

CS FOR SENATE BILL NO. 366(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/7/04

Referred: Today's Calendar

Sponsor(s): SENATE FINANCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the levy and collection of sales and use taxes, and to the levy,**
2 **collection, and expenditure of municipal taxes; and providing for an effective date."**

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

4 *** Section 1.** AS 29.05.210(b) is amended to read:

5 (b) The department shall provide assistance to each borough and unified
6 municipality incorporated after December 31, 1985, in

7 (1) establishing the initial sales and use tax assessment [AND
8 COLLECTION DEPARTMENT] if the borough or unified municipality has adopted a
9 sales or use tax;

10 (2) determining the initial property tax assessment roll if the borough
11 or unified municipality has adopted a property tax, including contracting for appraisals
12 of property needed to complete the initial assessment.

13 *** Sec. 2.** AS 29.05.210(b) is amended to read:

14 (b) The department shall provide assistance to each borough and unified

1 municipality incorporated after December 31, 1985, in

2 (1) establishing the initial sales and use tax assessment **and collection**
3 **department** if the borough or unified municipality has adopted a sales or use tax;

4 (2) determining the initial property tax assessment roll if the borough
5 or unified municipality has adopted a property tax, including contracting for appraisals
6 of property needed to complete the initial assessment.

7 * **Sec. 3.** AS 29.10.200(41) is amended to read:

8 (41) **AS 29.35.170** [AS 29.35.170(b)] (assessment and collection of
9 taxes);

10 * **Sec. 4.** AS 29.10.200(41) is amended to read:

11 (41) **AS 29.35.170(b)** [AS 29.35.170] (assessment and collection of
12 taxes);

13 * **Sec. 5.** AS 29.10.200(51) is amended to read:

14 (51) **AS 29.45.650** [AS 29.45.650(c), (d), (e), (f), (i), AND (j)]
15 (**general** sales and use tax);

16 * **Sec. 6.** AS 29.10.200(51) is amended to read:

17 (51) **AS 29.45.650(c), (d), (e), (f), (h), and (i)** [AS 29.45.650]
18 ([GENERAL] sales and use tax);

19 * **Sec. 7.** AS 29.10.200(52) is amended to read:

20 (52) **AS 29.45.700** [AS 29.45.700(d) AND (e)] (**general** sales and use
21 tax);

22 * **Sec. 8.** AS 29.10.200(52) is amended to read:

23 (52) **AS 29.45.700(d) and (e)** [AS 29.45.700] ([GENERAL] sales and
24 use tax);

25 * **Sec. 9.** AS 29.10.200 is amended by adding new paragraphs to read:

26 (64) AS 29.35.110(a) (expenditure of borough revenues);

27 (65) AS 29.45.660 (notice of sales and use tax);

28 (66) AS 29.45.670 (referendum on adoption, and modification of sales
29 and use tax).

30 * **Sec. 10.** AS 29.35.110(a) is amended to read:

31 (a) Borough revenues received through taxes **levied** [COLLECTED] on an

1 areawide basis by the borough may be expended on general administrative costs and
 2 on areawide functions only. Borough revenues received through taxes **levied**
 3 [COLLECTED] on a nonareawide basis may be expended on general administrative
 4 costs and functions that render service only to the area outside all cities in the
 5 borough. **This subsection applies to home rule and general law municipalities.**

6 * **Sec. 11.** AS 29.35.110(a) is amended to read:

7 (a) Borough revenues received through taxes **collected** [LEVIED] 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 **collected**
 10 [LEVIED] on a nonareawide basis may be expended on general administrative costs
 11 and functions that render service only to the area outside all cities in the borough.
 12 [THIS SUBSECTION APPLIES TO HOME RULE AND GENERAL LAW
 13 MUNICIPALITIES.]

14 * **Sec. 12.** AS 29.35.170 is amended to read:

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

19 (b) Taxes, **other than general sales and use taxes,** levied by a city shall be
 20 collected by a borough and returned in full to the levying city. [THIS SUBSECTION
 21 APPLIES TO HOME RULE AND GENERAL LAW MUNICIPALITIES.]

22 * **Sec. 13.** AS 29.35.170 is amended to read:

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

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

30 * **Sec. 14.** AS 29.35.170 is amended by adding a new subsection to read:

31 (c) This section applies to home rule and general law municipalities.

1 * **Sec. 15.** AS 29.45.650 is repealed and reenacted to read:

2 **Sec. 29.45.650. General sales and use tax.** (a) Except as provided in
3 AS 29.45.750, a borough may levy a general sales and use tax. If a borough levies a
4 general sales and use tax,

5 (1) the borough must conform exactly to the statewide sales and use
6 tax levied and collected under AS 43.44, except that the municipal general sales and
7 use tax may be levied at any rate; and

8 (2) the borough's use tax is levied on the privilege of using in the
9 borough tangible personal property or services.

10 (b) The Department of Revenue shall collect a sales and use tax levied under
11 this section and remit the proceeds to the municipality. The Department of Revenue
12 may use its administrative authority under AS 43.05 and its enforcement and
13 collection authority under AS 43.10 to collect a sales and use tax levied under this
14 section.

