned or operated by a borough,
 26 municipality, or other political subdivision of the state;

27 (8) "purchase price" means "sales price" and applies to the measure
 28 subject to use tax;

29 (9) "sale," "selling," or "purchasing" means the transfer of property for
 30 consideration or the performance of a service for consideration;

31 (10) "sales price"

1 (A) means the total amount of consideration, including cash,
 2 credit, property, and services, for which personal property or services are sold,
 3 leased, or rented, valued in money, whether received in money or otherwise,
 4 without any deduction for the following:

5 (i) the seller's cost of the property sold;

6 (ii) the cost of materials used, labor or service cost,
 7 interest, losses, all costs of transportation to the seller, all taxes
 8 imposed on the seller, and any other expense of the seller;

9 (iii) charges by the seller for any services necessary to
 10 complete the sale, other than delivery and installation charges;

11 (iv) delivery charges;

12 (v) installation charges;

13 (vi) the value of exempt personal property given to the
 14 purchaser where taxable and exempt personal property have been
 15 bundled together and sold by the seller as a single product or piece of
 16 merchandise;

17 (vii) credit for a trade-in, as determined by state law;

18 (B) does not include

19 (i) discounts, including cash, term, or coupons that are
 20 not reimbursed by a third party that are allowed by a seller and taken by
 21 a purchaser on a sale;

22 (ii) interest, financing, and carrying charges from credit
 23 extended on the sale of personal property or services if the amount is
 24 separately stated on the invoice, bill of sale, or similar document given
 25 to the purchaser; and

26 (iii) taxes legally imposed directly on the consumer that
 27 are separately stated on the invoice, bill of sale, or similar document
 28 given to the purchaser;

29 (11) "sales tax" or "use tax" means the applicable tax imposed by

30 AS 43.44.010;

31 (12) "service" means an activity that is engaged in for another person

1 for consideration and that is distinguished from the sale or lease of property; "service"
 2 includes (A) activities performed by a person for its members or shareholders; (B)
 3 construction activities and all tangible personal property that will become an
 4 ingredient or component part of a construction project; and (C) labor; professional
 5 services; transportation; telephone or other communications service; entertainment,
 6 including cable, subscription, or pay television or other telecommunications service;
 7 the supplying of food, lodging, or other accommodations in hotels, restaurants, or
 8 elsewhere; admission to exhibitions; the use of a computer, computer time, a computer
 9 system, a computer program, a computer network, or any part of a computer system or
 10 network; and the supplying of equipment for use; in determining what a service is, the
 11 intended use, principal objective, or ultimate objective of the contracting parties is
 12 irrelevant;

13 (13) "tangible personal property" means personal property that can be
 14 seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to
 15 the senses; "tangible personal property" includes electricity, water, gas, steam, and
 16 prewritten computer software;

17 (14) "tax" means the tax levied by AS 43.44.010;

18 (15) "use" or "using" includes use, consumption, or storage, other than
 19 storage for resale or for use solely outside this state in the ordinary course of business.

20 * **Sec. 31.** Section 4, ch. 100, SLA 2002, is repealed and reenacted to read:

21 Sec. 4. AS 29.45.650(a) is amended to read:

22 (a) Except as provided in AS 04.21.010(c) [AND AS 29.45.750], a borough
 23 may levy a general sales tax on the sale and rental of tangible or intangible property
 24 and on services provided in the borough.

25 * **Sec. 32.** Section 4, ch. 100, SLA 2002, as amended by sec. 31 of this Act, is repealed and
 26 reenacted to read:

27 Sec. 4. AS 29.45.650(a) is amended to read:

28 (a) Except as provided in AS 04.21.010(c) [, AS 29.45.750], and in (f) and (g)
 29 of this section, a borough may levy and collect a sales tax on sales, rents, and on
 30 services provided in the borough. The sales tax may apply to any or all of these
 31 sources. Exemptions may be granted by ordinance.

