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SENATE COMMITTEE REPORT

FURTHER

3/15/89

DATE TURNED INTO OFFICE \_\_\_\_\_

Mr. President:

FINANCE

Committee considered SB 160

prohibiting municipal sales tax on rents payable for occupation of certain publicly-financed housing projects; efd

and recommended

- replace with \_\_\_\_\_ CS \_\_\_\_\_ )  same title
- or adopt \_\_\_\_\_ CS \_\_\_\_\_ )  new title
- attached amendment(s) and  technical title change (HB only)
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

*Bill died in committee.*

no recommendation

individual recommendations

further referral to \_\_\_\_\_

FISCAL NOTE(S)  zero  fiscal impact  appropriation no FN  
 new  updated  previous  
 same as previous fiscal note(s) published \_\_\_\_\_

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

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\_\_\_\_\_  
Chairman signature and recommendation

Committee Backup attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 3-8-89  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

FINANCE

\*\*FISCAL NOTE(S) MUST BE ATTACHED  
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 3.14.89

2/3/89

Mr. President:

C&RA Committee considered SB 160

prohibiting municipal sales tax on rents payable for occupation of  
certain publicly-financed housing projects; efd

and recommended:

*+ repeats it back as follows:*

- replace with CS \_\_\_\_\_  same title
- attached amendment(s) and  new title
- \_\_\_\_\_ letter of intent adopted
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to \_\_\_\_\_

*OK*

FISCAL NOTE(S) attached  zero  fiscal impact  
 appropriation no FN attached  Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

2 *Kat Kourko*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Phil Snyder - No Rec.*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Dirue Vance* - *no rec*  
Chairman signature and recommendation

Committee backup attached

1 IN THE SENATE

BY ADAMS

2 SENATE BILL NO. 160

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act prohibiting municipal sales tax on rents  
7 payable for occupation of certain publicly-financed  
8 housing projects; and providing for an effective  
9 date."

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

11 \* Section 1. AS 29.10.200(42) is amended to read:

12 (42) AS 29.45.650(c), (d), and (e) [, AND (f)] (sales and  
13 use tax)

14 \* Sec. 2. AS 29.10.200(43) is repealed and reenacted to read:

15 (43) AS 29.10.655 (sales tax exemptions)

16 \* Sec. 3. AS 29.45.650(a) is amended to read:

17 (a) Except as provided in AS 29.45.655 [(f) OF THIS SECTION], a  
18 borough may levy and collect a sales tax not exceeding six percent on  
19 sales, rents, and on services provided in the borough. The sales tax  
20 may apply to any or all of these sources. Exemptions may be granted  
21 by ordinance.

22 \* Sec. 4. AS 29.45 is amended by adding a new section to read:

23 Sec. 29.45.655. EXEMPTIONS FROM SALES TAX. (a) A borough may  
24 not levy and collect a sales tax

25 (1) on a purchase

26 (A) made with food coupons, food stamps, or other  
27 types of certificates issued under 7 U.S.C. 2011 - 2025 (Food  
28 Stamp Act);

29 (B) of food instruments, or made with food vouchers or  
S

1 other type of certificate issued under 42 U.S.C. 1786 (Special  
2 Supplemental Food Program for Women, Infants, and Children);

3 (2) on rents payable for the occupancy of housing that has  
4 been or is being subsidized by the federal government if exemption  
5 from payment of sales tax payable for the occupancy of the housing is  
6 required by federal law or by agreement as a condition of the subsidy.

7 (b) This section applies to home rule and general law municipal-  
8 ities.

9 \* Sec. 5. AS 29.45.700(a) is amended to read:

10 (a) A city in a borough that levies and collects areawide sales  
11 and use taxes may levy sales and use taxes on all sources taxed by the  
12 borough in the manner provided for boroughs. Except as provided in  
13 AS 29.45.655 [(d) OF THIS SECTION], the assembly may by ordinance  
14 authorize a city to levy and collect sales and use taxes on other  
15 sources.

16 \* Sec. 6. AS 29.45.650(f) and 29.45.700(d) are repealed.

17 \* Sec. 7. This Act takes effect July 1, 1989.  
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## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: "An Act prohibiting municipal sales tax on rents..housing projects.."  
Sponsor: Adams  
Requestor: \_\_\_\_\_

Agency Affected: Community & Regional Affairs  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING:** (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

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

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

Prepared by: Jim Plasman, Deputy Director  
 Division: Municipal & Regional Assistance  
 Phone: 465-4750  
 Date: 2/20/89

Approved by Commissioner: David G. Hoffmann  
 Agency: Community & Regional Affairs  
 Date: 2-20-89

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

# Alaska State Legislature

Al Adams  
District L



Official Business

WHILE IN SESSION  
P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3707

OUT OF SESSION  
P.O. Box 333  
Kotzebue, Alaska 99752  
(907) 442-3245

3111 C Street  
Anchorage, Alaska 99503  
(907) 561-7622

TO: Community and Regional Affairs Committee Members

FROM: Senator Al Adams, Chair <sup>APA</sup>  
Community and Regional Affairs Committee

RE: Senate Bill 160

DATE: March 7, 1989

Senate Bill 160 was introduced on February 3, 1989 at the request of the Association of Alaska State Housing Authorities. Despite its apparent complexity, it is a rather straight forward piece of legislation. In essence, as the title implies, it creates a municipal tax exemption on rents payable for the occupation of housing that has been or is being subsidized by the federal government if exemption is required by federal law or by agreement as a condition of the subsidy.