15 * **Sec. 16.** AS 29.45.650 is repealed and reenacted to read:

16 **Sec. 29.45.650. Sales and use tax.** (a) Except as provided in
17 AS 04.21.010(c), AS 29.45.750, and in (f), (g), (h), and (i) of this section, a borough
18 may levy and collect a sales tax on sales, rents, and on services provided in the
19 borough. The sales tax may apply to any or all of these sources. Exemptions may be
20 granted by ordinance.

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

24 (c) A person who furnishes proof, in the form required by the borough tax
25 collector, that the person has paid a sales tax on the source on which a use tax is levied
26 by the borough is required to pay the use tax only to the extent of the difference
27 between the amount of the sales tax paid and the amount of the use tax levied by the
28 borough. This subsection applies to a sales tax levied in any taxing jurisdiction
29 whether inside or outside the state.

30 (d) If the assembly charges interest on sales taxes not paid when due, the rate
31 of interest may not exceed 15 percent a year on the delinquent taxes and shall be

1 charged from the due date until paid in full. This subsection applies to home rule and
2 general law municipalities.

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

12 (f) A borough may not levy and collect a sales tax on a purchase made with
13 (1) food coupons, food stamps, or other type of allotment issued under 7 U.S.C. 2011 -
14 2036 (Food Stamp Program); or (2) food instruments, food vouchers, or other type of
15 certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for
16 Women, Infants, and Children). For purposes of this subsection, the value of a food
17 stamp allotment paid in the form of a wage subsidy as authorized under
18 AS 47.25.975(b) is not considered to be an allotment issued under 7 U.S.C. 2011 -
19 2036 (Food Stamp Program). This subsection applies to home rule and general law
20 municipalities.

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

24 (1) the sale, lease, rental, storage, consumption, or distribution in this
25 state of or the provision of services relating to an orbital space facility, space
26 propulsion system, or space vehicle, satellite, or station of any kind possessing space
27 flight capacity, including the components of them;

28 (2) the sale, lease, rental, storage, consumption, or use of tangible
29 personal property placed on or used aboard an orbital space facility, space propulsion
30 system, or space vehicle, satellite, or station of any kind, regardless of whether the
31 tangible personal property is returned to this state for subsequent use, storage, or

1 consumption; an exemption under this paragraph is not affected by the failure of a
 2 launch to occur, or the destruction of a launch vehicle or a component of a launch
 3 vehicle.

4 (h) A borough may not levy or collect a sales or use tax on (1) the physical
 5 transfer of refined fuel, unless the transfer is made in connection with a sale or use in
 6 the borough, or (2) wholesale sales or transfers of fuel refined in the borough. A sale is
 7 in the borough if the fuel is delivered to the buyer in the borough. A use is in the
 8 borough if the fuel is consumed in the borough. This subsection applies to home rule
 9 and general law municipalities.

10 (i) The prohibitions on the levy and collection of a sales or use tax on refined
 11 fuel in (h) of this section do not apply to a borough if, on the effective date of (h) of
 12 this section, the borough is

13 (1) levying and collecting a sales or use tax on the sale, use, or transfer
 14 of refined fuel under an ordinance adopted before January 1, 2003; or

15 (2) receiving payments in lieu of a sales or use tax on the sale, use, or
 16 transfer of refined fuel under an agreement entered into before January 1, 2003.

17 * **Sec. 17.** AS 29.45 is amended by adding a new section to read:

18 **Sec. 29.45.655. Specific taxes on property and services.** Unless otherwise
 19 prohibited by law, a municipality may levy and collect specific sales or excise taxes on
 20 single categories of tangible or intangible property or services, such as bed taxes, car
 21 rental taxes, and fish taxes.

22 * **Sec. 18.** AS 29.45.660(a) is amended to read:

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

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

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

5 * **Sec. 19.** AS 29.45.660(a) is amended to read:

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

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

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

19 * **Sec. 20.** AS 29.45.660 is amended by adding a new subsection to read:

20 (c) This section applies to home rule and general law municipalities.

21 * **Sec. 21.** AS 29.45.670 is amended to read:

22 **Sec. 29.45.670. Referendum, adoption, and modification.** A new sales and
 23 use tax or an increase in the rate of levy of a sales tax approved by ordinance does not
 24 take effect until ratified by a majority of the voters at an election. **A borough may**
 25 **not require that a new sales and use tax or an increase in the rate of levy of a**
 26 **sales tax approved by ordinance be ratified by more than 50 percent plus one of**
 27 **the voters voting on the issue. This section applies to home rule and general law**
 28 **municipalities.**

29 * **Sec. 22.** AS 29.45.670 is amended to read:

30 **Sec. 29.45.670. Referendum, adoption, and modification.** A new sales and
 31 use tax or an increase in the rate of levy of a sales tax approved by ordinance does not

1 take effect until ratified by a majority of the voters at an election. [A BOROUGH
 2 MAY NOT REQUIRE THAT A NEW SALES AND USE TAX OR AN INCREASE
 3 IN THE RATE OF LEVY OF A SALES TAX APPROVED BY ORDINANCE BE
 4 RATIFIED BY MORE THAN 50 PERCENT PLUS ONE OF THE VOTERS
 5 VOTING ON THE ISSUE. THIS SECTION APPLIES TO HOME RULE AND
 6 GENERAL LAW MUNICIPALITIES.]