1 * **Sec. 33.** REPEAL. AS 29.10.200(64); 29.45.720; AS 43.40.010(m); AS 43.44.010,
 2 43.44.015, 43.44.020, 43.44.030, 43.44.040, 43.44.050, 43.44.060, 43.44.090, 43.44.095,
 3 43.44.100, 43.44.110, 43.44.120, 43.44.140, 43.44.150, 43.44.155, 43.44.160, 43.44.165,
 4 43.44.170, 43.44.180, 43.44.190, 43.44.200, 43.44.210, 43.44.220, 43.44.230, 43.44.240,
 5 43.44.250, 43.44.252, 43.44.254, 43.44.255, 43.44.260, 43.44.270, 43.44.280, 43.44.290,
 6 43.44.300, 43.44.310, 43.44.320, 43.44.330, 43.44.340, 43.44.345, 43.44.350, 43.44.360,
 7 43.44.370, 43.44.380, 43.44.390, 43.44.400, and 43.44.500 are repealed on January 1, 2012.

8 * **Sec. 34.** Sections 35, 36(b), (c), and (d), and 37 of this Act are repealed on January 1,
 9 2012.

10 * **Sec. 35.** The uncodified law of the State of Alaska is amended by adding a new section to
 11 read:

12 AUTHORITY TO ENTER STREAMLINED SALES AND USE TAX
 13 AGREEMENT. (a) The department is authorized and directed to enter into the Streamlined
 14 Sales and Use Tax Agreement with one or more states to simplify and modernize sales and
 15 use tax administration in order to substantially reduce the burden of tax compliance for all
 16 sellers and for all types of commerce. In furtherance of the Streamlined Sales and Use Tax
 17 Agreement, the department is authorized to act jointly with other states that are members of
 18 the Streamlined Sales and Use Tax Agreement to establish standards for certification of a
 19 certified service provider and certified automated system and establish performance standards
 20 for multistate sellers.

21 (b) The department shall adopt regulations implementing this chapter consistent with
 22 the Streamlined Sales and Use Tax Agreement.

23 (c) The department is authorized to take other actions reasonably required to
 24 implement the provisions set out in this section. Other actions authorized by this section
 25 include the joint procurement, with other member states, of goods and services in furtherance
 26 of the cooperative agreement.

27 (d) The department or the department's designee is authorized to represent this state
 28 before the other states that are signatories to the Streamlined Sales and Use Tax Agreement.

29 * **Sec. 36.** The uncodified law of the State of Alaska is amended by adding a new section to
 30 read:

31 TRANSITIONAL PROVISIONS. (a) The Department of Revenue may proceed to

1 adopt regulations necessary to implement this Act. The regulations take effect under
 2 AS 44.62 (Administrative Procedure Act), but not before the effective date of the provision
 3 being implemented.

4 (b) A municipality that imposes a general sales and use tax shall conform its tax base,
 5 including exemptions, definitions, and sourcing rules, to AS 43.44 not later than January 1,
 6 2006.

7 (c) Notwithstanding any other provision of this Act, a municipality that levies a
 8 general sales and use tax on the effective date of this section may continue to collect the
 9 municipality's general sales and use tax through December 31, 2007. The state shall assume
 10 responsibility for administering a municipal general sales and use tax on January 1, 2008,
 11 unless requested to do so earlier by a municipality that has conformed its tax base, including
 12 exemptions, definitions, and sourcing rules, to AS 43.44.

13 (d) The Department of Revenue may contract with a municipality that, on the
 14 effective date of this section, levies a sales and use tax to provide a field office for that
 15 municipality's geographical area of the state.

16 * **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to
 17 read:

18 **CONDITIONAL EFFECT.** The exemption in AS 43.44.200(b), enacted by sec. 30 of
 19 this Act, takes effect only if a bill passed by the Twenty-Third Alaska State Legislature
 20 providing for the levy and collection of a tax on motor vehicle rentals is enacted into law.

21 * **Sec. 38.** If the exemption in AS 43.44.200(b), enacted by sec. 30 of this Act, takes effect,
 22 it takes effect on the day the tax referred to in sec. 38 of this Act takes effect.

23 * **Sec. 39.** Sections 35 and 36 of this Act take effect immediately under AS 01.10.070(c).

24 * **Sec. 40.** Sections 21, 23, 25, 27, and 28 of this Act take effect July 1, 2003.

25 * **Sec. 41.** Sections 2, 4, 6, 9, 11, 13, 15, 17, 20, 22, 24, 26, 29, 32, 33 and 34 take effect
 26 January 1, 2012.

27 * **Sec. 42.** Except as provided in secs. 38 - 41 of this Act, this Act takes effect January 1,
 28 2004.