There are precedents for such an exemption. In 1987, the legislature provided that a city may not levy and collect a sales tax on purchases of certificates under the Food Stamp Act, or food instruments, food vouchers or other types of certificated under the Food Program for Women, Infants and Children.

Just last year we passed legislation permitting, but not requiring, municipalities to exempt taxation interests in real property if the property has been developed, improved or acquired with federal low-income housing funds and is owned or managed as low income housing by the Alaska State Building Authority or a regional housing authority.

As far as I know, no municipality is currently levying or collecting a municipal sales tax on rents payable for the occupation of publicly-financed housing projects; however, the Association has brought to my attention the fact that some municipal attorneys have counselled their clients to levy and collect such taxes because existing state law does not prohibit them from doing so.

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March 7, 1989

Community and Regional Affairs Committee  
SB 160

This legislation would not only provide municipal attorneys with clear statutory authority for such an exemption, thereby clearing any confusion that may exist now, but would prevent future conflicts between the state's political subdivisions from arising. This measure reflects a cost-benefit decision that municipalities have apparently already made. As you may know, some rents in publicly-financed housing projects are as small as \$2 per month and the administrative cost connected with the collection of these sales taxes probably outweighs the benefits that might flow from collection. So, they simply forego the revenue. I believe the state should sanction this decision of its subdivisions.

Finally, I am not aware of any opposition to this legislation from any municipalities or the Alaska Municipal League. The state Department of Community and Regional Affairs has not as yet developed a position on the proposed legislation.

Thank you for your consideration.

COOPERATION AGREEMENT

THIS AGREEMENT made this \_\_\_\_ DAY of \_\_\_\_\_, 19\_\_\_\_

BY AND BETWEEN Tlingit-Haida Regional Housing Authority herein called the "Authority".

AND City of \_\_\_\_\_, herein called the "City".

WITNESSETH:

In consideration of the mutual covenants hereinafter set forth, the parties hereto do agree as follows:

1. Whenever used in this agreement:
  - (a) The term "Project" shall mean any low-rent housing hereinafter developed or acquired by the Authority with financial assistance of the United States of America acting through the Secretary of Housing and Urban Development (herein called the "Government"); excluding, however, and low-rent housing project covered by any contract for loans and annual contributions entered into between the Authority and the Government, or its predecessor agencies, prior to the date of this Agreement;
  - (b) The term "Taxing Body" shall mean the State or any political subdivision or taxing unit thereof in which a Project is situated and which would have authority to assess or levy real or personal property taxes or to certify such taxes to a taxing body or public officer to be levied for its use and benefit with respect to a Project if it were not exempt from taxation;
  - (c) The term "Shelter Rent" shall mean the total of all charges to all tenants of a Project for dwelling rents and nondwelling rents (excluding all other income of such Project), less the cost to the Authority of all dwelling and nondwelling utilities;
2. The Authority shall endeavor to secure a contract with the Government for loans and annual contributions covering one or more Projects consisting of approximately \_\_\_\_ units. The Authority shall plan, develop or acquire and administer the Project which shall be located within the corporate limits of the City. The obligations of the parties hereto shall apply to each such Project and the City shall have no contractual responsibility with respect to the Project other than as expressly provided in this Agreement.
3. (a) Under the Constitution and laws of the State of Alaska, the Project is exempt from all real and personal property taxes and special assessments levied or imposed by any Taxing Body. So long as either (i) the Project is owned by a public body or governmental agency and is used for low rent housing purposes, or (ii) any contract between the Authority and the Government for loans or annual contributions, or both, in connection with such Project remains in force and effect, or (iii) any bonds issued in connection with such Project or any monies due to the Government in connection with such Project remain unpaid, whichever period is the longest, the City agrees that it

will not levy or impose any real or personal property taxes or special assessment upon such Project or upon the Authority with respect thereto. During such period, the Authority shall make annual payments (herein called "Payments in Lieu of Taxes") in lieu of such taxes and special assessments and in payment for the public services and facilities furnished from time to time without other cost or charge for or with respect to such Project.