7 * **Sec. 23.** AS 29.45.700 is repealed and reenacted to read:

8 **Sec. 29.45.700. Power of levy.** A city may levy sales and use taxes in the
 9 manner provided for boroughs under AS 29.45.650 and 29.45.655.

10 * **Sec. 24.** 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) and (e) 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 (e) A city that levies and collects sales and use taxes may not levy and collect
 31 a sales or use tax on (1) the physical transfer of refined fuel, unless the transfer is

1 made in connection with a sale or use in the city, or (2) wholesale sales or transfers of
 2 fuel refined in the city. A sale is in the city if the fuel is delivered to the buyer in the
 3 city. A use is in the city if the fuel is consumed in the city. This subsection applies to
 4 home rule and general law municipalities.

5 (f) The prohibitions on the levy and collection of a sales or use tax on refined
 6 fuel in (e) of this section do not apply to a city if, on September 16, 2003, the city is

7 (1) levying and collecting a sales or use tax on the sale, use, or transfer
 8 of refined fuel under an ordinance adopted before January 1, 2003; or

9 (2) receiving payments in lieu of a sales or use tax on the sale, use, or
 10 transfer of refined fuel under an agreement entered into before January 1, 2003.

11 * **Sec. 25.** AS 29.45.750(b) is amended to read:

12 (b) A municipality that levies [AND COLLECTS] a sales tax on mobile
 13 telecommunications services shall do so in accordance with the provisions of 4 U.S.C.
 14 116 - 126 (Mobile Telecommunications Sourcing Act).

15 * **Sec. 26.** AS 29.45.750(b) is amended to read:

16 (b) A municipality that levies **and collects** a sales tax on mobile
 17 telecommunications services shall do so in accordance with the provisions of 4 U.S.C.
 18 116 - 126 (Mobile Telecommunications Sourcing Act).

19 * **Sec. 27.** AS 29.45.810(a) is amended to read:

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

27 * **Sec. 28.** AS 29.45.810(a) is amended to read:

28 (a) A party to a contract approved by the legislature as a result of submission
 29 of a proposed contract developed under AS 43.82 or as a result of acts by the
 30 legislature in implementing the purposes of AS 43.82, and the property, gas, products,
 31 and activities associated with the approved qualified project that is subject to the

1 contract, are exempt, as specified in the contract, from all taxes identified in the
 2 contract that would be levied **and collected** by a municipality under state law as a
 3 consequence of the participation by the party in the approved qualified project.

4 * **Sec. 29.** AS 43 is amended by adding a new chapter to read:

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

6 **Article 1. Levy of Tax, Rate, Exemptions.**

7 **Sec. 43.44.010. Levy of sales and use tax; tax rate.** (a) A sales tax is levied
 8 on the sale, lease, or rental of tangible personal property and on the sale of services.

9 (b) A use tax is levied on the privilege of using in the state tangible personal
 10 property or services. The use tax is not levied if the sales tax levied in (a) of this
 11 section has been paid, except, if the price on which the tax was calculated did not
 12 represent the value of the property or service purchased, the use tax is imposed on the
 13 difference between the price and the value.

14 (c) The rate of the sales tax is three percent of the sales price. The rate of the
 15 use tax is three percent of the purchase price.

16 (d) The maximum tax on a single sale, lease, or rental is \$60.

17 **Sec. 43.44.020. Exemptions.** (a) The taxes levied in AS 43.44.010 apply to
 18 all sales, leases, rentals, and uses of tangible personal property and all sales and uses
 19 of services in this state except as provided in this section. Transactions described in
 20 this section must be documented on an invoice or receipt to qualify for the exemption.

21 (b) The taxes levied under AS 43.44.010 do not apply to

22 (1) tangible personal property or services that are exempt from taxation
 23 under federal law, including sales to the federal government, and purchases made with

24 (A) food coupons, food stamps, or other types of certificates
 25 issued under 7 U.S.C. 2011 - 2036 (Food Stamp Program); and

26 (B) food instruments, food vouchers, or other types of
 27 certificates issued under 42 U.S.C. 1786 (Special Supplemental Nutrition
 28 Program for Women, Infants, and Children);

29 (2) medical care, including

30 (A) health care services provided by a person licensed or
 31 certified to provide those services under AS 08 or a "health care facility" as

1 that term is defined in AS 08.68.395(g);

2 (B) drugs, durable medical equipment, mobility enhancing
3 equipment, and prosthetic devices obtained on prescription from a person
4 licensed to prescribe those goods under AS 08 or from a health care facility, as
5 that term is defined in AS 08.68.395(g);

6 (3) isolated or occasional sales, leases, or rentals of tangible personal
7 property or sales of services by a person who is not regularly engaged in the business
8 of selling, leasing, or renting similar personal property or services;

9 (4) sales, leases, or rentals of tangible personal property and sales of
10 services by or to the state or a political subdivision of the state;

11 (5) the sale of natural gas, coal, fuel to be used to generate heat or
12 electricity, water or sewer utilities, steam, or refuse and garbage collection service;

13 (6) the sale of property for resale if

14 (A) the purchaser resells the property, by itself or in
15 combination with other property, in the ordinary course of business; and

16 (B) the property is subject to the sales tax levied under
17 AS 43.44.010 on resale unless the subsequent resale is exempt under this
18 section;

19 (7) the sale of property to a purchaser engaged in the business of
20 mining or manufacturing if the purchaser incorporates the property as an ingredient or
21 component part of the product in the business of mining or manufacturing; for
22 purposes of this paragraph, electrical energy is considered a component part of the
23 product;

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

28 (9) interest;

29 (10) financial services, including

30 (A) fees for services associated with a deposit account;

31 (B) fees for purchases of cashier's checks, money orders,

1 traveler's checks, currency, and similar products used for payment and transfer
2 of funds;

3 (C) loan transaction pass-through charges that include sales tax;

4 (D) loan fees; and

5 (E) services related to the sale or purchase of financial
6 instruments including stocks, bonds, and securities;

7 (11) property and services used for exploration, extraction, production,
8 refinement, or transportation of natural resources, including oil and gas, fish and other
9 seafood, timber and other forest products, and minerals;

10 (12) transportation of passengers and tangible personal property;

11 (13) the sale, use, or lease of property held for lease;

12 (14) the sale, transfer, or use of motor fuel taxed under AS 43.40.010;

13 (15) the sale, lease, and rental of real property and the construction of
14 improvements on real property;

15 (16) sales, leases, or rentals made in a municipality or unincorporated
16 community with a population of less than 500.

17 (c) The use by an individual of personal or household effects brought into the
18 state for the establishment by the individual of an initial residence in this state and the
19 use of property brought into the state by a nonresident for the nonresident's own
20 nonbusiness use while temporarily within this state is exempt from the use tax.

21 **Sec. 43.44.030. Exemption certificates.** (a) The department shall provide for
22 a uniform exemption certificate. A purchaser shall use the certificate when purchasing
23 goods or services for resale or for other exempt transactions.

24 (b) The certificate must include

25 (1) the number of the seller's permit issued to the purchaser as
26 provided in AS 43.44.110 or the number of the direct pay permit issued to the
27 purchaser as provided in AS 43.44.120, as applicable;

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

30 (3) the name and address of the purchaser; and

31 (4) the signature or electronic signature of the purchaser.

1 (c) An exemption certificate executed by a purchaser or lessee must be in the
2 possession of the seller or lessor at the time that an exempt transaction occurs.

3 (d) If the seller or lessor accepts an exemption certificate and believes in good
4 faith that the purchaser or lessee will employ the property or service transferred in an
5 exempt manner, the properly executed exemption certificate is considered conclusive
6 evidence, as to the seller or lessor, that the sale is exempt.

7 (e) If a purchaser who uses an exemption certificate uses the subject of the
8 purchase for a purpose other than one allowed as exempt under this chapter, the sale is
9 considered a taxable sale as of the time of first use by the purchaser, and the sales
10 price is the price that the purchaser paid. If the sole nonexempt use is rental while
11 holding for sale, the purchaser shall include in the sales price the amount of the rental
12 charged. Upon subsequent sale of the property, the seller shall include the entire
13 amount of the sales price, without deduction of amounts previously received as
14 rentals.

15 (f) A person who uses an exemption certificate for property that will be used
16 for purposes other than the purpose claimed is subject to penalties under
17 AS 43.05.220, 43.05.290, or both.

18 **Article 2. Payment of Tax.**

19 **Sec. 43.44.100. Collection of sales and use tax.** (a) A seller shall add the
20 amount of the sales tax levied by this chapter and the amount of any municipal general
21 sales tax levied under AS 29.45 to the sales price of personal property or services
22 subject to the tax. The tax shall be stated separately on any receipt, invoice, or other
23 record of the transaction, except for sales from coin-operated or currency-operated
24 machines, sales of drinks in a bar, sales on the dock, sales from street vending carts,
25 admission fees, and other sales as determined by regulation by the department.

26 (b) Except as provided in (e) of this section, a seller shall collect the sales tax
27 levied by this chapter and any general municipal sales tax levied under AS 29.45 from
28 the buyer, file a return, and remit the tax collected to the department not later than 30
29 days following the last day of the month in which the sale was made. A seller shall
30 report and pay the tax using the same method of accounting that the seller uses for
31 federal tax purposes.

1 (c) A seller that electronically files a return and remits the sales tax collected
2 under this chapter to the department within 30 days as required in this section may
3 retain one percent of the amount collected to cover expenses associated with collecting
4 and remitting the tax.