- (b) Each such annual Payment in Lieu of Taxes shall be made after the end of the fiscal year established for such Project, and shall be in an amount equal either (i) ten percent (10%) of the Shelter Rent charged by the Authority in respect to such Project during such fiscal year or (ii) the amount permitted to be paid by applicable State law in effect on the date such payment is made, whichever amount is the lower.
  - (c) No payment for any year shall be made to the City in excess of the amount of the real property taxes which would have been paid to the City for such year if the Project were not exempt from taxation.
  - d) Upon failure of the Authority to make any Payment in lieu of Taxes, no lien against any Project or assets of the Authority shall attach, nor shall any interest penalties accrue or attach on account thereof.
4. During the period commencing with the date of the acquisition of any part of the site or sites of any Project and continuing so long as either (i) such Project is owned by a public body or governmental agency and is used for low-rent housing purposes, or (ii) any contract between the Authority and the Government for loans or annual contributions, or both, in connection with such Project remains in force and effect, (iii) any bonds issued in connection with such Project or any monies due to the Government in connection with such Project remain unpaid, whichever period is the longest, the City, without cost or charge to the Authority or the tenants of such project (other than the Payments in Lieu of Taxes), shall:
- (a) Furnish or cause to be furnished to the Authority and the tenants of such Project public services and facilities of the same extent as are furnished from time to time without cost or charge to other dwelling and inhabitants in the City;
  - (b) Notwithstanding the date of acquisition the City shall vacate such streets, roads, and alleys within the area of such Projects as may be necessary in the development thereof, and convey without charge to the Authority, such interest as the City may have in such vacated areas; and insofar as the City is lawfully able to do so without cost or expense to the Authority or to the City, cause to be removed from such vacated areas, insofar as it may be necessary, all public or private utility lines and equipment;
  - (c) Insofar the City may lawfully do so, (i) grant such deviation from the building code as are reasonable and necessary to promote economy and efficiency in the development and administration of such Project, and at the same time, safeguard health and safety; and (ii) make such changes in any zoning of the site and surrounding territory of such Project as are reasonable and necessary surrounding territory;

Cooperation Agreement  
Page 3

- (d) Accept grants of easements necessary for the development of such Project; and
  - (e) Cooperation with the Authority by such other lawful action or ways as the City and the Authority may find necessary in connection with the development and administration of such Project.
5. In respect to any Project, the City further agrees that within a reasonable time after receipt of a written request therefor from the Authority:
- (a) It will accept the dedication of all interior streets, roads alleys, and adjacent sidewalks within the area of such Project, together with all storm and sanitary sewer mains in such dedicated areas, after the Authority or its Developer has completed the grading, improvements, paving and installation thereof, in accordance with specification acceptable to the City;
  - (b) It will accept necessary dedications of land for, and will grade, improve, pave and provide sidewalks for, all streets bounding such Project or necessary to provide adequate access thereto (in consideration whereof the Authority or its Developer shall pay to the City such amounts as would be assessed against the Project sites for such work if such site were privately owned); and
  - (c) It will provide, or cause to be provided, water mains and storm and sanitary sewer mains, leading to such Project and serving the bounding streets thereof (in consideration whereof the Authority or its Developer shall pay to the City such amounts as would be assessed against the Project site for such work if such site were privately owned).
6. If by reason of the City's failure or refusal to furnish or cause to be furnished any public services or facilities which it has agreed hereunder to furnish or cause to be furnished to the Authority or to the tenants of any Project, the Authority incurs any expense to obtain such services or facilities, then the Authority may deduct the amount of such expenses from any Payment in Lieu of Taxes due or to become due to the City in respect to any Project or any other low-rent housing projects owned or operated by the Authority.
7. The City agrees to exempt the tenants of the Project and the Authority from the payment of sales taxes in conjunction with rents.
8. No Cooperation Agreement heretofore entered into between the City and the Authority shall be construed to apply to any Project covered by this Agreement.
9. No member of the governing body of the City or any other public official of the City who exercises any responsibilities or functions with respect to any Project during his tenure or for one year thereafter shall have any interest, direct or indirect, in any project or any property included or planned to be included in any Project, or any contracts in connection with such Projects or property. If any such governing body member or such other public official of the City involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, he shall immediately disclose such interest to the Authority.

10. So long as any contract between the Authority and the Government for loans (including preliminary loans) or annual contributions, or both, in connection with any Project remains in force and effect, or so long as any bonds issued in connection with any project, or any monies due the Government in connection with any Project remain unpaid, this Agreement shall not be abrogated, changed, or modified without the consent of the Government. The privileges and obligations of the City hereunder shall remain in full force and effect with respect to each Project so long as the beneficial title to such Project is held by the Authority or by any other public body or governmental agency, including the Government, authorized by law to engage in the development or administration of low-rent housing projects. If at any time, the beneficial title to, or possession of, any Project is held by such other public body or governmental agency, including the Government, the provisions hereto shall inure to the benefit of and may be enforced by, such other public body or governmental agency, including the Government.

IN WITNESS WHEREOF, the City and the Authority have respectively signed this Agreement and caused their seals or be affixed and attested as of the day and year first above written.

CITY OF \_\_\_\_\_

BY: \_\_\_\_\_,  
\_\_\_\_\_, Mayor  
City of \_\_\_\_\_

SEAL

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, City Clerk

TLINGIT-HAIDA REGIONAL  
HOUSING AUTHORITY

BY: \_\_\_\_\_  
Matthew Fred, Chairman

SEAL

ATTEST:

\_\_\_\_\_  
Joseph G. Wilson, Assistant Secretary