5 (d) To the fullest extent permitted under the Constitution of the United States,
6 a person whose sales are not subject to the sales tax is required to collect the use tax
7 from the purchaser and pay the tax collected to the department.

8 (e) A seller that collects a total of less than \$250 of taxes levied under this
9 chapter and AS 29.45 in a month shall file a return and remit the tax not later than 30
10 days following the last day of the month in which a total of \$250 is reached or, if the
11 total collected in a calendar year is less than \$250, within 30 days following the last
12 day of the calendar year.

13 (f) If a seller provides a bundle of personal property or services including both
14 taxable and tax-exempt property or services, the seller shall collect the tax on the price
15 of the entire bundle as stated on any receipt, invoice, or other record of the transaction.

16 **Sec. 43.44.110. Registration and seller's permit.** (a) A seller shall register
17 with the department, and apply for and obtain a permit before making a sale, lease, or
18 rental of tangible personal property or a sale of services that is taxable under this
19 chapter.

20 (b) If a seller fails to register and obtain a permit as required under (a) of this
21 section and fails to file a tax return or make a payment required under this chapter, the
22 department must assess double the penalties otherwise due under AS 43.05.220.

23 (c) The department must specify the format for permit applications. An
24 application shall include the seller's place of business, the seller's business name, and
25 any other information the department requires.

26 (d) A permit is valid until revoked or suspended but is not assignable. A
27 permit is valid only for the person in whose name it is issued. A copy of the permit
28 must be conspicuously displayed at all times at the place for which it is issued.

29 (e) A seller shall apply for a seller's permit. If the seller has more than one
30 location in which the seller maintains an office or other place of business, an
31 application may include multiple locations. A vending machine operator who has

1 more than one vending machine location is considered to have only one place of
2 business for purposes of this section. A seller who does not maintain an office or
3 other place of business and who moves from place to place is considered to have only
4 one place of business and shall attach the permit to the applicant's cart, stand, truck, or
5 other merchandising device.

6 (f) The department may revoke or suspend a permit held by a person who fails
7 to comply with the provisions of this chapter. The department shall provide written
8 notice and an opportunity for a hearing on a proposed revocation or suspension. The
9 hearing must be conducted informally and is not subject to AS 44.62 (Administrative
10 Procedure Act).

11 (g) 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 an amount reasonably
15 necessary to ensure compliance with this chapter.

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

18 **Sec. 43.44.120. Direct pay permit.** (a) The department may issue a direct
19 pay permit allowing the permit holder to purchase, lease, or rent taxable goods and
20 services without payment of tax to the seller at the time of purchase to a person that
21 applies to the department and meets criteria established by the department by
22 regulation.

23 (b) The holder of a direct pay permit shall file a return and remit the tax levied
24 under this chapter and any municipal taxes levied under AS 29.45.650 and 29.45.700
25 to the department not later than 30 days following the last day of the month in which
26 the purchase, lease, or rental was made.

27 (c) The department may revoke a direct pay permit held by a person who fails
28 to comply with the provisions of this chapter. The department shall provide written
29 notice and an opportunity for a hearing on a proposed revocation. The hearing shall
30 be conducted informally and is not subject to AS 44.62. A person aggrieved by the
31 department's final decision to revoke a permit may appeal the decision to the superior

1 court.

2 (d) The department may require a permit holder whose direct pay permit has
3 been revoked to provide security in a form and amount satisfactory to the department
4 to guarantee payment of the permit holder's tax liability under this chapter before
5 issuing a new permit to that person.

6 **Sec. 43.44.130. Presumption of taxability; sales price and purchase price.**

7 (a) In order to prevent evasion of the sales tax and to aid in its administration, it is
8 presumed that

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

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

13 (b) For purposes of this section, the sales price or purchase price of property
14 must be determined as of the time of acquisition, introduction into this state, or
15 conversion to use, whichever is latest.

16 **Sec. 43.44.140. Deduction for bad debts.** (a) A person filing a return under
17 AS 43.44.100(b) may deduct sales found to be worthless. The bad debt may be
18 deducted when it

19 (1) is written off as uncollectable in the person's books and records;
20 and

21 (2) qualifies as a deduction for federal income tax purposes under 26
22 U.S.C. (Internal Revenue Code).

23 (b) If the amount of bad debt exceeds the amount of taxable sales during the
24 period that the bad debt is written off, a person may file a refund claim with the
25 department.

26 (c) If a bad debt deducted under (a) of this section is subsequently collected,
27 the person who claimed the deduction shall pay the tax levied under AS 43.44.010 on
28 the amount collected. For purposes of this subsection, any payments made on a debt
29 or account are applied

30 (1) first to the taxable price of the property or service and the tax
31 levied under AS 43.44.010 on the property or service, then

1 (2) to interest, service charges, and any other charges.

2 **Sec. 43.44.150. Payment of use tax.** A user subject to the use tax shall file a
3 return and remit the tax levied under this chapter and any municipal use tax levied
4 under AS 29.45 to the department not later than 30 days following the last day of the
5 month in which the taxable use occurs.

6 **Sec. 43.44.160. Computation of tax.** (a) The taxes levied under this chapter
7 shall be computed on an invoice basis.

8 (b) The tax computation shall be

9 (1) carried to the third decimal place;

10 (2) rounded to a whole cent using a method that rounds up to the next
11 cent whenever the third decimal place is greater than four; and

12 (3) made according to a rounding algorithm prescribed by the
13 department.

14 **Sec. 43.44.170. Tax credit for sales or use tax paid to another state or a**
15 **political subdivision.** (a) A buyer liable under this chapter for use tax on tangible
16 personal property or services is entitled to a full credit for the amount of sales or use
17 tax paid on the tangible personal property or services to another state.

18 (b) A buyer liable under AS 29.45.650 or 29.45.700 for use tax on tangible
19 personal property or services is entitled to a full credit for the amount of sales or use
20 tax paid on the tangible personal property or services to a political subdivision of this
21 or another state. In the case of a city within a borough, if both the city and the
22 borough levy a sales and use tax, the credit for taxes paid to a political subdivision of a
23 state shall be applied against the amount of use tax levied by the city and the borough
24 in proportion to the respective city and borough tax rates.

25 **Sec. 43.44.180. Liability for tax.** (a) Except as provided in (c) of this
26 section, a seller is liable for the sales tax on tangible personal property or services sold
27 by the seller.

28 (b) A buyer is liable for the tax on tangible personal property or services sold
29 to the buyer if the seller did not collect the tax.

30 (c) A seller that receives and accepts in good faith from a buyer a copy of the
31 buyer's direct payment permit is not liable for the sales tax on the tangible personal

1 property or services sold, leased, or rented to the buyer.

2 **Sec. 43.44.190. Taxpayer quitting business; liability of successor.** (a) All
3 taxes payable under this chapter are due and payable immediately whenever a
4 taxpayer quits business, sells, exchanges, or otherwise disposes of the business or
5 disposes of the stock of goods. The taxpayer shall make a return and pay the taxes due
6 within 10 days after the taxpayer quits business, sells, exchanges, or otherwise
7 disposes of the business or disposes of the stock of goods.

8 (b) Except as provided in (d) of this section, a person who becomes a
9 successor in the taxpayer's business or stock of goods is liable for the full amount of
10 the tax and shall withhold from the sales price payable to the taxpayer a sum sufficient
11 to pay any tax due until the taxpayer produces either a receipt from the department
12 showing payment in full of any tax due or a statement from the department that tax is
13 not due.

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

19 (d) A successor is not liable for any tax due from the person from whom the
20 successor acquired a business or stock of goods if (1) the successor gives written
21 notice to the department of the acquisition; and (2) an assessment is not issued by the
22 department against the former operator of the business within six months after receipt
23 of the notice from the successor. If an assessment is issued by the department and a
24 copy of the assessment is not mailed to the successor, the successor is not liable for the
25 tax due.

26 **Sec. 43.44.200. Tax as debt.** (a) The tax imposed by this chapter and related
27 interest and penalties become a personal debt of the individual required to file a return
28 from the time the liability arises, regardless of when the time for payment of the
29 liability occurs.

30 (b) If the personal representative of an estate has voluntarily distributed the
31 assets held in that capacity without reserving sufficient assets to pay the taxes, interest,

1 and penalties, the personal representative is personally liable for any deficiency, to the
2 extent permitted under AS 13.16.

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

9 **Article 3. Administration of Tax.**

10 **Sec. 43.44.300. Accounting.** Except as provided in AS 43.44.310, the
11 department shall deposit the proceeds of the tax levied under this chapter in the
12 general fund of the state.

13 **Sec. 43.44.310. Relationship to municipal levies.** (a) A municipality may
14 not levy a sales and use tax except as provided in AS 04.21.010(c), AS 29.45.650,
15 29.45.655, or 29.45.700. The department shall collect sales and use taxes levied under
16 AS 29.45.650 or 29.45.700. A municipality may not collect a sales and use tax levied
17 under AS 29.45.650 or 29.45.700.

18 (b) Except as provided in (c) of this section, from the total combined state and
19 municipal sales and use taxes collected within the boundaries of a municipality, the
20 department shall remit to the municipality the amount collected and payable to the
21 municipality under this subsection. If the rate of a sales and use tax levied by a
22 municipality is

23 (1) less than three percent, the department shall remit the amount of
24 the tax levied by the municipality;

25 (2) at least three percent but less than four percent, the department
26 shall remit the amount that would have been collected in the municipality if the sales
27 and use tax levy had been four percent;

28 (3) at least four percent but less than five percent, the department shall
29 remit the amount that would have been collected in the municipality if the sales and
30 use tax levy had been five percent;

31 (4) five percent or more, the department shall round up to the next

1 whole number and remit the amount that would have been collected in the
 2 municipality if the sales and use tax levy had been that whole number; for example, if
 3 a municipality levied a sales and use tax at the rate of five percent, the department
 4 shall remit the amount that would have been collected under a six percent levy.

5 (c) In the case of a city within a borough, if both the city and the borough levy
 6 a sales and use tax, the department shall combine the city and borough tax rates to
 7 determine the amount to remit to the municipalities under (b) of this section. Of that
 8 amount, the department shall remit to the city an amount proportionate to the city's
 9 share of the combined tax rate and remit the remainder to the borough.

10 (d) The department shall have sole responsibility and authority for the
 11 administration of taxes levied under this chapter, AS 29.45.650, and 29.45.700. The
 12 department may contract with a municipality to provide a field office for that
 13 municipality's geographic area of the state.

14 **Sec. 43.44.320. Refunds and credits.** The department may credit or refund
 15 overpayments of taxes, taxes erroneously or illegally assessed or collected, penalties
 16 collected without authority, and taxes that are found unjustly assessed or excessive in
 17 amount, or otherwise wrongfully collected. The department shall set limitations,
 18 specify the manner in which claims for credits or refunds are made, and give notice of
 19 allowance or disallowance. When a refund is allowed to a taxpayer, it shall be paid
 20 out of the general fund on a warrant issued under a voucher approved by the
 21 department. If the department credits or refunds a municipal sales tax, it may collect
 22 the amount of the credit or refund from the municipality.

23 **Sec. 43.44.330. Electronic filing and remittance.** The department shall by
 24 regulation provide for the electronic filing of returns and remittance of taxes, and shall
 25 provide for other uses of technology or filing methodologies to improve the efficiency
 26 of administration of the sales and use tax.

27 **Sec. 43.44.340. Authority to enter streamlined sales and use tax**
 28 **agreement.** (a) The department is authorized to enter into the Streamlined Sales and
 29 Use Tax Agreement with one or more states to simplify and modernize sales and use
 30 tax administration in order to substantially reduce the burden of tax compliance for all
 31 sellers and for all types of commerce. In furtherance of the Streamlined Sales and Use

1 Tax Agreement, the department is authorized to act jointly with other states that are
 2 members of the Streamlined Sales and Use Tax Agreement to establish standards for
 3 certification of a certified service provider and certified automated system and
 4 establish performance standards for multistate sellers.

5 (b) To the extent possible, the department shall adopt regulations
 6 implementing this chapter consistent with the Streamlined Sales and Use Tax
 7 Agreement.

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

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

15 **Article 4. General Provisions.**

16 **Sec. 43.44.399. Definitions.** In this chapter,

17 (1) "lease or rental," regardless of whether a transaction is
 18 characterized as a lease or rental under generally accepted accounting principles, the
 19 Internal Revenue Code, AS 45.29, or other provisions of federal, state, or local law,

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

23 (B) does not include

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

27 (ii) a transfer of possession or control of property under
 28 an agreement that requires the transfer of title upon completion of
 29 required payments if payment of an option price does not exceed the
 30 greater of \$100 or one percent of the total required 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
 6 where the amount of consideration may be increased or decreased by reference
 7 to the amount realized upon sale or disposition of the property as defined in 26
 8 U.S.C. 7701(h)(1);

9 (2) "manufacturing" means combining or processing components or
 10 materials, including the processing of ores in a mill, smelter, refinery, or reduction
 11 facility, to increase the value of the components or materials for sale in the ordinary
 12 course of business; "manufacturing" does not include construction;

13 (3) "purchase price" applies to the measure subject to use tax and has
 14 the same meaning as sales price;

15 (4) "sales price"

16 (A) applies to the measure subject to sales tax and means the
 17 total amount of consideration, including cash, credit, property, and services, for
 18 which personal property or services are sold, leased, or rented, valued in
 19 money, whether received in money or otherwise, without any deduction for the
 20 following:

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

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

25 (iii) charges by the seller for any services necessary to
 26 complete the sale, rental, or lease, other than delivery and installation
 27 charges;

28 (iv) delivery charges;

29 (v) installation charges;

30 (vi) the value of exempt personal property given to the
 31 purchaser where taxable and exempt personal property have been

1 bundled together and sold, leased, or rented by the seller as a single
2 product or piece of merchandise; and

3 (vii) credit for any trade-in;

4 (B) does not include

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

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

12 (iii) taxes legally imposed directly on a consumer that
13 are separately stated on the invoice, bill of sale, or similar document
14 given to the purchaser;

15 (5) "seller" means a person making sales, leases, or rentals of tangible
16 personal property or services;

17 (6) "service" means an activity that is engaged in for another person
18 for consideration and that is distinguished from the sale or lease of property; in
19 determining what a service is, the intended use, principal objective, or ultimate
20 objective of the contracting parties is irrelevant; "service" includes labor; professional
21 services; telephone or other communications service; entertainment, including cable or
22 pay television or other telecommunications service; the supplying of food, lodging, or
23 other accommodations in hotels, restaurants, or elsewhere; and admission to
24 exhibitions;

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

29 (8) "tax" means the taxes levied by AS 43.44.010;

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

1 * **Sec. 30.** AS 43.56.030 is amended to read:

2 **Sec. 43.56.030. In place of other taxes.** Except for those taxes imposed
3 under AS 43.55, the taxes levied or authorized under AS 43.56.010(b) are in place of

4 (1) all other ad valorem taxes or other taxes imposed by a municipality
5 on property subject to tax under this chapter or exempted from taxation by
6 AS 43.56.020; and

7 (2) all other taxes imposed by a municipality on or with respect to the
8 property subject to tax under this chapter or exempted from taxation by AS 43.56.020,
9 including, but not limited to,

10 (A) taxes on the retail sale or use of the property except for the
11 retail sales tax **levied under AS 29.45.650 or 29.45.700** on the first \$1,000 of
12 each sale;

13 (B) taxes on the sale or use of gas or unrefined oil;

14 (C) taxes on the sale or use of services used in or associated
15 with the property or in its maintenance or operation except for the sales tax
16 **levied under AS 29.45.650 or 29.45.700** on the first \$1,000 of each sale;

17 (D) taxes on or measured by gross or net income from the
18 property, including income from the exploration for, production of, or pipeline
19 transportation of gas or unrefined oil or property; and

20 (E) any license, excise, fee, charge or other tax on or pertaining
21 to the property or services.

22 * **Sec. 31.** AS 43.56.030 is amended to read:

23 **Sec. 43.56.030. In place of other taxes.** Except for those taxes imposed
24 under AS 43.55, the taxes levied or authorized under AS 43.56.010(b) are in place of

25 (1) all other ad valorem taxes or other taxes imposed by a municipality
26 on property subject to tax under this chapter or exempted from taxation by
27 AS 43.56.020; and

28 (2) all other taxes imposed by a municipality on or with respect to the
29 property subject to tax under this chapter or exempted from taxation by AS 43.56.020,
30 including, but not limited to,

31 (A) taxes on the retail sale or use of the property except for the

1 retail sales tax [LEVIED UNDER AS 29.45.650 OR 29.45.700] on the first
2 \$1,000 of each sale;

3 (B) taxes on the sale or use of gas or unrefined oil;

4 (C) taxes on the sale or use of services used in or associated
5 with the property or in its maintenance or operation except for the sales tax
6 [LEVIED UNDER AS 29.45.650 OR 29.45.700] on the first \$1,000 of each
7 sale;

8 (D) taxes on or measured by gross or net income from the
9 property, including income from the exploration for, production of, or pipeline
10 transportation of gas or unrefined oil or property; and

11 (E) any license, excise, fee, charge or other tax on or pertaining
12 to the property or services.

13 * **Sec. 32.** AS 29.10.200(64), 29.10.200(65), 29.10.200(66); AS 29.35.170(c);
14 AS 29.45.655, 29.45.660(c); AS 43.44.010, 43.44.020, 43.44.030, 43.44.100, 43.44.110,
15 43.44.120, 43.44.130, 43.44.140, 43.44.150, 43.44.160, 43.44.170, 43.44.180, 43.44.190,
16 43.44.200, 43.44.300, 43.44.310, 43.44.320, 43.44.330, 43.44.340, and 43.44.399 are
17 repealed.

18 * **Sec. 33.** Sections 4, 6, 9, and 11, ch. 100, SLA 2002, and sec. 9, ch. 117, SLA 2003, are
19 repealed.

20 * **Sec. 34.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 REGULATIONS. (a) The Department of Revenue may proceed to adopt regulations
23 necessary to implement the provisions of this Act. The regulations take effect under AS 44.62
24 (Administrative Procedure Act), but not before the effective date of the provision being
25 implemented.

26 (b) The Department of Revenue shall adopt regulations relating to sourcing, or the
27 determination of where a sale occurred for sales and use tax purposes, that are, to the extent
28 possible, consistent with the Streamlined Sales and Use Tax Agreement.

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

31 TRANSITIONAL PROVISIONS. (a) Notwithstanding AS 43.44.310(b)(1), added by

1 sec. 29 of this Act, for one year after the effective date of sec. 29 of this Act, the department
2 shall remit to a municipality that levies a sales and use tax at a rate of less than three percent
3 the amount that would have been collected if the sales and use tax levy had been the actual
4 rate plus a fraction corresponding to the actual rate divided by three.

5 (b) The use tax imposed in AS 43.44.010(b), added by sec. 29 of this Act, does not
6 apply to the use of tangible personal property acquired before the effective date of sec. 29 of
7 this Act.

8 (c) Services under a contract executed and paid in full before the effective date of sec.
9 29 of this Act and performed within 12 months after the effective date of sec. 29 of this Act
10 are exempt from the sales tax and use tax.

11 * **Sec. 36.** Section 34 of this Act takes effect immediately under AS 01.10.070(c).

12 * **Sec. 37.** Sections 2, 4, 6, 8, 11, 13, 16, 19, 22, 24, 26, 28, 31, and 32 of this Act take
13 effect July 1, 2013.

14 * **Sec. 38.** Except as provided in secs. 36 and 37 of this Act, this Act takes effect July 1,
15 2005.